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DEPARTMENT OF AGRICULTURE

Farm Service Agency

7 CFR Part 764

Rural Housing Service

Rural Business-Cooperative Service

Rural Utilities Service

Farm Service Agency

7 CFR Part 1945

RIN 0560–AF72

Streamlining of the Emergency Farm Loan Program Loan Regulations

AGENCY: Farm Service Agency, USDA.

ACTION: Final rule.

SUMMARY: The Farm Service Agency amends its regulations governing the Farm Service Agency's (FSA) Emergency Farm Loan Program. It clarifies, simplifies, and streamlines the procedures to apply for and make FSA emergency loans.

DATES: This regulation is effective on February 7, 2002.

FOR FURTHER INFORMATION CONTACT: Mike Hinton, Branch Chief, Loan Making Division, Farm Loan Programs, Farm Service Agency, United States Department of Agriculture, STOP 0522, 1400 Independence Avenue, SW., Washington, DC 20250–0522 telephone (202) 720–1632; or e-mail: *mike_hinton@wdc.fsa.usda.gov*.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be significant for purposes of Executive Order 12866 and, therefore, was reviewed by the Office of Management and Budget.

Regulatory Flexibility Act

The FSA certifies that this rule will not have a significant economic effect on a substantial number of small entities because under the rule the economic effect of the regulation is reduced from the prior rule. Therefore, FSA is not required to perform a Regulatory Flexibility Analysis as required by the Regulatory Flexibility Act (5 U.S.C. 601). This rule does not impact small entities to a greater extent than large entities.

Environmental Impact Statement

FSA has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, (42 U.S.C. 4321 *et seq.*) neither an Environmental Impact Statement nor an environmental assessment is required.

Executive Order 12988

This rule has been reviewed in accordance with E.O. 12988, Civil Justice Reform. All State and local laws and regulations that are in conflict with this rule will be preempted. No retroactive effect will be given to this rule. It will not affect agreements entered into prior to the effective date of the rule. The administrative appeal provisions published at 7 CFR parts 11 and 780 must be exhausted before bringing any action for judicial review.

Executive Order 12372

For reasons contained in the Notice related to 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983) the programs and activities within this rule are excluded from the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

Executive Order 13132

The policies contained in this rule do not have any substantial direct effect on states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among various levels of government. Nor does this rule impose substantial direct compliance costs on state and local governments. Therefore, consultation with the states is not required.

Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments or the private sector. Agencies generally must prepare a written statement, including a cost benefit assessment, for proposed and final rules with ''Federal mandates'' that may result in expenditures of $100 million or more in any 1 year for State, local, or tribal governments, in the aggregate, or to the private sector. UMRA generally requires agencies to consider alternatives and adopt the more cost effective or least burdensome alternative that achieves the objectives of the rule.

The rule contains no Federal mandates, under the regulatory provisions of title II of the UMRA, for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Paperwork Reduction Act

The amendments to 7 CFR parts 764 and 1945 contained in this final rule require no revisions to the information collection requirements that are currently approved by OMB under control number 0560–0159. A proposed rule containing an estimate of the information collection burden of this rule was published on September 12, 2000 (65 FR 54973–54981). No comments regarding the burden estimates were received. This information collection has been approved through January 31, 2004.

Federal Assistance Programs

These changes affect the following FSA program as listed in the Catalog of Federal Domestic Assistance: 10.404—Emergency Loans.

New CFR Part

The proposed rule proposed changes to the existing 7 CFR part 1945, subpart B, and removed subpart D. This final rule, in addition to finalizing, with changes, the proposed rule, moves these provisions to 7 CFR part 764 and removes 7 CFR 1945 subparts B, C, and D. In order to facilitate this change in the final regulation, in all places 1945.5 was replaced with 764 and any numbers following the .5 remained the same. An

example of this is in the proposed rule there is a section 1945.53(b)(1) in the final rule this has been changed to 764.3(b)(1). FSA is moving its Emergency loan program regulations from Chapter XVIII to Chapter VII of the Code of Federal Regulations (CFR). Prior to the Department of Agriculture Reorganization Act of 1994 (1994 Act), Chapter XVIII was assigned to the Farmers Home Administration (FmHA) and Chapter VII was assigned to the Agricultural Stabilization and Conservation Service (ASCS). Under provisions of the 1994 Act, FmHA and ASCS were abolished. FmHA's Farm Loan Programs and ASCS programs were consolidated under the newly created FSA while the remaining FmHA programs were transferred to one of the following Rural Development mission agencies: Rural Business Cooperative Service, Rural Housing Service, and Rural Business Service. Chapter VII is now assigned to FSA while Chapter XVIII is shared by FSA and the Rural Development mission area agencies.

Discussion of Comments Received

In response to the proposed rule, 23 respondents, including a farm interest group and individuals, from 14 States commented. The comments received involved a number of different sections of the proposed rule and overwhelmingly supported most of the changes proposed by the Agency.

Emergency Loan Fund Uses

Eighteen comments were received concerning the authorized uses of emergency loan funds outlined in the proposed rule. Five comments supported items that were included as new specific emergency loan fund uses in the proposed rule.

One comment on proposed § 1945.53(b)(1), which is now § 764.3(b)(1), requested an administrative clarification regarding what reorganizing meant. This comment was not addressed in the final rule because the usage is the same as what is in the existing regulation and the Agency will follow the common definition of reorganizing. However, examples of reorganizing will be given in the Agency handbook for clarification.

One comment received expressed concern that the proposed regulation did not mention that loan funds can be used to replace dwellings or farm structures or other farm buildings. Another comment suggested that loan funds used for needs associated with the physical loss of real estate be limited to essential real estate. Wording to implement this suggestion was adopted in the introductory text of § 764.3(a)(1) of the final rule. This change makes the final rule consistent with the existing regulation, 7 CFR 1945.163(b), which requires that to qualify for a physical loss loan, if the destroyed property is not repaired or replaced, the farmer would be unable to continue the operations on a reasonably sound basis. If the lost or destroyed real estate is not essential to the operation then the policy is that an Emergency loan is not necessary for the operator to continue operation. A definition of ''essential real estate (or chattel)'' was also added to § 764.2 for clarity.

One comment suggested that use of funds should only be allowed for replacing buildings or other structures that are essential to the ongoing viability of the operation, that are modest in design and cost, and that meet the functionality of the property destroyed in the disaster. We agree that this loan purpose should be limited for practical reasons and to conserve limited emergency loan funds. Section 764.3(a)(1)(ii) has been modified to state that emergency loan funds may be used to replace or repair buildings or other structures essential to the ongoing viability of the operation. However, the Agency will only finance such replacement or repair to the extent the structures conform to industry standards and meet the needs of the operation and intended purposes of the structure. The intent of this language is to allow the replacement of what was lost with a similar structure which meets the needs of the operation but not necessarily exactly what was lost. One example of this would be the destruction of a family residence. An EM loan to rebuild the house would be based on an assessment of the current needs of the family, not necessarily on the replacement value of the lost residence. Another example is if a 300 foot poultry house was destroyed. Current industry standards require a 400 foot poultry house. The Agency in this case would make a loan for a 400 foot house since a 300 foot house no longer meets the needs of the operation.

Two comments suggested that use of physical loss loan funds be limited to replacing what was destroyed. These comments were partially adopted. Physical loss funds can be used to replace or repair what was lost as a result of the disaster. As discussed above, however, consideration of industry standards, needs of the operation, and purposes of the structure may result in a replacement similar to, but not the same as, the structure destroyed. The changes to § 764.3(a)(1)(ii) of the final rule address these concerns.

Two commentors suggested said that use of physical loss funds for family living, as included in the proposed rule, should not be allowed. This suggestion was not adopted. All livestock losses are treated as physical losses in the final rule, therefore, lost income from market animals should be allowed for family living expenses and operating expenses. However, the language of § 764.3(a)(2)(v) was changed to clarify that family living and operating expenses could not be paid if the physical loss was to breeding stock. If the loss was to breeding stock then the physical loss funds should be used to replace the breeding stock because that stock has been determined to be an essential part of the operation. Other livestock losses would be considered to generate normal production income and a loan to replace that income would be allowed for use as family living expenses.

One commentor suggested that the restriction in § 1945.53(a)(2)(vi) and § 1945.53(b)(6) of the proposed rule which prohibits the refinancing of a Farm Loan Program loan with emergency loan funds when the applicant has refinanced the loan more than four times, be removed. This suggestion was not adopted in the final rule as it is a statutory requirement for subtitle B loan purposes in § 312(a)(9) of the Consolidated Farm and Rural Development Act (Act) (7 U.S.C. 1942(a)(9)) as adopted by § 323 of the Act (7 U.S.C. 1963) for emergency loans.

One commentor suggested that livestock should be eligible as a production loss, as well as a physical loss. This suggestion was not adopted because based on the past history of the program and on the experience of Farm Loan Managers in the field, livestock loss rarely qualifies as production loss and by making all livestock losses physical losses it will be easier for livestock producers to qualify for a loan because they will not have to suffer a 30 percent loss to qualify, as is the case for production loans.

One commentor suggested that use of loan funds should not be allowed for the payment of bankruptcy expenses as a cost associated with reorganizing the farm. The Agency adopted this suggestion in § 764.3(b)(1) of the final rule because it does not make sense for the Agency to make a loan to file bankruptcy which could result in the Agency having to write-off the loan or other Agency debt. Such debt forgiveness generally renders the farmer in-eligible for further assistance from the Agency.

Eligibility Requirements

Twenty-two comments were received concerning eligibility requirements contained in the proposed rule. Ten of those comments addressed changes to the test for credit requirement. One comment suggested that the test for credit documentation requirements be consistent with existing requirements in other Agency direct loan programs. In response, § 764.4(a)(9) of the final rule was modified to eliminate the proposed extra letter requirement when the applicant's net worth exceeds $1 million. Instead, the final rule allows Agency officials flexibility to contact other commercial lending institutions within reasonable proximity of the applicant and make an independent determination of the applicant's ability to obtain credit elsewhere. This addition allows the Agency to investigate cases where the applicant's net worth or other circumstances indicate that credit may be available elsewhere without increasing the applicant's burden in obtaining additional written declinations of credit. This current flexibility in § 1945.156(b)(2) was inadvertently left out of the proposed rule. The provisions in the existing Emergency loan procedures give the loan approval official the ability to contact other lenders and require more than the minimum number of rejection letters if they determine that, based on the applicant's financial condition or local lending practices, other credit should be available.

Two commentors disagreed with the proposed changes to the current test for credit documentation requirements. Two others disagreed with inclusion of a waiver for loans of less than $100,000. One suggested that all loans should have at least two rejection letters. Another suggested that one rejection letter be required if the loan request was for $200,000 or less and two rejection letters if the loan request was for more than $200,000, and one suggested that a letter from a Farm Credit institution be required as one of the rejection letters. Although the Agency understands the concerns expressed by these comments, it did not adopt any of these suggestions. The final rule gives the Agency maximum flexibility and is consistent with the minimum requirements of the Act.

One commentor pointed out that the proposed rule was inconsistent with § 373(b)(2) of the Act (7 U.S.C. 2008h(b)(2)) regarding when an applicant who has received debt forgiveness is eligible for an Emergency loan. This error is corrected in § 764.4(a)(10) of the final rule.

One comment was received suggesting that the proposed provision that an applicant may demonstrate managerial ability by farming experience within the last 5 years be changed to 3 years. This suggestion was not adopted because it is too restrictive. The Agency believes that farming experience in the last five years is current enough to demonstrate that the applicant understands current farming practices. Additionally, if the change to three years was made many college graduates who were raised on a farm and spent the last 4 years getting a degree would not be eligible for a loan because they had not farmed in the last three years.

One commentor suggested that the borrower training requirement contained in the proposed § 1945.54(a)(13) should only apply to beginning farmers or farmers who have demonstrated poor management. Section 335 of the Act (7 U.S.C. 2006) does not provide blanket exceptions for certain types of farmers. Furthermore, there are specific criteria under which a waiver of the borrower training requirements may be requested by an applicant in 7 CFR 1924.74. The final rule adopts the proposed language without change in § 764.4(a)(13).

One comment was received objecting to the proposed § 1945.54(a)(15), which established as an eligibility requirement that an applicant demonstrate that they would honestly endeavor to carry out the conditions of the loan and provide current, complete, and truthful information. The comment indicated that this was not an appropriate eligibility requirement because there was no objective criteria. Two other comments were received which supported the provision and one comment suggested incorporating the concept in the definition of past credit history. The Agency agrees that this should not be included as a separate eligibility criteria and removed the proposed requirement from the final rule. Instead, the eligibility requirement of past credit history in § 764.4(a)(8) of the final rule was expanded as suggested, to state that as part of the credit history analysis, the Agency will determine whether the applicant has dealt with the Agency in good faith which includes providing current, complete, and truthful information to the Agency and fulfilling its obligations to other Federal agencies and third parties. The Agency believes this language is sufficiently objective.

One commentor suggested that harvested and stored crops should be eligible as a physical loss. The Agency agrees and incorporated this very practical suggestion into the final rule in § 764.4(b)(2)(iii). This coverage in § 1945.163(b) was inadvertently left out of the proposed rule.

The Agency also is adding an eligibility requirement in § 764.4(a)(15) that the applicant must agree to repay any duplicative Federal assistance to the agency providing such assistance. A person receiving Federal assistance for a major disaster or emergency is liable to the United States to the extent that the assistance duplicates benefits available to the person for the same purpose from another source. This provision is required by 42 U.S.C. 5155, part of the Robert T. Stafford Disaster Relief and Emergency Assistance Act. If the Agency determines that it has provided duplicative assistance, the Agency will collect the duplicative assistance from the recipient in accordance with the Federal Debt Collection Act.

Loan Limitations

Fifteen comments were received regarding proposed changes to loan limitations, including qualifying losses. Three comments were received commending the change in maximum loan amount from 80 percent to100 percent of production loss while two others recommended that the level be left at 80 percent or raised to only 90 percent. Another commentor pointed out that increasing the limit will increase loan losses. Another commentor suggested that if the limit is increased to 100 percent, the Agency should make adjustments for costs not incurred and for substitute crops. Increasing the maximum loan amount to 100 percent should not increase loan losses. In many cases the Agency makes an operating loan for the additional 20 percent of the loss not currently covered by the Emergency loan. Therefore, the Agency has the same exposure as if the Emergency loan were made at 100 percent. However, because the Emergency loan is at a lower interest rate, there is a higher chance of repayment because less interest accrues. Therefore, loan losses could actually be reduced. The suggestions that adjustments be made for costs not incurred and substitute crops were not adopted because they are not required by statute, and such adjustments would only make the calculations more complicated and more prone to error. The Agency believes that the increase to 100 percent is needed to better serve the needs of applicants who have suffered a loss and would not add significant risk of loss to the Agency. Therefore, the language of the proposed § 1945.55(b) is incorporated in the final rule at § 764.5(b) without revision.

One commentor suggested that when loan funds are used for construction, Agency regulations dealing with planning and monitoring construction should be followed. The Agency agrees and has adopted this comment by adding in § 764.5(a)(2) of the final rule a requirement that any construction financed by the Agency comply with 7 CFR part 1924, subpart A.

Two comments were received suggesting that the use of Emergency loan funds for refinancing consumer debt not be authorized or be restricted. In response, the final rule includes a new section § 764.5(a)(3) that prohibits use of emergency loan funds for refinancing consumer debt unless the debt is directly attributable to the farming operation. Subsidized Federal disaster assistance should not be used to refinance vacations, automobiles, or other expenses that were incurred by the farmer but have nothing to do with the farming operation or its recovery from the effects of the disaster. This change balances the farmer's need for funds with the Agency's need to allocate limited emergency loan funds.

Repayment and Security Requirements

Thirty-eight comments were received on the proposed § 1945.58 which addressed repayment and security requirements. One commentor recommended that this provision be reworded to ensure that the feasible plan demonstrate that the applicant will meet all other obligations for which the applicant is legally responsible. The Agency agrees and revised the wording in § 764.8(a)(1) accordingly.

Twelve comments were received expressing opposition to proposed § 1945.58(f) which allowed, under certain conditions, an Emergency loan to be made when adequate security is not available because of the disaster. These comments expressed the opinion that the Agency should never make a loan if the value of the security is less than the loan amount. Unfortunately, while we agree from a sound lending standpoint this should never be done, the statute requires otherwise. Due to provisions contained in section 324(d)(2) of the Act, the Agency is prohibited from rejecting a loan because it lacks a particular amount of security. The Agency believes that the proposed rule language complied with this statutory requirement while protecting the Agency's interest. Therefore, the proposed language is adopted as final, with some minor modifications, as discussed below, at § 764.8(f).

One commentor suggested that, at a minimum, an assignment on any USDA program payments to be received be required when adequate security was lacking. The Agency agrees and added § 764.8(f)(4) to the final rule which requires such assignment when there is a lack of adequate security. Incorporating this comment will result in sounder lending practices by allowing the Agency to take Government program payments and apply them to the applicant's loan, thereby reducing the under-secured position.

The proposed rule also required that the plan indicate how pricing risks will be addressed through the use of marketing contracts, hedging, options, or revenue insurance and include a marketing plan or similar risk management practice. One comment was received recommending revenue insurance be included as a method of addressing pricing risk, and six comments were received indicating concerns with requiring a marketing plan. The latter comments suggested that the Agency might be opening itself up to lender liability issues and that substantial guidance and clarification was needed as to what constituted an acceptable marketing plan. In response to these comments, the final rule, at § 764.8(f)(2), included revenue insurance as an example of risk management for clarity. The Agency removed the requirement for a marketing plan to avoid a wide variance in the interpretation of the term and administrative difficulty in establishing appropriate standards on what would be an acceptable marketing plan.

The proposed rule also provided that, where there is a lack of adequate security, the applicant must demonstrate a positive net cash income in at least 1 of the immediately preceding 5 years. The Agency received fifteen comments on this proposed requirement. One suggested that this requirement would keep farmers who have had droughts for the last 5 years from being eligible; 6 commentors said that 1 out of 5 years is not much of an indication that the farmer is successful; one suggested that it should be 50 percent of the time; three suggested it should be 3 out of the last 5 years; and one suggested 1 out of the last 3 years. The other three commentors were concerned that it was too easy to manipulate a farm plan to show repayment ability or wanted a much more complicated formula than that proposed based on net farm income. In response to these comments, § 764.8(f)(3) provides that if the applicant is using ability to repay the loan as security, the applicant must have had positive net cash farm income in at least 3 of the past 5 years. Due to natural disasters and fluctuating prices it was determined that 1 out of 3 years was too restrictive. Given the concern that 1 out of 5 years was too liberal and not a good indication of ability to repay, the Agency determined that requiring records from 3 out of the last 5 years to show net cash income made the most sense from a lending standpoint.

The proposed rule stated that the Agency will require that the applicant pledge all available assets (including personal assets for both individuals and members of entities). One commentor suggested that if substantial non-essential assets are available, the Agency should require that they be liquidated to reduce the need for an Emergency loan or, if they are not liquidated, the applicant would not be eligible. The Agency did not adopt this suggested change because it believes that taking a lien on such assets is adequate. Also, if there is a substantial amount of non-essential assets, the applicant may be able to obtain credit elsewhere and, therefore, would not be eligible for Agency assistance. The final rule adopted the proposed language at § 764.8(g).

One comment noted that the proposed regulation did not address taking Indian Trust land as security. In response to that comment, the Agency included § 764.8(j), which specifically authorizes taking Indian Trust land as security if the requirements in § 1943.17(a)(7) for such security are met.

Appraisal and Valuation Requirements

The proposed rule, at § 1945.59(b), provided that the security value of annual agricultural commodities production is presumed to be 100 percent of the amount loaned for annual operating and essential family household expenses. One commentor noted that this may overstate the security value in certain cases. The Agency agreed and revised the final regulation at § 764.9(b) to provide that the security value is the lower of the amount loaned for annual operating and essential family household expenses or the amount of expected crop revenue. The amount of expected crop revenue will be equal to the amount of gross receipts from all crop and livestock production as shown on the cashflow used to approve the loan. Expected revenue does not include farm program or crop insurance payments.

Insurance for Loan Security

The proposed rule, at § 1945.60(b), required that all security except growing crops be covered by hazard insurance. One commentor pointed out that this was too restrictive. The Agency agrees.

In response, the final rule, at § 764.10(b), provides that there must be hazard insurance if it is readily available (*i.e.* normally sold by insurance agents in the farmer's normal trade area) and economically feasible.

Definitions

Thirty comments were received concerning the proposed definitions. Thirteen of the comments were requests for clarifications and five comments pointed out errors. The proposed definitions of *additional security, adequate security, agency, agricultural commodity, applicant, basic part of an applicant's total farming operation, established farmer, majority interest, physical loss,* and *security value* were modified in the final rule at § 764.2 to clarify the definitions or to correct errors. For additional clarity, the definition of ''entity'' was properly alphabetized. Two comments suggested that the final rule include the entire definition, rather than a reference to another Agency regulation. This suggestion was adopted.

Three comments pointed out that the proposed definition of ''normal production yield'' could cause inconsistent treatment depending upon whether an applicant had or had not been an Agency borrower. The Agency agrees. The definition was revised as the comments suggested so that all applicants will be treated consistently when determining normal production yield.

The Agency modified the definition of *established farmer* to state that the term did not include an operation that employs a full-time manager. This provision in current § 1945.162(d) was unintentionally omitted in the proposed rule.

List of Subjects

7 CFR Part 764

Agriculture, Credit, Disaster assistance, Loan programs—Agriculture.

7 CFR Part 1945

Agriculture, Credit, Disaster assistance, Loan programs—Agriculture.

Accordingly, 7 CFR chapters VII and XVIII are amended as follows:

1. Part 764 is added to read as follows:

PART 764—EMERGENCY FARM LOANS

Sec.

764.1 Purpose.
764.2 Definitions.
764.3 Emergency loan funds uses.
764.4 Eligibility requirements.
764.5 Limitations.
764.6 Interest rate.
764.7 Loan terms.
764.8 Repayment and security requirements.
764.9 Appraisal and valuation requirements.
764.10 Insurance for loan security.
764.11 Charges and fees.

Authority: 5 U.S.C. 301 and 7 U.S.C. 1989.

§ 764.1 Purpose.

The purpose of the Emergency Loan Program is to provide financial assistance to family farmers who have suffered losses as the result of a disaster so that they can return to normal farming operations as soon as possible after the disaster. Specifically, this part describes the policies and procedures of the Agency for making Emergency loans to operators of such farms.

§ 764.2 Definitions.

Act means the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 *et seq.*).

Additional security means property that provides security in excess of the amount of security value equal to the loan amount, excluding security described in § 764.8(g).

Adequate security means property that provides a security value at least equal to the loan amount.

Agency means the Farm Service Agency, including its employees, any predecessor agency, and any successor agency.

Agricultural commodity means livestock, grains, cotton, oilseeds, dry beans, tobacco, peanuts, sugar beets, sugar cane, fruit, vegetable, forage, tree farming, nursery crops, nuts, aquacultural species, and other plant or animal production as determined by the Agency.

Allowable costs means those costs for replacement or repair that are supported by acceptable documentation, including but not limited to written estimates, invoices, and bills.

Applicant means an individual or entity (including each owner of the entity unless specified otherwise) operating a farming operation at the time of the disaster, who is requesting assistance from the Agency under this part. All requirements of applicants apply to owners of the entity individually and collectively unless specified otherwise.

Aquacultural species means aquatic organisms (including fish, mollusks, crustaceans or other invertebrates, amphibians, reptiles, or aquatic plants) raised in a controlled or selected environment which the applicant has exclusive rights to use.

Basic part of an applicant's total farming operation means any single agricultural commodity or livestock production enterprise of an applicant's farming operation which normally generates sufficient income to be considered essential to the success of such farming operation.

Borrower means an individual or entity which has an outstanding obligation to the Agency under any Farm Loan Program loan, without regard to whether the loan has been accelerated. A borrower includes all parties liable for such obligation owed to the Agency, including collection-only borrowers, except for debtors whose total loans and accounts have been voluntarily or involuntarily foreclosed, sold, or conveyed; or who have been discharged of all such obligations owed to the Agency.

Chattel means any property that is not real estate.

Chattel or real estate essential to the farming operation means chattel or real estate that would be necessary for the applicant to continue operating the farm on a after the disaster in a manner similar to the manner in which the farm was operated immediately prior to the disaster, as determined by the Agency.

Corporation means a private domestic entity recognized as a corporation and authorized as a corporation under the laws of the State or States in which the entity does business.

County means a local administrative subdivision of a State or similar political subdivision of the United States.

Debt forgiveness means reducing or terminating a debt under the Act in a manner that results in a loss to the Agency (excluding a consolidation, rescheduling, reamortization, or deferral), through:

(1) Writing down or writing off a debt pursuant to 7 U.S.C. 2001;

(2) Compromising, adjusting, reducing, or charging off a debt or claim pursuant to 7 U.S.C. 1981; or

(3) Paying a loss pursuant to 7 U.S.C. 2005 on a Farm Loan Program loan guaranteed by the Agency.

Disaster means an event of unusual and adverse weather conditions or other natural phenomena that has substantially affected producers of agricultural commodities by causing physical property or production losses in a county, or similar political subdivision, that triggered the inclusion of such county or political subdivision in the disaster area designated by the Agency.

Disaster area means the county, declared or designated as a disaster area for Emergency loan assistance as a result of disaster related losses and counties

contiguous to those counties declared or designated as disaster areas.

Disaster yield means the per-acre yield of an agricultural commodity for the farming operation during the production period when the disaster occurred.

Entity means a partnership, corporation, cooperative, or joint operation that is an operator of an operation engaged in farming, ranching, or aquaculture activities at the time the disaster occurs.

Essential family household expenses means the expenses associated with providing food, clothing, and shelter necessary to maintain the borrower and the immediate family of the borrower.

Established farmer means a farmer who is an operator of the farming operation (in the case of a farming operation operated by an entity, its owners as a group) who:

(a) Actively participated in the operation and the management, including but not limited to, exercising control over, making decisions regarding, and establishing the direction of the farming operation at the time of the disaster;

(b) Spends a substantial portion of time in carrying out the farming operation;

(c) Planted the crop, or purchased or produced the livestock on the farming operation;

(d) In the case of an entity, is primarily engaged in farming and has over 50 percent of its gross income from all sources from its farming operation based on the farming operation's projected cash flow for the next crop year or the next 12 month period, as mutually determined; and

(e) Is not:

(1) A corporation with an ownership interest of 50 percent or more held by one or more estates, trusts, other corporations, partnerships, or joint operations;

(2) A partnership or joint operation with an ownership interest of 50 percent or more held by one of more estates, trusts, corporations, other partnerships or other joint operations;

(3) An integrated livestock, poultry, or fish processor who operates primarily and directly as a commercial business through contracts or business arrangements with farmers, except a grower under contract with an integrator or processor may be considered an established farmer, provided the operation is not managed by an outside full-time manager or management service and such loans shall be based on the applicant's share of the agricultural production as contained in the contract; or

(4) An operation that employs a full-time farm manager.

Family farm means a farm that:

(a) Produces agricultural commodities for sale in sufficient quantities so that it is recognized in the community as a farm rather than a rural residence.

(b) Provides enough agricultural income by itself, including rented land, or together with any other dependable income, to enable the borrower to:

(1) Pay necessary family and operating expenses;

(2) Maintain essential chattel and real property; and

(3) Pay debts.

(c) Is managed by:

(1) The borrower, when a loan is made to an individual.

(2) The members, stockholders, partners, or joint operators responsible for operating the farm when a loan is made to a entity.

(d) Has a substantial amount of the labor requirements for the farm enterprise provided by:

(1) The borrower and family members for a loan made to an individual.

(2) The members, stockholders, partners, or joint operators responsible for operating the farm, along with the families of these individuals, for a loan made to an entity.

(e) May use a reasonable amount of full-time hired labor and seasonal labor during peak load periods.

Farm Loan Program loan means a Farm Ownership loan, Operating loan, Emergency loan, Soil and Water loan, or Economic Emergency loan made or guaranteed by the Agency pursuant to the Act.

Farmer means individuals, cooperatives, corporations, partnerships or joint operations who are farmers, ranchers, or aquaculture operators actively engaged in their operation at the time a disaster occurs.

Feasible plan means a plan based upon the applicant's records that show the farming operation's actual production and expenses. These records will be used along with realistic anticipated prices, including farm program payments when available, to determine that the income from the farming operation, along with any other reliable off-farm income, will provide the income necessary for an applicant to at least be able to:

(a) Pay all operating expenses and all taxes that are due during the projected farm budget period;

(b) Meet necessary payments on all debts; and

(c) Provide living expenses for family members of an individual borrower or a wage of the farm operator in the case of a entity borrower which is in accordance with the essential family needs. Family members include the individual borrower, or farm operator in the case of an entity, and the immediate members of the family who reside in the same household.

Hazard insurance means coverage against losses due to fire, windstorm, lightning, hail, explosion, business interruption, riot, civil commotion, aircraft, land vehicles, marine vehicles, smoke, builders risk, public liability, property damage, flood or mudslide, workman's compensation, or any similar insurance that is available and needed to protect the security, or that is required by law.

Household contents means the essential household items necessary to maintain viable living quarters such as: stove, refrigerator, furnace, couch, chairs, tables, beds, lamps, clothes, etc. The term excludes all luxury items including jewelry, furs, antiques, paintings, etc.

Livestock means a member of the animal kingdom, or product thereof, as determined by the Agency.

Majority interest means an ownership interest of more than 50 percent of the entity.

Non-essential asset means those assets in which the applicant has an ownership interest that do not contribute a net income to pay essential family living expenses or to maintain a sound farming operation and are not exempt from judgment creditors or in a bankruptcy action.

Nonfarm enterprise means any nonfarm business enterprise, including recreation, that is closely associated with the farm operation and located on or adjacent to the farm and provides income to supplement farm income. This may include, but is not limited to, such enterprises as raising earthworms, exotic birds, tropical fish, dogs, and horses for nonfarm purposes, welding shops, roadside stands, boarding horses and riding stables.

Normal production yield means:

(a) The per-acre actual production history of the crops produced by the farming operation used to determine Federal crop insurance payments or payment under the Non-Insured Assistance Program for the production year during which the disaster occurred;

(b) When the actual production history is not available, the applicant's own production records for the previous three years will be used. If the applicant's production records are not available, the records of production on which FSA farm program payments are made that are contained in the applicant's farm program file, for the previous three years will be used;

(c) When the production records outlined in paragraphs (a) and (b) of this definition are not available, the county average production yield will be used.

Owner means those persons with an interest in the entity as a stockholder, partner, member, or joint operator.

Physical loss means verifiable damage or destruction with respect to real estate or chattel, excluding annual growing crops.

Production loss means verifiable damage or destruction with respect to annual growing crops.

Security value means the Agency-established market value of property (less the value of any prior liens) used as security for a loan under this part as of the date of the closing of the loan.

United States means each of the several States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

Working capital means cash available to conduct normal daily farming or ranching operations including, but not limited to, feed, seed, fertilizer, pesticides, farm or ranch supplies, cooperative stock, and cash rent.

§ 764.3 Emergency loan funds uses.

(a) *Physical losses*—(1) *Real estate losses.* Emergency loans may be used to address the needs of the farming operation associated with physical losses of essential real estate that were the result of a disaster to:

(i) Acquire or enlarge the farm, as specified in § 1943.16(a) of this title, as long such acquisition or enlargement does not cause the farm to exceed the requirements for a family farm;

(ii) Replace or repair buildings or other structures which are essential to the ongoing viability of the operation. The Agency will finance such replacement or repair only to the extent that the structures conform to industry standards and meet the needs of the operation and intended purposes of the structure.

(iii) Pay for activities to promote soil and water conservation and protection on the family farm as specified in § 1943.16(c) of this title;

(iv) Pay loan closing costs related to acquiring, enlarging, or improving the family farm as specified in § 1943.16(d) of this title, that an applicant cannot pay from other sources;

(v) Replace land or water resources on the family farm which resources cannot be restored;

(vi) Pay costs associated with land and water development for conservation or use purposes;

(vii) Establish a new site for farm dwelling and service buildings outside of a flood or mudslide area; and

(viii) Replace land from the family farm that was sold or conveyed as a direct result of the disaster, if such land is necessary for the farming operation to be effective.

(2) *Chattel losses.* Emergency loans may be used to address the needs of the farming operation associated with the physical losses of essential chattel that were the result of a disaster to:

(i) Purchase livestock and farm equipment, including but not limited to quotas, and cooperative stock for credit, production, processing, or marketing purposes;

(ii) Pay customary costs associated with obtaining, planning, and closing a loan that an applicant cannot pay from other sources (*e.g.* fees for legal, architectural, and other technical services, but not fees for agricultural management consultation and preparation of Agency forms);

(iii) Repair or replace *essential* household contents damaged in the disaster;

(iv) Pay the costs to restore perennials that produce an agricultural commodity, to the stage of development the damaged perennials had obtained prior to the disaster;

(v) In the case of a farming operation that has suffered livestock losses not from breeding stock, pay essential farm operating and family household expenses; and

(vi) Refinance debt (in the case of Farm Loan Program loan debt, as long as the applicant has not refinanced the loan more than 4 times).

(b) *Production losses.* Emergency loans may be used to address the losses of the farming operation associated with production of agricultural commodities (except the losses associated with the loss of livestock) of the farming operation that were the result of a disaster to:

(1) Pay costs associated with reorganizing the family farm to improve its profitability except that such costs shall not include the payment of bankruptcy expenses;

(2) Pay annual operating expenses, which include, but are not limited to, feed, seed, fertilizer, pesticides, farm or ranch supplies, cooperative stock, and cash rent;

(3) Pay costs associated with Federal or State-approved standards under the Occupational Safety and Health Act of 1970 (29 U.S.C. 655 and 667) if the applicant can show that compliance or non-compliance with the standards will cause substantial economic injury;

(4) Pay training costs required or recommended by the Agency;

(5) Pay essential family household expenses;

(6) Refinance debt (in the case of Farm Loan Program loan debt, as long as the applicant has not refinanced the loan more than 4 times); and

(7) Replace lost working capital.

§ 764.4 Eligibility requirements.

(a) *General borrower eligibility requirements.* An applicant for an Emergency loan must meet the following requirements:

(1) *Legal capacity.* The applicant must have the legal capacity to incur the obligation of the loan.

(2) *Citizenship*—(i) *Applicant who is an individual.* The individual applicant must be a citizen of the United States or an alien lawfully admitted to the United States for permanent residence as determined by the U.S. Immigration and Naturalization Service.

(ii) *Applicant that is an entity.* If the applicant is an entity, the majority interest of the applicant must be held by individuals who are citizens of the United States or aliens lawfully admitted to the United States for permanent residence, as determined by the U.S. Immigration and Naturalization Service.

(3) *Family farm and nonfarm enterprise.* The applicant's farming operation must qualify as a family farm and must not be a nonfarm enterprise.

(4) *Established farmer.* An applicant must be an established farmer.

(5) *Owner and operator requirements.*

(i) *Loans for physical losses to real estate.* In the case of a loan for a purpose specified in § 764.3(a)(1), an applicant must be:

(A) The owner and operator of the farming operation; or

(B) An operator of the farming operation whose lease on the affected real estate would exceed the term of the loan and give the Agency prior notification of the termination of the lease during the term of the loan, and whose lessor would provide the Agency a mortgage on the real estate as security for the loan.

(ii) *Loans for physical losses to chattel.* In the case of a loan for a purpose specified in § 764.3(a)(2), an applicant must be the operator of the farming operation.

(iii) *Loans for production losses.* In the case of a loan for a purpose specified in § 764.3(b), an applicant must be the operator of the farming operation.

(6) *Entity applicants.* For entity applicants:

(i) If the owners holding a majority interest in the entity applicant are

related by blood or marriage, at least one of such related owners must operate the family farm.

(ii) If the owners holding a majority interest in the entity applicant are not related by blood or marriage, the majority interest holders must all operate the family farm.

(iii) If the entity applicant has an operator interest in any other farming operation, that farming operation must not exceed the requirements of a family farm.

(7) *Intent to continue farming.* The applicant must demonstrate the intent to continue the farm operation after the disaster.

(8) *Credit history.* The applicant must demonstrate a credit history satisfactory to the Agency. As part of the credit history the Agency will determine whether the applicant has dealt with the Agency in good faith. This includes the applicant providing current, complete, and truthful information when applying for assistance and in all past dealings with the Agency. The Agency will also examine whether the applicant has properly fulfilled its obligations to other parties, including other Federal agencies. The Agency may use credit reports or any other available information to evaluate credit history.

(9) *Availability of credit elsewhere.* The applicant must be unable to obtain sufficient credit elsewhere at reasonable rates and terms. To establish this, the applicant must obtain written declinations of credit from legally organized commercial lending institutions within reasonable proximity of the applicant that specify the reasons for the declination as follows:

(i) In the case of a loan for $300,000 or more, two written declinations of credit are required;

(ii) In the case of a loan of less than $300,000, one written declination of credit is required; and

(iii) In the case of a loan of $100,000 or less, the Agency may waive the requirement for obtaining a written declination of credit if the Agency determines that it would pose an undue burden on the applicant, the applicant certifies that they cannot get credit elsewhere, and based on the applicant's circumstances credit is not likely to be available;

(iv) Notwithstanding the applicant's submission of the required written declinations of credit, the Agency may contact other commercial lending institutions within reasonable proximity of the applicant and make an independent determination of the applicant's ability to obtain credit elsewhere.

(10) *Prior debt forgiveness.* The applicant must not have received debt forgiveness from the Agency on more than one occasion on or before April 4, 1996, or any time after April 4, 1996.

(11) *Federal judgment lien.* The applicant's property must not be subject to a Federal judgment lien (other than a United States Tax Court lien).

(12) *Managerial ability.* The applicant must have sufficient managerial ability to assure reasonable prospects of loan repayment, as determined by the Agency. The applicant must demonstrate this managerial ability by education, on-the-job training, or farming experience within the last 5 years that covers an entire production cycle.

(13) *Borrower training.* The applicant must agree to meet the borrower training requirements in accordance with § 1924.74 of this title.

(14) *Prior drug convictions.* The applicant cannot have been convicted under Federal or State law of planting, cultivating, growing, producing, harvesting, or storing a controlled substance, as defined in 21 CFR part 1308, during the current crop year or the previous 4 crop years.

(15) *Recovery of duplicative benefits.* The applicant must agree to repay any duplicative Federal assistance to the agency providing such assistance. A person receiving Federal assistance for a major disaster or emergency is liable to the United States to the extent that the assistance duplicates benefits available to the person for the same purpose from another source.

(b) *Additional Emergency loan eligibility requirements*—(1) *Timely loan application.* A loan application must be received by the Agency not later than 8 months after the date the disaster is declared or designated in the county of the applicant's farming operation.

(2) *Qualifying losses*—(i) *Loss must occur in a disaster area.* The applicant may seek an Emergency loan only with respect to a family farm that had production or physical losses as a result of a disaster in a disaster area.

(ii) *Eligible production loss.* For production loss loans, the applicant must have a disaster yield that is at least 30 percent below the normal production yield of any single crop, as determined by the Agency, that comprises a basic part of an applicant's total farming operation.

(iii) *Eligible physical loss.* For physical loss loans, the applicant must have suffered disaster-related damage to chattel or real estate essential to the farming operation, to household items that must be repaired or replaced, to harvested or stored crops, or to perennial crops.

(3) *Changes in ownership structure.* The ownership structure of a family farm may change between the time of a qualifying loss and the time an Emergency loan is closed. In such case, all of the following requirements must be met:

(i) The applicant, in its new form, including all owners must meet all applicable eligibility requirements contained in this section;

(ii) The new individual applicant, or all owners of a new entity applicant must have had an ownership interest in the farming operation at the time of the disaster; and

(iii) The amount of the loan will be based on the percentage of the former farming operation transferred to the new applicant and in no event will the individual portions, aggregated, equal more than would have been authorized for the former farming operation.

(4) *Insurance requirement.* Emergency loan funds may not be used for physical loss purposes (excluding losses to livestock) unless that physical property was covered by general hazard insurance at the time that the damage caused by the natural disaster occurred. The level of the coverage in effect at the time of the disaster must have been the tax or cost depreciated value, whichever is less. Chattel property must have been covered at the tax or cost depreciated value, whichever is less, when such insurance was readily available and the benefits of the coverage (i.e. the amount of coverage equaling the lesser of the property's tax or cost depreciated value) justify the cost of the insurance.

§ 764.5 Limitations.

(a) *General limitations*—(1) *Highly erodible soil and wetlands conservation.* The Agency will not make a loan under this part for any purpose that contributes to erosion of highly-erodible land or the conversion of wetlands to produce an agricultural commodity.

(2) *Construction.* Any construction financed by the Agency must comply with applicable Federal, State, local, and industry building standards and subpart A of part 1924 of this title.

(3) *Refinancing.* Emergency loan funds may not be used to refinance consumer debt, such as automobile loans, or credit card debt unless such credit card debt is directly attributable to the farming operation.

(b) *Restriction on loan amount.* An Emergency loan may not exceed the lesser of:

(1) The amount of credit necessary to restore the family farming operation to its pre-disaster condition;

(2) In the case of a physical loss loan, the total eligible physical losses caused by the disaster; or

(3) In the case of a production loss loan, 100 percent of the total actual production loss sustained by the applicant calculated pursuant to paragraph (d) of this section.

(c) *Maximum cumulative loan principal.* The maximum cumulative Emergency loan principal that any individual or entity may have outstanding is $500,000.

(d) *Production losses.* The applicant's actual production loss with respect to a crop is calculated as follows:

(1) Subtract the applicant's disaster yield from the applicant's normal production yield to determine the applicant's per acre production loss;

(2) Multiply the applicant's per acre production loss by the number of acres of the farming operation devoted to the crop to determine the volume of the production loss;

(3) Multiply the volume of the applicant's production loss by the market price for such crop as determined by the Agency to determine the dollar value for the production loss; and

(4) Subtract any other disaster related compensation or insurance indemnities received or to be received by the applicant for the production loss.

(e) *Physical loss*—(1) *Amount of loss.* The applicant's total eligible physical loss is calculated as follows:

(i) Add the allowable costs associated with replacing or repairing chattel covered by hazard insurance (excluding labor, machinery, equipment, or materials contributed by the applicant to repair or replace chattel);

(ii) Add the allowable costs associated with repairing or replacing real estate, covered by hazard insurance;

(iii) Add the value of livestock and livestock products (such valuation will be based on a national or regional valuation of species or product classification, whichever the Agency determines is more accurate);

(iv) Add the allowable costs to restore perennials, which produce an agricultural commodity, to the stage of development the damaged perennials had obtained prior to the disaster;

(v) Add, in the case of an applicant that is an individual, the allowable costs associated with repairing or replacing essential household contents, not to exceed $20,000; and

(vi) Subtract any other disaster-related compensation or insurance indemnities received or to be received by the applicant for the loss or damage to the chattel or real estate.

(2) *Documentation.* In the case of physical losses associated with livestock, the applicant must have written documentation of the inventory of livestock and records of livestock product sales sufficient to allow the Agency to value such livestock or livestock products just prior to the loss.

§ 764.6 Interest rate.

The interest rate applicable for an Emergency loan will be the lower of the interest rate at the time of either loan approval or loan closing and in no event shall exceed 8 percent annually.

§ 764.7 Loan terms.

(a) *Basis for repayment.* The Agency schedules repayment of Emergency loans based on the useful life of the loan security, the applicant's repayment ability, and the type of loss.

(b) *Minimum payment requirement.* The repayment schedule must include at least one payment every year.

(c) *Repayment of loans for annual operating expenses.* Emergency loans for annual operating expenses, except those expenses associated with establishing a perennial crop, must be repaid within 12 months. The Agency, however, may extend this term to not more than 18 months to accommodate the production cycle of the agricultural commodities of the farming operation.

(d) *Repayment of loans for production or physical losses to chattel.* The repayment schedule for loans for production losses or physical losses to chattel (including but not limited to assets with an expected life between 1 and 7 years) may not exceed 7 years. If necessary to improve the repayment ability of the loan and real estate security is available, the term of the loan may be extended up to a total length not to exceed 20 years.

(e) *Repayment of loans for physical losses to real estate.* The repayment schedule for loans for physical losses to real estate is based on repayment ability of the applicant and the useful life of the security, but in no case will the term of repayment exceed 40 years.

§ 764.8 Repayment and security requirements.

(a) *General requirements*—(1) *Ability to repay.* The applicant must submit a feasible plan that demonstrates the applicant's ability to repay the loan. The plan also must demonstrate that the applicant will meet all other credit needs and obligations, including judgments, for which the applicant is legally responsible.

(2) *Sufficient equity.* The applicant must have sufficient equity in the security pledged for an Emergency loan to provide adequate security for the loan except as permitted in paragraph (f) of this section. The applicant must provide additional security, if available, not to exceed 150 percent of the loan amount.

(3) *Interests in property not owned by the applicant.* Interests in property not owned by the applicant (such as leases that provide a mortgageable value, water rights, easements, mineral rights, and royalties) can be offered as security for the loan and will be considered in determining whether adequate security is available.

(b) *Real estate loans.* In the case of an Emergency loan for real estate losses, the loan shall be secured at a minimum by the real estate that is being purchased, repaired, replaced, or improved with the loan funds.

(c) *Chattel and production loans.* In the case of an Emergency loan for chattel and production losses, the loan shall be secured, at a minimum, by the chattel that is being purchased, repaired, replaced, refinanced, or produced with the loan funds.

(d) *Agency lien position*—(1) *Real estate security.* If real estate is pledged as security for a loan, the Agency must obtain a first lien, if available, on the real estate. When a first lien is not available, the Agency may take a junior lien under the following conditions:

(i) The prior lien does not contain any provision that may jeopardize the Agency's interest or the applicant's ability to repay the loan to the Agency;

(ii) Prior lienholders agree to notify the Agency of acceleration and foreclosure whenever State law or other arrangements do not require such notice; and

(iii) The applicant must agree to obtain permission from the Agency prior to granting any additional security interests in the real estate.

(2) *Real estate held under a purchase contract.* If the real estate offered as security is held under a recorded purchase contract:

(i) The applicant must provide a security interest in the real estate;

(ii) The applicant and the purchase contract holder must agree in writing that any insurance proceeds received to compensate for real estate losses will be used only to replace or repair the damaged real estate;

(iii) The applicant must refinance the existing purchase contract, or demonstrate that financing is not available, if an acceptable contract of sale cannot be negotiated or the purchase contract holder refuses to agree to apply all the insurance proceeds to repair or replace the damaged real estate and wants to retain

some of the proceeds as an extra payment on the balance owed;

(iv) The purchase contract must not be subject to summary cancellation on default and must not contain any provisions that are contrary to the Agency's best interests; and

(v) The contract holder must agree in writing to notify the Agency of any breach by the purchaser, and give the Agency the option to rectify the conditions that amount to a breach within 30 days after the date the Agency receives written notice of the breach.

(3) *Chattel security.* If chattel property is pledged as security for a loan the Agency must obtain a first lien on the chattel that is being purchased, repaired, replaced, refinanced, or produced with the loan funds.

(e) *Same security for multiple loans.* The same property may be pledged as security for more than one Farm Loan Program loan.

(f) *Lack of adequate security.* When adequate security is not available because of the disaster, the loan application may be approved if the Agency determines, based on the plan required in paragraph (a)(1) of this section, that there is a reasonable assurance that the applicant has the ability to repay the loan (based on an on-going operational basis, excluding special one-time sources of income or expenses) provided:

(1) The applicant has pledged as collateral for the loan, all available personal and business collateral, except those items listed in paragraphs (h)(1) and (h)(2) of this section;

(2) The feasible plan, approved by the Agency, indicates the loan will be repaid based upon the applicant's production and income history and addresses applicable pricing risks through the use of marketing contracts, hedging, options, revenue insurance or similar risk management practices;

(3) The applicant has had positive net cash farm income in at least 3 of the past 5 years; and

(4) The applicant has given the Agency an assignment on any USDA program payments to be received.

(g) *Conditions for taking other assets as security*—(1) *Conditions.* In addition to the requirements for adequate and additional security, the Agency will take a security interest in other assets (other than assets listed under the exceptions in paragraph (h) of this section), if available, when:

(i) An applicant has non-essential assets that are not being converted to cash to reduce the loan amount; or

(ii) The real estate security and chattel security do not provide adequate security for the loan.

(2) *List of other assets.* Other assets may include:

(i) A pledge of real estate or chattel by a third party;

(ii) Patents, copyrights, life insurance, stocks, other securities, and membership in cooperatives, owned by the applicant;

(iii) Assets owned by an applicant that cannot be converted to cash without jeopardizing the farm operation; and

(iv) Non-essential assets owned by the applicant with an aggregate value in excess of $5,000.

(h) *Exceptions to security requirements.* The Agency will not take a security interest in certain property in the following situations:

(1) The property proposed as security has environmental contamination, restrictions, or historical impact that could impair the value or expose the Agency to potential liability;

(2) The Agency cannot obtain a valid lien on the security;

(3) The applicant's personal residence and appurtenances are on a parcel of land separate and apart from that real estate being used as adequate security for the loan; or

(4) The applicant's other assets are used for farming or for essential living expenses and are not needed for security purposes, including but not limited to, subsistence livestock, cash or special cash collateral accounts, retirement accounts, personal vehicles, household goods, and small tools and equipment such as hand tools, power lawn mowers.

(i) *Requirements for security.* (1) For loans over $25,000, title clearance is required when real estate is taken as security.

(2) For loans of $25,000 or less, when real estate is taken as security, a certification of ownership in real estate is required. Certification of ownership may be in the form of an affidavit which is signed by the applicant, naming the record owner of the real estate in question and listing the balances due on all known debts against the real estate. Whenever the loan approving official is uncertain of the record owner or debts against the real estate security, a title search is required.

(j) *Taking Indian Trust lands as security.* The Agency may take a lien on Indian Trust lands as security provided that the requirements of § 1943.19(a)(7) of this title are satisfied.

§ 764.9 Appraisal and valuation requirements.

(a) *Establishing value for real estate.* Real estate appraisals conducted pursuant to this part may be completed by designated appraisers or contract appraisers and shall conform to the Uniform Standards of Professional Appraisal Practice guidelines and standards in accordance with § 761.8 of this chapter.

(b) *Establishing value for agricultural commodities and equipment.* Valuations of agricultural commodities and equipment shall be established as follows:

(1) The security value of the annual agricultural commodities production (excluding livestock) will be 100 percent of the amount loaned for annual operating and essential family household expenses, or the amount of expected crop revenue, excluding farm program and insurance payments, whichever is lower.

(2) The value of livestock and equipment will be the market value as determined by the Agency in accordance with § 761.8 of this chapter.

(c) *Assets damaged by the disaster.* In the case of farm assets damaged by the disaster, the value of such security shall be established as of the day before the disaster occurred.

§ 764.10 Insurance for loan security.

(a) *Adequacy of insurance.* An applicant must obtain insurance, consistent with this section, equal to the lesser of the value of the security at the time of loan closing, or the principal of the loan.

(b) *Hazard insurance.* All security (except growing crops) must be covered by hazard insurance if it is readily available (*i.e.* sold by insurance agents in the applicants normal trade area) and economically feasible.

(c) *Flood or mudslide insurance.* Real estate security located in flood or mudslide prone areas, as determined by the Agency, must be covered by flood or mudslide insurance.

(d) *Crop insurance*—(1) *Requirement to obtain crop insurance.* Except as provided in paragraph (d)(2) of this section, prior to closing the loan, the applicant must have obtained at least the catastrophic risk protection level of crop insurance coverage for the crop during the crop year for which the loan is sought for each crop which is a basic part of an applicant's total farming operation, if such insurance is available, unless the applicant executes a written waiver of any emergency crop loss assistance with respect to such crop.

(2) *Exception.* Growing crops used to provide adequate security must be covered by crop insurance if such insurance is available.

(e) *Indemnities.* A borrower must:

(1) List the Agency as loss payee for the insurance indemnity payment or as

a beneficiary of a mortgagee loss payable clause; and

(2) In the case of crop insurance, execute an assignment of indemnity in favor of the Agency.

§ 764.11 Charges and fees.

The applicant must pay all filing, recording, notary, and lien search fees necessary to process and close a loan. The applicant may pay or be reimbursed for these fees from Emergency loan funds.

PART 1945—EMERGENCY

2. Subparts B, C and D are removed.

Signed at Washington, DC, on December 31, 2001.

J.B. Penn,

Under Secretary for Farm and Foreign Agricultural Services.

[FR Doc. 02–359 Filed 1–7–02; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 905

[Docket No. FV01–905–2 IFR]

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Modifying Procedures and Establishing Regulations To Limit the Volume of Small Red Seedless Grapefruit

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule modifies the procedures used to limit the volume of sizes 48 and 56 red seedless grapefruit entering the fresh market under the marketing order for oranges, grapefruit, tangerines, and tangelos grown in Florida (order). The order is administered locally by the Citrus Administrative Committee (Committee). This rule increases the number of weeks available under weekly percentage of size regulation from 11 weeks to 22 weeks and institutes weekly percentages for 6 additional weeks of the 2001–02 season. It will be beneficial to have the additional weeks available, when necessary, to help stabilize the market and improve grower returns. The percentages established for the 2001–02 season are intended to supply enough small red seedless grapefruit without saturating all markets with small sizes.

DATES: Effective January 7, 2002; comments received by January 23, 2002 will be considered prior to issuance of a final rule. Pursuant to the Paperwork Reduction Act, comments on the information collection burden must be received by March 11, 2002.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW Stop 0237, Washington, DC 20250–0237; Fax: (202) 720–8938, or e-mail: *moab.docketclerk@usda.gov.* All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.ams.usda.gov/fv/moab.html.*

FOR FURTHER INFORMATION CONTACT: William G. Pimental, Marketing Specialist, Southeast Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, PO Box 2276, Winter Haven, Florida, 33881; telephone: (863) 324–3375, Fax: (863) 325–8793; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW Stop 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW Stop 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: Jay.Guerber@usda.gov.

SUPPLEMENTARY INFORMATION: This interim final rule is issued under Marketing Agreement 84 and Marketing Order No. 905, both as amended (7 CFR part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

This rule modifies the procedures used to limit the volume of sizes 48 ($3\frac{9}{16}$ inches minimum diameter) and 56 ($3\frac{5}{16}$ inches minimum diameter) red seedless grapefruit entering the fresh market under the order by increasing the number of weeks available under weekly percentage of size regulation from 11 weeks to 22 weeks. This rule also institutes weekly percentages for 6 additional weeks of the 2001–02 season. It will be beneficial to have the additional weeks available, when necessary, to help stabilize the market and improve grower returns. This rule is intended to supply enough small red seedless grapefruit without saturating all markets with small sizes during 2001–02.

Section 905.52 of the order provides authority to limit shipments of any grade or size, or both, of any variety of Florida citrus. Such limitations may restrict the shipment of a portion of a specified grade or size of a variety. Under such a limitation, the quantity of such grade or size a handler may ship during a particular week would be established as a percentage of the total shipments of such variety by such handler in a prior period, established by the Committee and approved by the USDA.

Section 905.153 of the regulations provides procedures for limiting the volume of small red seedless grapefruit entering the fresh market. The procedures specify that the Committee may recommend that only a certain percentage of sizes 48 and 56 red seedless grapefruit be made available for shipment into fresh market channels for any week or weeks during the regulatory period. Currently, the regulation period

covers 11 weeks starting the third Monday in September. Under such a limitation, the quantity of sizes 48 and 56 red seedless grapefruit that may be shipped by a handler during a regulated week is calculated using the recommended percentage. By taking the recommended weekly percentage times the average weekly volume of red seedless grapefruit handled by such handler in the previous five seasons, handlers can calculate the total volume of sizes 48 and 56 they may ship in a regulated week.

This rule expands the weeks available for limiting the volume of small red seedless grapefruit entering the fresh market from the first 11 weeks of each season to the first 22 weeks. This adds 11 weeks to a tool that has been effective in stabilizing the market and in improving returns to growers. This rule also establishes weekly base percentages for 6 additional weeks of the 2001–02 season. The Committee recommended the percentages be set at 40 percent for the first 3 weeks (December 3 through December 23) and 30 percent for the remaining eight weeks (December 24 through February 17) of the second 11 weeks. These actions are based on unanimous recommendations of the Committee made at meetings on May 22, 2001, and August 29, 2001. Because of the current timeframe, this action establishes weekly percentages for the 6 remaining weeks of the second 11-week regulatory period (January 7 through February 17, 2002).

At the May 22, 2001, meeting, the Committee also unanimously voted to establish percentage of size regulation for the first 11 weeks of the season (September 17 through December 2, 2001). The Committee's initial recommendation was issued as a proposed rule published in the **Federal Register** on July 31, 2001 (66 FR 39459). No comments were received during the comment period, which expired August 10, 2001. At the August 29, 2001 meeting, the Committee unanimously recommended adjusting the proposed percentages. The Committee's revised recommendation was issued as an interim final rule published in the **Federal Register** on September 26, 2001 (66 FR 49088). No comments were received during the comment period, which expired October 9, 2001.

The first action considered in this rulemaking modifies the procedures for limiting the volume of small red seedless grapefruit entering the fresh market as specified in § 905.153 of the order. This change increases the number of weeks available for regulation from the first 11 weeks of each season to the first 22 weeks. The red seedless grapefruit season runs approximately 33 weeks, from mid-September through May. Prior to this rule, only the first 11 weeks of a season could be regulated to control shipments of sizes 48 and 56 red seedless grapefruit. This change in itself does not limit shipments, but expands the weeks available for percentage of size regulation to 22 weeks so small sizes can be regulated for an additional 11 weeks, if needed.

The original rule creating § 905.153 (December 31, 1996, 61 FR 69011) established procedures for percentage of size regulation of small red seedless grapefruit. This rule provided a tool, if needed, to help stabilize the price and supply of red seedless grapefruit. The procedures were established to cover an 11-week period to address problems associated with the oversupply of small-sized red seedless grapefruit early in the season. The Committee believed the overshipment of early, small-sized fruit was depressing the market for all red seedless grapefruit, and concluded having a tool to limit the amount of small red grapefruit entering the fresh market would be very helpful in addressing this problem.

Under the original procedures, authority to limit shipments of sizes 48 and 56 red seedless grapefruit was established for the period starting the third Monday in September through the next 11 weeks. The Committee recommended 11 weeks at the time because the majority of small sizes were being shipped during this period. By the end of the 11 weeks, fruit had begun to size naturally, and there were fewer small sizes available.

However, this is no longer the case. The fruit is not sizing as it has in past seasons for reasons yet to be determined. This leaves a larger supply of smaller sizes available later in the season. For the past three seasons, the volume of small sizes available from December through February has been much larger than in past seasons. Returns on red seedless grapefruit have also been declining during this period. The Committee has concluded that the problems associated with small red seedless grapefruit have begun to extend beyond the 11-week regulation period. The Committee believes the increased volumes of small red seedless grapefruit shipped or available to be shipped during the middle of the season is having a detrimental effect on the market. The Committee recommended increasing the weeks available for percentage of size regulation to address this problem.

The last three seasons, 1998–99, 1999–2000, 2000–01, have shown a marked increase in the volume of small-sized red seedless grapefruit available later in the season. For these three seasons, the percentage of the crop represented by small sizes in the month of February has averaged 51 percent. This compares to an average of 26 percent for the same month for the three prior seasons (1995–98). In fact, the last three seasons have averaged a greater percentage of smaller sizes across each month, October through February, than over the three previous seasons. The trend across the last six seasons has been a continuing increase in the volume of small sizes as a percentage of the overall crop. This is most dramatically evidenced by the 72 percent increase in small sizes as a percentage of the overall crop from February 1996 to February 2001.

The available volumes of small-sized red seedless grapefruit in December, January, and February for the 1998–99, 1999–2000, and 2000–01 seasons were comparable or exceeded volumes available for October, November, and December for the 1995–96, 1996–97, and 1997–98 seasons. The following chart that shows the volume of sizes 48 and smaller red seedless grapefruit available for these months as a percentage of the total crop.

SIZES 48 AND SMALLER AS A PERCENTAGE OF TOTAL CROP

	95–96	96–97	97–98		98–99	99–00	00–01
October	43	62	73	December	56	64	64
November	34	56	61	January	54	58	57
December	32	51	52	February	50	49	54

It was following the 1995–96 season that the Committee began its initial discussions regarding the need to control the volume of small-sized red seedless grapefruit entering the fresh market early in the season. Percentage of

size regulation was first used to control the volume of small sizes during the first 11 weeks of the 1997–98 season. Small sizes were problem at those volume levels for the months of October through December for the 1995–96, 1996–97, and 1997–98 seasons. Having comparable or greater volumes of small sizes available during midseason also represents a problem for the industry.

The University of Florida, Citrus Research and Education Center published an estimated cost of production per acre for the 2000–2001 season. The cost to produce Florida citrus fruit for the fresh market was estimated at $882.25 per acre for the SunRidge area, or the interior of the state, $907.72 per acre for the Gulf production area, and $974.46 per acre for the Indian River area, or the Atlantic coast region. Using an average of these estimates, it cost approximately $921 per acre to cultivate citrus for the fresh market in 2000–2001. This average represents a somewhat lower cost of production than what most growers of red seedless grapefruit experience because a major share of production is in the Indian River area.

During the past five seasons, red seedless grapefruit production has averaged around 409 boxes (1⅗ bushels) per acre. For the 2000–2001 season, the average on-tree value for red seedless grapefruit is estimated at $2.10 per box. Using these numbers, total on-tree revenue for the 2000–2001 season calculates as approximately $859 per acre. When combined with the cost of production, the average red seedless grapefruit producer in Florida had a negative return of more than $62 per acre or a $0.15 per box loss.

On-tree returns have been at below production costs for all but one of the last eight seasons. Eleven-week regulation has helped. Growers have benefited from several years of increased on-tree returns due to percentage of size regulation. While 11-week regulation has improved the situation, it has not solved all the problems.

For the first time since the 1997–98 season, grower returns have again decreased. Total on-tree returns declined from $3.36 during the 1999–2000 season to $2.10 for the 2000–01 season. On-tree returns for fresh red grapefruit also declined by 22 percent. Comparing on-tree returns for fresh sales by month, shows that for the seasons 1997–98, 1998–99, and 1999–2000, there was an average decline in returns of $.60 per box from November to February. When you combine this $.60 reduction with the average volume of 4.7 million boxes of all red seedless grapefruit moved during this period, the drop in revenue to growers is nearly $2.8 million. During a period when growers are struggling to realize returns that at least equal the cost of production, this $.60 can mean the difference between profit and loss.

A similar situation is observable with f.o.b. prices. F.o.b. prices have stabilized somewhat under 11-week regulation. However, while it has helped eliminate dramatic drops in price during the first 11 weeks, prices have continued to decrease throughout the season. In the three seasons 1998–99, 1999–2000, and 2000–01, prices of red seedless grapefruit fell from an average f.o.b. price of $7.72 per carton (⅘ bushel) in November to an average f.o.b. price of $7.02 in February. Also, as with grower returns, after two years of increased average season f.o.b. prices, this past season, 2000–01, represented a $.50 per carton decrease from the prior season.

The Committee believes the overshipment of smaller sized red seedless grapefruit during the middle of the season is contributing to poor returns and lower prices. While there is a market for small-sized red seedless grapefruit, the shipment of large quantities in a short time oversupplies the fresh market and negatively impacts the market for all sizes. Smaller sizes normally return the lowest prices, and when there is too much volume, the overabundance of lower priced fruit drives prices down for all sizes.

The purpose of this change is to provide the Florida citrus industry a tool, when needed, that helps stabilize the market and the price of red seedless grapefruit during the middle part of the season. Committee members agreed that extending the weeks available under § 905.153 for percentage of size regulation an additional 11 weeks provides a tool that will help address the problems associated with small sizes during the middle of the season. The Committee supports the additional weeks because they have successfully used the provisions of § 905.153 to address very similar problems for the first 11 weeks of the season.

For the seasons 1994–95, 1995–96, and 1996–97, returns for red seedless grapefruit had been declining, often not returning the cost of production. On-tree prices for red seedless grapefruit had fallen steadily from $9.60 per carton (4/5 bushel) during the 1989–90 season, to $3.45 per carton during the 1994–95 season, to $1.41 per carton during the 1996–97 season.

The Committee determined that one problem contributing to the market's condition was the excessive number of small-sized grapefruit shipped early in the marketing season. In the 1994–95, 1995–96, and 1996–97 seasons, sizes 48 and 56 accounted for 34 percent of total shipments during the 11-week regulatory period, with the average weekly percentage exceeding 40 percent of shipments. This contrasted with sizes 48 and 56 representing only 26 percent of total shipments for the remainder of the season.

To address this situation the Committee recommended weekly percentage of size regulation under § 905.153 for the first 11 weeks of the 1997–98, 1998–99, 1999–2000, 2000–01, and 2001–02 seasons. Under 11-week regulation, f.o.b. prices and on-tree returns increased and movement stabilized as compared to years with no 11-week percentage of size regulation.

Average f.o.b. prices were higher during the 11-week percentage of size regulation than for the three years prior to regulation. The average price for red seedless grapefruit in late October was $8.46 per carton for the regulated seasons compared to $7.22 for the same period for the three years before regulation. Prices have also remained at a higher level, with an average f.o.b. price of $7.29 per carton in mid-December during the years with regulation compared to $6.02 for the three prior years. The average season f.o.b. price has also been higher, averaging $7.15 per carton during years with 11-week regulation compared to $5.83 for the three prior seasons without regulation.

The on-tree returns per box for fresh red seedless grapefruit also improved during 11-week regulation, providing better returns to growers. On-tree returns increased from $2.85 in 1997–98, to $4.52 in 1998–99, to $5.52 for the 1999–2000 season.

Eleven-week percentage of size regulation also helped stabilize the volume of small sizes entering the fresh market early in the season. During the three years prior to the 11-week regulation, small sizes accounted for over 34 percent of the total shipments of red seedless grapefruit during the 11-week period covered. This compares to 31 percent for the same period during the last four years with 11-week regulation. There has also been a 43 percent reduction in the volume of small sizes entering the fresh market during the 11-week regulatory period from 1995–96 to 2000–01.

An economic study done by Florida Citrus Mutual (Lakeland, Florida) in April 1998, found the weekly percentage regulation had been effective. The study stated that part of the strength in early season pricing appeared to be due to the use of the

weekly percentage rule to limit the volume of sizes 48 and 56. It said prices were generally higher across the size spectrum with sizes 48 and 56 having the largest gains, and larger-sized grapefruit registering modest improvements. The rule shifted the size distribution toward the higher-priced, larger-sized grapefruit, helping raise weekly average f.o.b. prices. It further stated that sizes 48 and 56 grapefruit accounted for around 27 percent of domestic shipments during the same 11 weeks during the 1996–97 season. Comparatively, sizes 48 and 56 accounted for only 17 percent of domestic shipments during the same period in 1997–98, as small sizes were used to supply export customers with preferences for small sized grapefruit.

Much of what the Committee is now seeing in the second 11 weeks of a season reminds them of the adverse conditions they were facing during the first 11 weeks for the 1994–95, 1995–96, and 1996–97 seasons. The Committee believes the problems successfully addressed by using the 11-week percentage of size regulation during the first part of the season are the same problems they are now seeing during the middle of the season. The Committee believes the overshipment of smaller sized red seedless grapefruit during the middle of the season is contributing to poor returns and lower prices. Therefore, the Committee believes expanding the period available for percentage of size regulation under § 905.153 from 11 weeks to 22 weeks will provide them with the best tool to address these problems.

In making this decision, the Committee considered expanding the regulated period to cover all thirty-three weeks of a season. However, it was decided that the addition of 11 weeks best serves the current marketing situation. A major factor in deciding to expand the regulated period by 11 weeks rather than 22 weeks is the timing of the majority of export shipments. On average, more than 45 percent of export shipments occur after the second week in February. Export markets also tend to prefer smaller grapefruit. Last season, 85 percent of shipments to the Pacific Rim, 75 percent of shipments to Canada, and 60 percent of shipments to Europe were sizes 48 and 56. Consequently, starting in February, there is a much larger demand for sizes 48 and 56 red seedless grapefruit. This effectively addresses the problem with the volume of small sizes during the last 11 weeks of the season. Therefore, the Committee believed that under these conditions, it was not necessary to be able to regulate small sizes during the last 11 weeks of a season, even though weak marketing conditions exist in some export markets.

During deliberations regarding percentage of size regulation in past seasons, the Committee considered how shipments had affected the market. Based on available statistical information, Committee members concluded once shipments of sizes 48 and 56 reached levels above 250,000 cartons a week, prices declined on those and most other sizes of red seedless grapefruit. The Committee determined if shipments of small sizes could be maintained at or below 250,000 cartons a week, prices should stabilize and demand for larger sizes should increase.

In the last three seasons, weekly shipments of sizes 48 and 56 red seedless grapefruit exceeded 250,000 cartons an average of 5 of the 11 weeks of the second 11 weeks of the season. When the initial 11-week regulated period ends, handlers are shipping greater quantities of smaller sizes to the fresh market. In 1998–99, 1999–2000, and 2000–01, shipments of sizes 48 and 56 red seedless grapefruit during the second 11 weeks of the season exceeded shipments of small sizes for the first 11 weeks by an average of nearly one million cartons. These factors may have contributed to the marketing problems experienced by the industry.

Approximately 51 percent of red seedless grapefruit on average is shipped to fresh market channels. There is a processing outlet for grapefruit. The majority, 49 percent on average, is squeezed for juice. This outlet offers limited returns and currently is not profitable. Recent statistics from the Florida Department of Citrus show there is a 40-week inventory of processed grapefruit from last season. This will have an additional negative impact on expected returns.

For the 2000–2001 season, on-tree returns were negative for processed red seedless grapefruit. During the last five years, only 1999–2000 produced on-tree returns for processed red seedless grapefruit that exceeded one dollar per box. When on-tree returns for processed grapefruit drop below a dollar, there is pressure to shift a larger volume of the overall crop to the fresh market to benefit from the higher prices normally paid for fresh fruit.

A fair percentage of red seedless grapefruit shipped for processing tend toward the smaller sizes. When returns for processed red grapefruit are low, an additional volume of small sizes can be shifted toward the fresh market, further exacerbating problems with excessive volumes of small sizes. Current projections of on-tree prices for processed red seedless grapefruit for the 2001–02 season are low due to the large quantities of stored juice. This fact, combined with the past history for juice prices, further supports the need to have the additional 11 weeks available to control excessive volumes of small sizes during the middle of the season.

Shipments during the 11 weeks added by this regulation account for nearly 50 percent of the total volume of red seedless grapefruit shipped to the fresh market. Considering this volume and the limited returns for processing, it is important that returns from the fresh market be maximized during this period. Even a small increase in price when coupled with the volume shipped represents a significant increase in the overall return to growers.

The 11-week percentage of size regulation in place for the first part of the season has been having the desired effect on early markets the past four seasons. However, when the regulation period ends, there is an increased supply of small red seedless grapefruit shipped to the fresh market. This has had a depressing effect on price and grower returns. The Committee decided it needed to have a tool available to regulate shipments of small-sized red seedless grapefruit during the middle part of the marketing season. Therefore, the Committee voted to recommend increasing the weeks available for regulation under § 905.153 from 11 to 22 weeks to provide them with that tool.

To use these procedures, the committee would meet and recommend a base percentage of sizes 48 and 56 that could enter the fresh market in any week or weeks from the first Monday in September for the next 22 weeks. If approved by the USDA, this percentage would be applied to each handler's average week of fresh shipments to determine the amount of sizes 48 and 56 red grapefruit each handler could ship.

The second action taken by this rule establishes weekly base percentages for 6 additional weeks during the 2001–02 season. The Committee met August 29, 2001, and recommended that percentages be set at 40 percent for the first 3 weeks (December 3 through December 23) and 30 percent for the remaining eight weeks (December 24 through February 17). However, because of the current timeframe, this action establishes weekly percentages for 6 weeks of the second 11-week period at 30 percent (January 7 through February 17, 2002. This rule supplies enough small-sized red seedless grapefruit to meet market demand, without saturating all markets with these small sizes. This action will help stabilize the market and improve grower returns. This action is

similar to those taken during the first 11 weeks of the 1997–98, 1998–99, 1999–2000, 2000–01, and 2001–02 seasons.

For the 1998–99, 1999–2000, and 2000–01 seasons there has been a substantial increase in the volume of small sizes available later in the season. The percentage of the crop represented by small sizes in February averaged 51 percent for these three seasons, compared to a 26 percent average for the same month for the three prior seasons (1995–98). Small sizes available for shipment in December, January, and February for the 1998–99, 1999–2000, and 2000–01 seasons equal or exceed volumes available during October, November, and December for the 1995–96, 1996–97, and 1997–98 seasons.

Following the 1995–96 season the Committee began discussing the need to control the volume of small-sized red seedless grapefruit entering the fresh market. Small sizes were a problem for the months of October through December for the 1995–96, 1996–97, and 1997–98 seasons. Having equal or greater volumes available during midseason represents a comparable problem. Initial estimates by the Florida Agricultural Statistics Service show that small sizes represent a large percentage of the 2001–02 crop, accounting for over 83 percent of the fruit per September measurements.

The Committee believes excessive shipments of small-sized red seedless grapefruit during the second 11 weeks of the season is contributing to the market's poor condition. For the months of December through February shipments of small sizes exceed those shipped during September through November by nearly 91,000 cartons a week on average. There is a market for small red seedless grapefruit. However, shipping large quantities in a short period oversupplies the market for these small sizes and negatively impacts the market for all sizes. As previously stated, the midseason crop has had a greater percentage of small sizes the past few seasons, creating a glut of smaller, lower-priced fruit on the market, driving down the price for all sizes.

On-tree returns have been below production costs for seven of the last eight seasons. Growers benefited from several years of increased returns, due to the 11-week percentage of size regulations used during the first part of the seasons. However, for the first time since the 1997–98 season, on-tree returns have again decreased. On-tree returns dropped from $3.36 during the 1999–2000 season to $2.10 for the 2000–01 season. On-tree returns for fresh red grapefruit also declined by 22 percent. In addition, on-tree returns declined an average of $.60 from November to February for the seasons 1997–98, 1998–99, and 1999–2000. By combining this $.60 reduction with an average volume of 4.7 million boxes shipped during this period the loss in grower returns tops nearly $2.8 million.

In the past three seasons, 1998–99, 1999–2000, and 2000–01, prices of red seedless grapefruit fell from an average f.o.b. price of $7.72 per carton in November to an average f.o.b. price of $7.02 in February. Also, as with grower returns, after two years of increased average season f.o.b. prices, the 2000–01 season marked a $.50 per carton decrease from the prior season.

The Committee believes the overshipment of small sizes is contributing to the decreasing returns. To address similar problems with an oversupply of small sizes and decreasing returns during the first part of the season, the Committee successfully used the provisions of § 905.153, and recommended weekly regulation of small sizes during the first 11 weeks of the 1997–98, 1998–99, 1999–2000, 2000–01, and 2001–02 seasons. Under the 11-week regulations, prices increased and movement stabilized as compared to seasons without 11-week regulation.

In making the recommendation to establish weekly percentages for the second 11 weeks, Committee members considered the success of the 11-week regulations during the early season and their experiences from past seasons. Members reviewed shipment data covering the second 11-week period for the last three seasons. The information contained the amounts and percentages of sizes 48 and 56 shipped during each week.

Committee members agreed that limiting the volume of small sizes available for the fresh market has been successful when used during the early part of a season. The Committee believes that the volume of small sizes will be a problem during the middle of the season, and that limiting the volume available for shipment will be beneficial.

Based on available statistical information, Committee members concluded once shipments of sizes 48 and 56 reached levels above 250,000 cartons a week, prices declined on those and most other sizes of red seedless grapefruit. The Committee believed if shipments of small sizes could be maintained at or below 250,000 cartons a week, prices should stabilize and demand for larger, more profitable sizes should increase.

The last three seasons during the second 11-week period, shipments of sizes 48 and 56 red seedless grapefruit exceeded 250,000 cartons an average of 5 of the 11 weeks. During the 1998–99, 1999–2000, and 2000–01 seasons, shipments of sizes 48 and 56 red seedless grapefruit from the second 11 weeks exceeded shipments of small sizes from the first 11 weeks by an average of nearly one million cartons. This may have contributed to the problems facing the industry.

Setting the weekly percentages at 30 percent for the remaining 6 weeks provides a total available weekly allotment of approximately 244,000 cartons (30 percent of the total industry base of 813,191 cartons). Setting the weekly percentages at this level allows total shipments of small red seedless grapefruit to approach the 250,000-carton mark during the regulated period without exceeding it.

The Committee believes that the problems associated with an uncontrolled volume of small sizes entering the market in the middle of the season will continue without regulation. Therefore, this action establishes weekly percentages at 30 percent for the remaining 6 weeks (January 7 through February 17).

The Committee believes it is best to set regulation at these levels, and then relax the percentages later in the season if conditions warrant. The Committee recognized they could meet again in December and in the months following and use the most current information to consider adjustments in the weekly percentage rates. Any changes to the weekly percentages established by this rule would require additional rulemaking and the approval of the USDA.

The provisions governing the operation of percentage of size regulation remain the same. The Committee still cannot set restrictions tighter than 25 percent. The method for calculating base and allotment also remains the same. The only changes to § 905.153 are the number of available regulation weeks and the cut off period for overshipments.

Under § 905.153, the quantity of sizes 48 and 56 red seedless grapefruit a handler may ship during a regulated week is calculated using the recommended percentage. By taking the weekly percentage times the average weekly volume of red seedless grapefruit handled by such handler in the previous five seasons, handlers can calculate the total volume of sizes 48 and 56 they may ship in a regulated week.

The Committee calculates an average week for each handler. To calculate an average week, the total red seedless

grapefruit shipments by a handler during the 33 week period beginning the third Monday in September and ending the first Sunday in May from the previous five seasons are added together, then divided by five to establish an average season. This average season is divided by the 33 weeks to derive the average week. This average week is the base for each handler for each of the 11 weeks of the regulatory period.

The weekly percentage is multiplied by a handler's average week. The product is that handler's total allotment of sizes 48 and 56 red seedless grapefruit for the given week. Handlers can fill their allotment with sizes 48 or 56, or a combination of both sizes such that total shipments are within established limits. The Committee staff performs the specified calculations and provides them to each handler.

The average week for handlers with less than five seasons of shipments is calculated by averaging the total shipments for the seasons they did ship red seedless grapefruit during the previous five years and dividing that average by 33. New handlers have no prior shipments on which to base their average week. Therefore, a new handler can ship small sizes such that their volume of small sizes as a percent of their total shipments during their first week shipping are equal to the weekly percentage set for that week. Once a new handler has established shipments, their average week is calculated as an average of the weeks they have shipped during the current season.

The regulatory period begins the third Monday in September, and runs for 22 weeks. Each regulation week begins Monday at 12:00 a.m. and ends at 11:59 p.m. the following Sunday, since most handlers keep records based on Monday as the beginning of the workweek.

The rules and regulations governing percentage size regulation contain a variety of provisions designed to provide handlers with some marketing flexibility. Section 905.153(d) provides allowances for overshipments, loans, and transfers of allotment. These provisions should allow handlers the opportunity to supply their markets while limiting the impact of small sizes.

This rule makes one slight change to the provisions governing overshipments. During a week of percentage of size regulation, any person who has received an allotment can handle an amount of sizes 48 and 56 red seedless grapefruit equal to their weekly allotment, plus an additional overshipment amount not to exceed 10 percent of that week's allotment. The quantity of overshipments is deducted from the handler's allotment for the following week. Section 905.153 did state that overshipments were not allowed during week 11 because there were no allotments the following week from which to deduct the overshipments. This rule changes this to read that no overshipments are allowed during week 22 to reflect the longer regulated period.

The Committee can act on behalf of handlers wanting to arrange allotment loans or participate in the transfer of allotment. Repayment of an allotment loan is at the discretion of the handlers' party to the loan. The Committee informs each handler of the quantity of sizes 48 and 56 red seedless grapefruit they can handle during a particular week, making the necessary adjustments for overshipments and loan repayments.

This rule does not affect the provision that handlers may ship up to 15 standard packed cartons (12 bushels) of fruit per day exempt from regulatory requirements. Fruit shipped in gift packages that are individually addressed and not for resale, and fruit shipped for animal feed are also exempt from handling requirements under specific conditions. Also, fruit shipped to commercial processors for conversion into canned or frozen products or into a beverage base are not subject to the handling requirements under the order.

Section 8e of the Act requires that whenever grade, size, quality, or maturity requirements are in effect for certain commodities under a domestic marketing order, including grapefruit, imports of that commodity must meet the same or comparable requirements. This rule does not change the minimum grade or size requirements under the order, only the percentages of sizes 48 and 56 red grapefruit that may be handled. Therefore, no change is necessary in the grapefruit import regulation as a result of this action.

Initial Regulatory Flexibility Analysis

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

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 75 grapefruit handlers subject to regulation under the order and approximately 11,000 growers of citrus in the regulated area. Small agricultural service firms, which includes handlers, are defined by the Small Business Administration (SBA) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $750,000 (13 CFR 121.201).

Based on industry and Committee data, the average annual f.o.b. price for fresh Florida red seedless grapefruit during the 2000–01 season was approximately $7.20 per 4/5 bushel carton, and total fresh shipments for the 2000–01 season are estimated at 24.7 million cartons of red grapefruit. Approximately 25 percent of all handlers handled 70 percent of Florida grapefruit shipments. In addition, many of these handlers ship other citrus fruit and products which are not included in Committee data but would contribute further to handler receipts. Using the average f.o.b. price, about 69 percent of grapefruit handlers could be considered small businesses under SBA's definition. Therefore, the majority of Florida grapefruit handlers may be classified as small entities. The majority of Florida grapefruit producers may also be classified as small entities.

The overshipment of small-sized red seedless grapefruit has contributed to poor returns for growers and lower on-tree values. This rule increases the current number of regulated weeks available under weekly percentage of size regulation from 11 weeks to 22 weeks. With additional volumes of small size now available later in the season, it will be beneficial to have the additional weeks available, when necessary, to help stabilize the market and improve grower returns. This rule also institutes weekly percentages for an additional 6 weeks during 2001–02 season. Authority for this action is provided in § 905.52 of the order. This rule also uses the provisions of § 905.153. The rule is based on unanimous recommendations of the Committee at meetings on May 22, and August 29, 2001.

The first change this rule makes only provides additional weeks for percentage of size regulation. The goal of this change is to provide an additional tool, if needed, to help stabilize the price of red seedless grapefruit.

The second action establishes weekly percentages for an additional 6 weeks of the 2001–02 season. The Committee

recommended that weekly percentages be set at 40 percent for the first three weeks (December 3 through December 23) and 30 percent for the eight remaining weeks (December 24 through February 17) of the second 11-week period. However, because of the current timeframe, this action establishes weekly percentages for the remaining 6 weeks of the second 11-period regulatory period at 30 percent (January 7, 2002, through February 17, 2002).

This action is intended to supply enough small red seedless grapefruit, without saturating all markets with small sizes. The quantity of sizes 48 and 56 red seedless grapefruit that may be shipped by a handler during a particular week is calculated using the recommended percentage. This action will help stabilize the market and improve grower returns. This action is similar to the actions taken during the first 11 weeks of the 1997–98, 1998–99, 1999–2000, 2000–01, and 2001–02 seasons.

During the past three seasons for the months of December through February available supplies of small sizes have been at levels previously only seen during the months of September to early December. For these three seasons, the percentage of the crop represented by small sizes in the month of February has averaged 51 percent. This compares to an average of 26 percent for the same month for the three prior seasons (1995–98). In the past three seasons, during the second 11 weeks of the season, prices of red seedless grapefruit have fallen. On-tree prices for fresh red seedless grapefruit have also declined. In many cases, prices have provided returns less than production costs. This is making it difficult for some small producers to remain in business.

The Committee believes having the ability to control the volume of small sized red seedless grapefruit has been an important tool during the first 11 weeks of the past four seasons. The Committee believes the benefits the industry derived under 11 weeks of volume regulation will continue if the period available for volume regulation is increased to 22 weeks. Recognizing the trend of having more small sizes available later in a season, the Committee believes having the ability to regulate volume during the middle of the season will be a valuable tool. The purpose of this change is not to eliminate small-sized red grapefruit. It is merely to provide a tool to prevent a surplus of small-sized red seedless grapefruit from damaging the overall grapefruit market during the middle part of the season. A tool that will help stabilize price and returns benefits both small and large producers and handlers.

The past three seasons, shipments of small sizes for December through February exceeded those shipped during September through November by nearly 91,000 cartons a week on average. For the first time since the 1997–98 season, on-tree returns have decreased. On-tree returns dropped from $3.36 during the 1999–2000 season to $2.10 for the 2000–01 season. On-tree returns for fresh red grapefruit also declined by 22 percent. In addition, on-tree returns declined an average of $.60 from November to February for the seasons 1997–98, 1998–99, and 1999–2000. By combining this $.60 reduction with an average volume of 4.7 million boxes shipped during this period the loss in grower returns tops nearly $2.8 million. The Committee attributes the decrease in returns to the volume of small sizes.

The Committee believes the volume of small sizes will continue to be a problem during the middle part of this season. Initial estimates by the Florida Agricultural Statistics Service show that small sizes represent a large percentage of the 2001–02 crop, accounting for over 83 percent of the fruit per September measurements. Therefore, the Committee recommended establishing volume regulation during the second 11 weeks of the 2001–2002 season. However, because of the current timeframe, this action establishes weekly percentages for the remaining 6 weeks of the second 11-week period.

While the establishment of volume regulation may necessitate additional spot picking, which could entail slightly higher harvesting costs, many producers are already using the practice. In addition, with spot picking, the persons harvesting the fruit are more selective and pick only the desired sizes and qualities. This reduces the amount of time and effort needed in sorting fruit, because undersize fruit is not harvested. These savings may result in reduced processing and packing costs. Also, regulation is only in effect for part of the season.

If a 25 percent restriction on small sizes had been applied during the second 11-week period for the three prior seasons, an average of 4.9 percent of the overall shipments during that period would have been subject to regulation. A large percentage of this volume most likely could have been replaced by larger sizes for which there are no volume restrictions. Under percentage of size regulation, larger sizes have been substituted for smaller sizes with a nominal effect on overall shipments.

In addition, handlers can transfer, borrow or loan allotment based on their needs in a given week. Handlers also have the option of overshipping their allotment by 10 percent in a week, provided any overshipments are deducted from the following week's shipments. Transfers and loans have been used very effectively during past seasons with percentage of size regulation. Therefore, the overall impact of this regulation on total shipments should not be substantial.

The Committee believes establishing volume regulation during the second 11 weeks of the season will have benefits similar to those realized under regulation of the first 11 weeks. Handlers and producers have received higher returns under the 11-week percentage of size regulations issued for the first 11 weeks of the last four seasons. In late October, during the four years with 11-week regulation, the average f.o.b. price for red seedless grapefruit was $7.99 per carton compared to $7.22 for the three years prior to regulation. F.o.b. prices also have remained higher, with an average price of $7.29 in mid-December during 11-week regulation compared to $6.02 for the three years prior to regulation. Season average prices have also been higher under 11-week regulation averaging $7.14 per carton compared to $5.83 for the prior three years. On-tree earnings per box for fresh red seedless grapefruit have also improved under regulation, providing better returns to growers. The on-tree price increased from $3.26 per box in 1996–97, to $3.42 for 1997–98, to $5.04 for 1998–99, to $5.62 for the 1999–2000 season.

If 11-week regulation applied at the start of a season has been successful in controlling the volume of small sizes and increasing returns, applying similar volume regulation during the second 11 weeks of the season should also be effective in addressing the problems with the overshipment of small sizes. Even if this action was only successful in raising returns by $.10 per carton, this increase in combination with the substantial number of shipments generally made during this second 11 week period, would represent an increased return of nearly $1 million. Consequently, any increased returns generated by this action should more than offset any additional costs associated with this regulation.

The purpose of this rule is to help stabilize the market and improve grower returns. This rule provides a supply of small-sized red seedless grapefruit sufficient to meet market demand, without saturating all markets with these small sizes. This action is not

expected to decrease the overall consumption of red seedless grapefruit. It is expected to benefit all red seedless grapefruit growers and handlers regardless of their size of operation. This rule will likely help small under-capitalized growers who need additional weekly revenues to meet operating costs.

The Committee discussed different alternatives to these changes. Several alternatives had to do with the number of weeks that would be available under percentage of size regulation. The alternatives considered included not increasing the number of weeks available, to increasing the regulation to include all 33 weeks of the season. Committee members agreed producers and handlers would benefit from smaller-sized fruit being controlled for a greater portion of the season. They also noted the majority of export shipments occur during the last 11 weeks of the season helping to alleviate problems with small sizes during that part of the season. Consequently, these alternatives were rejected.

Other alternatives considered had to do with the length of the holiday season and percentages set for that period. The holiday season is the weeks before Christmas when a large volume of small sizes are used for gift fruit shipments and fundraisers. One alternative was to add an additional week to those weeks considered as the holiday season, and set higher percentages for the first four weeks rather than the first three. Another alternative discussed was setting percentages higher than 40 percent for the weeks covered that were considered part of the holiday season. The Committee reviewed and discussed the suggestions and agreed that the weeks included and the percentages recommended were the best solutions based on the information available. The Committee further recognized that if marketing conditions indicated a change might be necessary the Committee could meet again later in the season and recommend that the percentages be relaxed. Therefore, these alternates also were rejected.

This action requires two new handler reports. These information collection requirements are discussed in the following section.

USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule. However, red seedless grapefruit must meet the requirements as specified in the U.S. Standards for Grades of Florida Grapefruit (7 CFR 51.760 through 51.784) issued under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 through 1627).

In addition, the Committee's meetings were widely publicized throughout the Florida citrus industry and all interested persons were invited to attend the meetings and participate in Committee deliberations on all issues. Like all Committee meetings, the May 22, and August 29, 2001, meetings were public meetings and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of these actions on small businesses.

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

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces that AMS has obtained emergency approval for a new information collection request for Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida, Marketing Order No. 905. The emergency request was necessary because insufficient time was available to follow normal clearance procedures.

Title: Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida, Marketing Order No. 905.

OMB Number: 0581–NEW.

Type of Request: New collection.

Abstract: The information collection requirements in this request are essential to carry out the intent of the Act, to provide the respondents the type of service they request, and to administer the Florida citrus marketing order program, which has been operating since 1939.

On May 22, and August 29, 2001, the Committee unanimously recommended revising the order's administrative rules and regulations to require handlers to report to the Committee information on small red seedless grapefruit during an additional 11-week volume regulation period. This information will be reported on two new Committee forms. *Form CAC 301A, Handler making/acquiring Loan and/or Transfer,* is used by handlers receiving base quantity loans, and by handlers receiving base quantity transfers during weeks 12 through 22 of the regulation period. *Form CAC 302A, Report of Red Grapefruit Shipments by Day and Regulation Week,* is used by handlers to inform the Committee of their daily shipments of sizes 48 and 56 red seedless grapefruit during weeks 12 through 22 of the regulation period.

The new reports are needed so the Committee can collect information on sizes 48 and 56 red seedless grapefruit during the second 11-week volume regulation period. The Committee will evaluate this information and determine whether a handler is in compliance with the regulation. These reports will ensure compliance with the volume regulation and assist the Committee and the USDA with oversight and planning.

The information collected is used only by authorized representatives of USDA, including AMS, Fruit and Vegetable Programs regional and headquarters staff, and authorized Committee employees. Authorized Committee employees will be the primary users of the information and AMS is the secondary user.

The request for approval of the new information collections under the order is as follows:

CAC 301A, Handler making/acquiring Loan and/or Transfer

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 5 minutes per response.

Respondents: Handlers who acquire a loan or transfer for sizes 48 and 56 small red seedless grapefruit during the additional 11-week regulation period.

Estimated Number of Respondents: 45.

Estimated Number of Responses per Respondent: 3.

Estimated Total Annual Burden on Respondents: 11.21 hours.

CAC 302A, Report of Red Grapefruit Shipments by Day and Regulation Week

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 3 minutes per response.

Respondents: Handlers who handle size 48 and/or 56 small red seedless grapefruit during the second 11-week regulation period.

Estimated Number of Respondents: 45.

Estimated Number of Responses per Respondent: 55.

Estimated Total Annual Burden on Respondents: 123.75 hours.

Comments: Comments are invited on: (1) 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) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments should reference OMB No. 0581–NEW and the Florida citrus marketing order, and be sent to USDA in care of the Docket Clerk at the previously mentioned address. All comments received will be available for public inspection during regular business hours at the same address.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

As mentioned before, because there was insufficient time for a normal clearance procedure and prompt implementation is needed, AMS has obtained emergency approval from OMB for the use of the two new forms for the second 11-week volume regulation period. The forms will be added to the forms currently approved for use under OMB No. 0581–0189. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

In addition to the information collection burden, this rule also invites comments on the modification to the procedures used to limit the volume of sizes 48 and 56 red seedless grapefruit entering the fresh market under the order. This rule increases the number of weeks available under weekly percentage of size regulation from 11 weeks to 22 weeks and institutes weekly percentages for 6 additional weeks of the 2001–02 season. Any comments received will be considered prior to finalization of this rule.

After consideration of all relevant material presented, including the Committee's recommendation, and other information, it is found that this interim final rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register**. This rule needs to be in place when the during the second 11-week regulatory period. Also, handlers need to know what their allotments of small sizes are to make their marketing plans. This issue has been widely discussed at various industry meetings, and the Committee has kept the industry well informed. Further, handlers are aware of this rule, which was recommended at public meetings. Also, a 15-day comment period is provided in this rule on increasing the number of weeks in the regulatory period from 11 to 22, and on the percentages established for the remaining 6 weeks of the second 11-week regulatory period. A 15-day comment period is deemed appropriate because this action should be finalized by the end of the regulatory period (February 17, 2002).

List of Subjects in 7 CFR Part 905

Grapefruit, Marketing agreements, Oranges, Reporting and recordkeeping requirements, Tangelos, Tangerines.

For the reasons set forth in the preamble, 7 CFR part 905 is amended as follows:

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

1. The authority citation for 7 CFR part 905 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. In § 905.153, paragraph (a), the last sentence is revised, and in paragraph (d), the third sentence is revised to read as follows:

§ 905.153 Procedure for determining handlers' permitted quantities of red seedless grapefruit when a portion of sizes 48 and 56 of such variety is restricted.

(a) * * * The term *regulation period* means the 22-week period beginning the third Monday in September of the current season.

* * * * *

(d) * * * Overshipments will not be allowed during week 22. * * *

* * * * *

3. Section 905.350 is revised to read as follows:

§ 905.350 Red seedless grapefruit regulation.

This section establishes the weekly percentages to be used to calculate each handler's weekly allotment of small sizes. Handlers can fill their allotment with size 56, size 48, or a combination of the two sizes such that the total of these shipments are within the established weekly limits. The weekly percentages for size 48 ($3\frac{9}{16}$inches minimum diameter) and size 56 ($3\frac{5}{16}$ inches minimum diameter) red seedless grapefruit grown in Florida, which may be handled during the specified weeks are as follows:

Week	Weekly percentage
(a) 9/17/01 through 9/23/01	45
(b) 9/24/01 through 9/30/01	45
(c) 10/1/01 through 10/7/01	35
(d) 10/8/01 through 10/14/01	30
(e) 10/15/01 through 10/21/01	30
(f) 10/22/01 through 10/28/01	30
(g) 10/29/01 through 11/4/01	30
(h) 11/5/01 through 11/11/01	30
(i) 11/12/01 through 11/18/01	30
(j) 11/19/01 through 11/25/01	30
(k) 11/26/01 through 12/2/01	40
(l) 1/7/02 through 1/13/02	30
(m) 1/14/02 through 1/20/02	30
(n) 1/21/02 through 1/27/02	30
(o) 1/28/02 through 2/3/02	30
(p) 2/4/02 through 2/10/02	30
(q) 2/11/02 through 2/17/02	30

Dated: January 3, 2002.

Barry L. Carpenter,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 02–450 Filed 1–4–02; 10:39 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–CE–48–AD; Amendment 39–12591; AD 2001–26–25]

RIN 2120–AA64

Airworthiness Directives; Grob-Werke Gmbh & Co KG Models G102 Club Astir III, G102 Club Astir IIIb, and G102 Standard Astir III Sailplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to all Grob-Werke Gmbh & Co KG (Grob) Models G102 Club Astir III, G102 Club Astir IIIb, and G102 Standard Astir III sailplanes. This AD requires you to apply a red mark and install a placard on the airspeed indicator to restrict the Vne airspeed. This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany. The actions specified by this AD are intended to prevent elevator flutter, which could cause structural damage. Such damage could result in loss of control of the sailplane.

DATES: This AD becomes effective on January 31, 2002.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulation as of January 31, 2002.

The Federal Aviation Administration (FAA) must receive any comments on this rule on or before February 11, 2002.

ADDRESSES: Submit comments to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–CE–48–AD, 901 Locust, Room 506, Kansas City, Missouri 64106.

You may get the service information referenced in this AD from GROB Luft- und Raumfahrt, Lettenbachstrasse 9, D86874 Tussenhausen-Mattsies, Federal Republic of Germany; telephone: 49 8268 998139; facsimile: 49 8268 998200. You may view this information at FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–CE–48–AD, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4144; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Discussion

What events have caused this AD? The LBA, which is the airworthiness authority for Germany, recently notified FAA that an unsafe condition may exist on all Grob Models G102 Club Astir III, G102 Club Astir IIIb, and G102 Standard Astir III sailplanes. The LBA reports two occurrences of elevator flutter on Model G102 Club Astir III sailplanes. The exact cause of this condition is unknown at this time; however, both airplanes were operating in the upper flight speed range.

What are the consequences if the condition is not corrected? Elevator flutter could cause structural damage to the sailplane. Such damage could result in loss of control of the sailplane.

Is there service information that applies to this subject? Grob has issued Service Bulletin No. MSB306–36/2, dated November 22, 2001.

The service bulletin includes procedures for:

—Applying a red mark on the airspeed indicator at 165 kilometers/hour (km/h), 89.1 knots (kts), or 102.5 miles per hour (mph) (according to the airspeed indicator calibration); and

—Installing a red placard to the airspeed indicator restricting the Vne airspeed to 165 km/h, 89.1 kts, or 102.5 mph (according to the airspeed indicator calibration).

What action did the LBA take? The LBA classified this service bulletin as mandatory and issued German AD Number 2001–317/2, dated November 30, 2001, in order to ensure the continued airworthiness of these sailplanes in Germany.

Was this in accordance with the bilateral airworthiness agreement? These sailplane models are manufactured in Germany and are type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement.

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

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

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

—The unsafe condition (elevator flutter while operating in the upper flight speed range) referenced in this document could develop on other Grob Models G102 Club Astir III, G102 Club Astir IIIb, and G102 Standard Astir III sailplanes of the same type design;

—The actions specified in the previously-referenced service information (as specified in this AD) should be accomplished on the affected sailplanes; and

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

What does this AD require? This AD requires you to incorporate the actions in the previously-referenced service bulletin.

In preparation of this rule, we contacted type clubs and aircraft operators to obtain technical information and information on operational and economic impacts. We have included, in the rulemaking docket, a discussion of information that may have influenced this action.

Is there a modification I can incorporate instead of restricting the Vne airspeed? The FAA has determined that long-term continued operational safety would be better assured by design changes that correct the source of the problem rather than by restricting the Vne airspeed. With this in mind, FAA will continue to work with Grob in collecting information and in performing analysis to determine whether a future design change is feasible.

Will I have the opportunity to comment prior to the issuance of the rule? Because the unsafe condition described in this document could result in loss of control of the sailplane, we find that notice and opportunity for public prior comment are impracticable. Therefore, good cause exists for making this amendment effective in less than 30 days.

Comments Invited

How do I comment on this AD? Although this action is in the form of a final rule and was not preceded by notice and opportunity for public comment, FAA invites your comments on the rule. You may submit whatever written data, views, or arguments you choose. You need to include the rule's docket number and submit your comments to the address specified under the caption **ADDRESSES**. We will consider all comments received on or before the closing date specified above. We may amend this rule in light of comments received. Factual information that supports your ideas and suggestions is extremely helpful in evaluating the effectiveness of this AD action and determining whether we need to take additional rulemaking action.

Are there any specific portions of this AD I should pay attention to? We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. You may view all comments we receive before and after the closing date of the rule in the Rules Docket. We will file a report in the Rules Docket that summarizes each FAA contact with the public that concerns the substantive parts of this AD.

How can I be sure FAA receives my comment? If you want us to acknowledge the receipt of your comments, you must include a self-addressed, stamped postcard. On the postcard, write ''Comments to Docket No. 2001–CE–48–AD.'' We will date stamp and mail the postcard back to you.

Compliance Time of This AD

What is the compliance time of this AD? The compliance time of this AD is ''within the next 10 calendar days after the effective date of this AD.''

Why is the compliance time presented in calendar time instead of hours time-in-service (TIS)? Although the elevator would only flutter during flight, this unsafe condition is not a result of the number of times the sailplane is operated. The chance of this situation

occurring is the same for a sailplane with 10 hours time-in-service (TIS) as it would be for a sailplane with 500 hours TIS. For this reason, the FAA has determined that a compliance based on calendar time should be utilized in this AD in order to ensure that the unsafe condition is addressed on all sailplanes in a reasonable time period.

Regulatory Impact

Does this AD impact various entities? These regulations 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, FAA has determined that this final rule does not have federalism implications under Executive Order 13132.

Does this AD involve a significant rule or regulatory action? We have determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a significant regulatory action under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2001–26–25 Grob-Werke Gmbh & Co KG: Amendment 39–12591; Docket No. 2001–CE–48–AD

(a) *What sailplanes are affected by this AD?* This AD affects the following Models G102 Club Astir III, G102 Club Astir IIIb, and G102 Standard Astir III sailplanes, all serial numbers, that are certificated in any category.

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

(c) *What problem does this AD address?* The actions specified by this AD are intended to prevent elevator flutter, which could cause structural damage. Such damage could result in loss of control of the sailplane.

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

Actions	Compliance	Procedures
(1) Apply a red mark on the airspeed indicator at 165 kilometers/hour (km/h), 89.1 knots (kts), or 102.5 miles per hour (mph) (according to the airspeed indicator calibration).	Within the next 10 calendar days after January 31, 2002 (the effective date of this AD).	In accordance with Grob Service Bulletin No. MSB306–36/2, dated November 22, 2001.
(2) Install a placard on the airspeed indicator at restricting the Vne airspeed as indicated in paragraph (d)(1) of this AD. The owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7) may perform the installation of the placard. You must make an entry into the aircraft records that shows compliance with this portion of the AD, in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).	Within the next 10 calendar days after January 31, 2002 (the effective date of this AD).	In accordance with Grob Service Bulletin No. MSB306–36/2, dated November 22, 2001.

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

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

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

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

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4144; facsimile: (816) 329–4090.

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

(h) *Are any service bulletins incorporated into this AD by reference?* Actions required by this AD must be done in accordance with Grob Service Bulletin No. MSB306–36/2, dated November 22, 2001. The Director of the Federal Register approved this incorporation by reference under 5 U.S.C. 552(a) and 1 CFR part 51. You can get copies from GROB Luft- und Raumfahrt, Lettenbachstrasse 9, D86874 Tussenhausen-Mattsies, Federal Republic of Germany; telephone: 49 8268 998139; facsimile: 49 8268 998200. You may view copies at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

(i) *When does this amendment become effective?* This amendment becomes effective on January 31, 2002.

Note 2: The subject of this AD is addressed in German AD 2001–317/2, dated November 30, 2001.

Issued in Kansas City, Missouri, on December 27, 2001.

Michael K. Dahl,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–89 Filed 1–7–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–383–AD; Amendment 39–12577; AD 2001–26–51]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model CL–600–2B19 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) 2001–26–51 that was sent previously to all known U.S. owners and operators of certain Bombardier Model CL–600–2B19 series airplanes by individual notices. This AD requires deactivation of the center tank fuel transfer shutoff valves by opening circuit breakers and installing a circuit breaker lock ring and disconnecting and stowing the electrical wiring, replacing certain valves with valves having a different part number, reconnecting certain circuit breaker wires, removing lock rings, and resetting the associated circuit breakers. For certain airplanes, this AD requires an AFM revision to prohibit operation with more than 200 pounds of fuel in the center fuel tank. This AD also has a provision for operating other airplanes with the center fuel tank full and with both fuel transfer shutoff valves inoperative. This action is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent ignition of fuel vapor in the center wing tank and consequent fire and explosion.

DATES: Effective January 14, 2002, to all persons except those persons to whom it was made immediately effective by emergency AD 2001–26–51, issued December 14, 2001, which contained the requirements of this amendment.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 14, 2002.

Comments for inclusion in the Rules Docket must be received on or before February 7, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–383–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–383–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 applicable service information may be obtained from Bombardier, Inc., Canadair, Aerospace Group, PO Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Luciano L. Castracane, Aerospace Engineer, Systems and Flight Test Branch, ANE–172, FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7535; fax (516) 568–2716.

SUPPLEMENTARY INFORMATION: On December 14, 2001, the FAA issued emergency AD 2001–26–51, which is applicable to certain Bombardier Model CL–600–2B19 series airplanes. That action was prompted by the manufacturer's discovery of an unsafe condition while conducting the safety review of the fuel tank system required by Special Federal Aviation Regulation Number 88 (SFAR 88), Fuel Tank System Fault Tolerance Requirements. In addition to other requirements, SFAR 88 requires that certain type certificate and supplemental type certificate holders conduct a safety review of the airplane fuel tank system to determine that the design meets the latest fuel tank ignition prevention requirements.

The center tank fuel transfer shutoff valve is operated by a solenoid. The solenoid closes the valve and maintains it in the closed position when electrical power is applied to the solenoid. Certain valves have two solenoids. As a result of the safety review, the valve was tested with one solenoid failed. During this bench testing, the manufacturer found that a failed valve could overheat to a temperature that exceeds the fuel hot surface ignition point. This condition, if not corrected, could result in ignition of fuel vapor in the center wing tank and consequent fire and explosion.

Explanation of Relevant Service Information

Bombardier has issued Alert Service Bulletin A601R–28–045, Revision ''A,'' dated December 7, 2001, which describes procedures for deactivation of the center tank fuel transfer shutoff valves by opening circuit breakers and installing a circuit breaker lock ring, and disconnecting and stowing the circuit breaker electrical wire. Transport Canada Civil Aviation (TCCA) classified this alert service bulletin as mandatory and issued Canadian airworthiness directive CF–2001–47, dated December 11, 2001, in order to ensure the continued airworthiness of these airplanes in Canada.

In addition to the actions specified in the alert service bulletin, the Canadian airworthiness directive also requires replacing certain valves with valves having a different part number, reconnecting certain circuit breaker wires, removing lock rings, and resetting the associated circuit breakers. For airplanes on which a certain fuel tank vent modification has not been accomplished, the Canadian airworthiness directive also requires an airplane flight manual (AFM) revision to prohibit operation with more than 200 pounds of fuel in the center fuel tank. The Canadian airworthiness directive also has a provision for operating airplanes on which that modification has been accomplished with the center fuel tank full and with both fuel transfer shutoff valves inoperative.

FAA's Conclusions

This airplane model is manufactured in Canada and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement,

TCCA has kept the FAA informed of the situation described above. The FAA has examined the findings of TCCA, 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 the Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of this same type design registered in the United States, this airworthiness directive is issued to prevent ignition of fuel vapor in the center wing tank and consequent fire and explosion. The AD requires deactivation of the center tank fuel transfer shutoff valves by opening circuit breakers and installing a circuit breaker lock ring and disconnecting and stowing the electrical wiring. Those actions are required to be accomplished in accordance with the alert service bulletin described previously.

This AD also requires replacing certain valves with valves having a different part number, reconnecting certain circuit breaker wires, removing lock rings, and resetting the associated circuit breakers. For certain airplanes, this AD requires an AFM revision to prohibit operation with more than 200 pounds of fuel in the center fuel tank. This AD also has a provision for operating other airplanes with the center fuel tank full and with both fuel transfer shutoff valves inoperative.

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 December 14, 2001, to all known U.S. owners and operators of certain Bombardier Model CL–600–2B19 series airplanes. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to § 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 2001–NM–383–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:

2001–26–51 Bombardier, Inc. (Formerly Canadair): Amendment 39–12577. Docket 2001–NM–383–AD.

Applicability: Model CL–600–2B19 series airplanes, serial numbers 7003 and subsequent, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent ignition of fuel vapor in the center wing tank and consequent fire and explosion, accomplish the following:

Lock Ring Installation

(a) For all airplanes: Within 24 hours after the effective date of this AD, open circuit breakers identified in paragraph 2.B. of the Accomplishment Instructions of Bombardier Alert Service Bulletin A601R–28–045, Revision ''A,'' dated December 7, 2001, and install a lock ring on the circuit breakers, in accordance with PART A of the Accomplishment Instructions of the alert service bulletin.

Note 2: Accomplishment of the requirements of paragraphs (a) and (c) in accordance with Bombardier Alert Service Bulletin A601R–28–045, dated December 6, 2001, prior to the effective date of this AD is acceptable for compliance with the requirements of those paragraphs.

AFM Revision for Certain Airplanes

(b) For airplanes having serial numbers 7003 through 7109 inclusive: Concurrently with the accomplishment of the requirements of paragraph (a) of this AD, determine whether the fuel vent system has been modified in accordance with Bombardier Service Bulletin 601R–28–024, Revision ''A,'' dated November 11, 1998.

(1) For airplanes on which the fuel vent system HAS been modified in accordance with the service bulletin: No further action is required by paragraph (b) of this AD.

(2) For airplanes on which the fuel vent system HAS NOT been modified in accordance with the service bulletin: Prior to further flight, revise the Limitations section of the Airplane Flight Manual (AFM) to include the following (this may be accomplished by inserting a copy of this AD into the AFM):

''THE AIRPLANE MUST NOT BE OPERATED WITH MORE THAN 200 POUNDS OF FUEL IN THE CENTER FUEL TANK.''

Following accomplishment of the requirements of paragraph (d), the AFM revision shall be removed from the AFM. Where the provisions of this AD and the Master Minimum Equipment List (MMEL) differ, this AD prevails.

Disconnection and Stowage of Electrical Wiring

(c) For all airplanes: Within 4 days after the effective date of this AD, disconnect and stow the electrical wires from the circuit breakers opened as required by paragraph (a) of this AD, in accordance with Accomplishment Instructions of Bombardier Alert Service Bulletin A601R–28–045, Revision ''A,'' dated December 7, 2001.

Identification of Valve Part Number

(d) For all airplanes: Within 45 days after the effective date of this AD, determine the part number (P/N) of the fuel transfer shutoff valves installed in the center fuel tank, and accomplish the following, as applicable.

(1) If any valve has P/N 601R62256–5, remove the valve in accordance with Maintenance Manual task number 28–13–43–000–801, and replace it with a valve having P/N 601R62256–3 in accordance with Maintenance Manual task number 28–13–43–400–801; and reactivate the fuel transfer shutoff valve by accomplishing the requirements of paragraph (d)(1)(i) or (d)(1)(ii) of this AD, as applicable.

(i) For airplanes that have NOT been modified in accordance with Bombardier Service Bulletin 601R–28–022: Open the CBP–1; remove protective tubing, if applicable; release ''Unstow'' the wire and reconnect it to its respective breaker CB1–N9, in accordance with Wiring Manual 28–20–50; close the CBP–1; remove the ''INOP'' label and the lock ring from breaker CB1-N9; carry out AMM Task 28–13–43–710–801, ''Operational Test of Fuel Transfer SOV''; and remove the AFM limitation required by paragraphs (b)(2) and (f) of this AD.

(ii) For airplanes that HAVE been modified in accordance with Bombardier Service Bulletin 601R–28–022: Open the CBP–1 and CBP–2; remove protective tubing, if applicable; release ''Unstow'' the wires and reconnect them to their respective breaker CB1–N9 or CB2–P9, in accordance with Wiring Manual 28–20–50; close the CBP–1 and CBP–2; remove the ''INOP'' labels and lock rings from breakers CB1–N9 and CB2–P9; carry out AMM Task 28–13–43–710–801, ''Operational Test of Fuel Transfer SOV''; and remove the AFM limitation required by paragraph (f) of this AD.

(2) If all valves have P/N 601R62256–3, reactivate the fuel transfer shutoff valve by accomplishing the requirements of paragraph (d)(2)(i) or (d)(2)(ii) of this AD, as applicable.

(i) For airplanes that have NOT been modified in accordance with Bombardier Service Bulletin 601R–28–022: Open the CBP–1; remove protective tubing, if applicable; release ''Unstow'' the wire and reconnect it to its respective breaker CB1–N9, in accordance with Wiring Manual 28–20–50; close the CBP–1; remove the ''INOP'' label and the lock ring from breaker CB1–N9; carry out AMM Task 28–13–43–710–801, ''Operational Test of Fuel Transfer SOV''; and remove the AFM limitation required by paragraphs (b)(2) and (f) of this AD.

(ii) For airplanes that HAVE been modified in accordance with Bombardier Service Bulletin 601R–28–022: Open the CBP–1 and CBP–2; remove protective tubing, if applicable; release ''Unstow'' the wires and reconnect them to their respective breaker CB1–N9 or CB2–P9, in accordance with Wiring Manual 28–20–50; close the CBP–1 and CBP–2; remove the ''INOP'' labels and lock rings from breakers CB1–N9 and CB2–P9; carry out AMM Task 28–13–43–710–801, ''Operational Test of Fuel Transfer SOV''; and remove the AFM limitation required by paragraph (f) of this AD.

Dispatch of Airplane With Inoperative Valves

(e) Except as required by paragraph (b) of this AD: The airplane may be operated with the center fuel tank full and with both fuel transfer shutoff valves inoperative (applicable circuit breakers opened as specified by paragraph (a) of this AD), until accomplishment of paragraph (d) of this AD. Where the provisions of this AD and the MMEL differ, this AD prevails.

AFM Revision

(f) Concurrently with accomplishing the actions required by paragraph (a) of this AD, revise the Limitations section of the AFM to include the following (this may be accomplished by inserting a copy of this AD into the AFM):

''Note: When the applicable circuit breakers are opened, power is removed from the fuel transfer shutoff valves (SOVs). The fuel transfer SOVs remain open and will continuously allow the transfer of the fuel from the center tank to the wings. The fuel in the center tank is usable. The wing tanks will indicate FULL until the center tank is empty, and an EICAS LR X–FER SOV message will either indicate ON GROUND, or the message may disappear during climb but will remain on during the remainder of the flight.''

Following accomplishment of the requirements of paragraph (d), the AFM revision shall be removed from the AFM. Where the provisions of this AD and the MMEL differ, this AD prevails.

Spares

(g) As of the effective date of this AD, no person may install a fuel transfer shutoff valve having P/N 601R62256–5 on any airplane.

Alternative Methods of Compliance

(h) 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, New York 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, New York ACO.

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

Special Flight Permits

(i) Special flight permits may be issued in accordance with §§ 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

(j) The actions required by paragraphs (a) and (c) of this AD shall be done in accordance with Bombardier Alert Service Bulletin A601R–28–045, Revision ''A,'' dated December 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 Bombardier, Inc., Canadair, Aerospace Group, PO Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; 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 Canadian airworthiness directive CF–2001–47, dated December 11, 2001.

Effective Date

(k) This amendment becomes effective on January 14, 2002, to all persons except those persons to whom it was made immediately effective by emergency AD 2001–26–51, issued December 14, 2001, which contained the requirements of this amendment.

Issued in Renton, Washington, on December 20, 2001.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–88 Filed 1–7–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NE–61–AD; Amendment 39–12594; AD 2002–01–03]

RIN 2120–AA64

Airworthiness Directives; GE Aircraft Engines CT7 Series Turboprop Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), that is applicable to GE Aircraft Engines (GE) CT7 series turboprop engines. This amendment requires removal of stage 2 turbine aft cooling plates of a certain part number (P/N) and installation of cooling plates of a new design. This amendment is prompted by a report of a stage 2 turbine aft cooling plate cracking, resulting in an uncontained engine failure. The actions specified by this AD are intended to prevent stage 2 turbine aft cooling plate cracking, which could result in uncontained engine failure, and damage to the airplane.

DATES: Effective date February 12, 2002.

FOR FURTHER INFORMATION CONTACT: Barbara Caufield, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone: (781) 238–7146; fax: (781) 238–7199.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that is applicable to GE Aircraft Engines (GE) CT7 series turboprop engines was published in the **Federal Register** on May 2, 2001 (66 FR 21898). That action proposed to require removal of stage 2 turbine aft cooling plates of a certain part number (P/N) and installation of cooling plates of a new design.

Comments

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

One commenter suggests that the Economic Analysis paragraph be changed to reflect that not all cooling plates may be installed in engines, and, therefore, while there may be 564 cooling plates available worldwide, there are not 564 engines that will be affected by the AD. The FAA agrees. Not all cooling plates of the affected design are assembled into engines. GE estimates that only 288 affected cooling plates have been assembled into engines. Therefore, the Economic Analysis statement is changed to reflect that only 288 engines worldwide will be affected. The FAA's estimate for engines of the number of engines installed on airplanes of US registry, however, remains the same.

The manufacturer asks that paragraph (a) and (b) of the Compliance Section be changed by adding serial number prefix GFF to Stage 2 aft cooling plate P/N 6064T07P02. The FAA agrees, because only cooling plates with serial number prefix GFF are affected. The FAA has limited the applicabilty of this AD to just those cooling plates, P/N 6064T07P02 with serial numbers that begin with the letters ''GFF.'' In addition, paragraphs (a) and (b) have been changed accordingly.

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

Economic Analysis

There are approximately 288 engines of the affected design in the worldwide fleet. The FAA estimates that 180 engines installed on airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 0.5 work hour per engine to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required aft cooling plates would cost approximately $15,282 per engine. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $2,756,160. The manufacturer has stated that it may provide the new design aft cooling plate at no cost to operators, and that if the aft cooling plate is replaced at the next engine or hot section module overhaul shop visit, no additional labor costs will be incurred.

Regulatory Analysis

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

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 adding a new airworthiness directive to read as follows:

2002–01–03 GE Aircraft Engines: Amendment 39–12594. Docket 2000–NE–61–AD.

Applicability: This airworthiness directive (AD) is applicable to GE Aircraft Engines (GE) CT7 Models CT7–5A2, –5A3, –7A, and –7A1 turboprop engines with part number (P/N) 6064T07P02 stage 2 aft cooling plates with serial numbers beginning with the letters GFF, installed on but not limited to Construcciones Aeronauticas, SA CN–235 series and SAAB Aircraft AB SF340 series airplanes.

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

repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Compliance is required at the next overhaul of the engine or hot section module, or within 8,000 cycles after the effective date of this AD, whichever occurs first, unless already done.

To prevent stage 2 turbine aft cooling plate cracking, which could result in uncontained engine failure, and damage to the airplane, do the following:

(a) Replace stage 2 aft cooling plates P/N 6064T07P02 with serial numbers that begin with the letters GFF with stage 2 aft cooling plate P/N 6064T07P05.

(b) After the effective date of this AD, do not install any stage 2 aft cooling plates P/N 6064T07P02 with serial numbers that begin with the letters GFF.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Effective Date

(e) This amendment becomes effective on February 12, 2002.

Issued in Burlington, Massachusetts, on December 31, 2001.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 02–302 Filed 1–7–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–AGL–23]

Modification of Class E Airspace; Cleveland, OH; Modification of Class E Airspace; Medina, OH; and Revocation of Class E Airspace; Elyria, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at Cleveland, OH; modify Class E airspace at Medina, OH; and removes Class E airspace at Elyria, OH. An Instrument Landing System (ILS) Standard Instrument Approach Procedure (SIAP) to Runway (Rwy) 28 has been developed for Cleveland-Hopkins International Airport. Controlled airspace extending upward from 700 feet above the surface is needed to contain aircraft executing this approach. This action would increase the existing Class E airspace for Cleveland-Hopkins International Airport and at the same time simplify the extremely complicated existing Class E airspace legal description. Redefining the Class E airspace for Cleveland, OH, would then include the Class E airspace for Elyria, OH. This action would remove the existing Class E airspace for Elyria, OH. Finally, this action would modify the Class E airspace legal description for Medina, OH.

EFFECTIVE DATE: 0901 UTC, February 21, 2002.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Friday, October 6, 2000, the FAA proposed to amend 14 CFR part 71 to modify Class E airspace at Cleveland, OH (65 FR 59765). The proposal was to modify controlled airspace extending upward from the surface to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operations and while transiting between the enroute and terminal environments. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005, of FAA Order 7400.9J dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies Class E airspace at Cleveland and Medina, OH, and removes Class E airspace at Elyria, OH to accommodate aircraft executing instrument flight procedures into and out of Cleveland-Hopkins International Airport, Medina Municipal Airport and Elyria, OH. The area will be depicted on appropriate aeronautical charts.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 95665, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

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

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL OH E5 Cleveland, OH [Revised]

That airspace extending upward from 700 feet above the surface bounded by a line beginning at lat. 41°25′00″ N., long. 82°23′00″ W., to lat. 41°56′00″ N., long. 81°22′00″ W., to lat. 41°48′00″ N., long. 81°02′00″ W., to lat. 41°32′00″ N., long. 81°03′00″ W., to lat. 41°11′00″ N., long. 81°48′00″ W., to lat. 41°11′00″ N., long. 82°21′00″ W., thence to the point of beginning.

* * * * *

AGL OH E5 Medina, OH [Revised]

Medina Municipal Airort
(lat. 41°07′53″ N, long. 81°45′54″ W)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of the Medina Municipal Airport, excluding that airspace within the Cleveland, OH, Class E airspace area.

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AGL OH E5 Elyria, OH [Removed]

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Issued in Des Plaines, Illinois on December 7, 2001.

Nancy B. Shelton,

Manager, Air Traffic Division, Great Lakes Region.

[FR Doc. 02–254 Filed 1–7–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 8972]

RIN 1545–AW05

Averaging of Farm Income

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the election to average farm income in computing tax liability. The regulations reflect changes to the law made by the Taxpayer Relief Act of 1997, as amended by the Tax and Trade Relief Extension Act of 1998, and provide guidance to individuals engaged in a farming business.

DATES: *Effective Date:* These regulations are effective January 8, 2002.

Applicability Date: These regulations apply to taxable years beginning after December 31, 2001. However, taxpayers may rely on the rules in these final regulations in computing tax liability for taxable years beginning on or before December 31, 2001.

FOR FURTHER INFORMATION CONTACT: John M. Moran, (202) 622–4940 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in these final regulations has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) under control number 1545–1662. Taxpayers provide the information on Schedule J, ''Farm Income Averaging,'' which is attached to Form 1040, ''U.S. Individual Income Tax Return,'' for the taxable year in which income averaging is elected.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

The burden for this requirement is reflected in the burden estimate for Schedule J. The estimated burden for the 2000 Schedule J is 2 hours per respondent.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be sent to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, W:CAR:MP:FP:S:O, Washington, DC 20224, and to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

Section 1301 was added to the Internal Revenue Code (the Code) by section 933(a) of the Taxpayer Relief Act of 1997 (Public Law 105–34; (111 Stat. 788, 881–82)), as amended by section 2011 of the Tax and Trade Relief Extension Act of 1998 (Division J of H.R. 4328, Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999) (Public Law 105–277 (112 Stat. 2681, 2681–886, 2681–902)). On October 8, 1999, a notice of proposed rulemaking (REG–121063–97) containing proposed regulations under section 1301 was published in the **Federal Register** (64 FR 54836). A number of comments responding to the notice were received and a public hearing was held on February 15, 2000. After consideration of the comments, the proposed regulations are adopted as revised by this Treasury decision.

Explanation of Provisions

Treatment of Wages

The income averaging election is available only to individuals engaged in a farming business and only with respect to income from that business. The proposed regulations provide that farm income does not include wages but the notice of proposed rulemaking invited public comment on whether a different rule should apply to wages paid to a shareholder of an S corporation. Several comments on this issue supported a rule that would permit wages paid by an S corporation to a shareholder to qualify as income from a farming business, and the final regulations adopt this rule.

This change results in comparable treatment for S corporation shareholders, partners, and sole proprietors. A sole proprietor's Schedule F income, whether attributable to capital or labor, is treated as income from the business conducted through the proprietorship. In the case of a partnership engaged in a farming business, income earned by the partners that is attributable to the farming business is similarly treated as farm income for purposes of the income averaging rules whether the income takes the form of a distributive share or a guaranteed payment.

S corporations, like partnerships, are passthrough entities for Federal income tax purposes. In an S corporation, amounts paid to shareholders as wages would, if retained by the corporation, increase the shareholders' income qualifying for the income averaging election. There is no indication in the legislative history of section 1301 that Congress intended disparate treatment of S corporation shareholders depending on whether amounts are paid to the shareholders as wages or allocated to shareholders as a pro rata share of the corporation's income. Accordingly, the final regulations provide consistent treatment for shareholders in S corporations and partners in partnerships. Thus, a shareholder's income that is attributable to the S corporation's farming business qualifies as farm income for purposes of the income averaging rules whether paid to the shareholder as wages or allocated to the shareholder as a pro rata share.

In contrast, a C corporation is not a passthrough entity for Federal income tax purposes. Accordingly, the final regulations do not treat any amounts

paid by a C corporation to its shareholder-employees as farm income.

Treatment of Rental Income

The proposed regulations contain no provision for treating rental income as income from a farming business. This is consistent with the general principle that lessors of farmland are not ordinarily treated as engaged in a farming business with respect to the leased land. Commentators were divided over whether rental income based on a tenant's production (*e.g.*, a crop share) should be treated as income from a farming business for purposes of section 1301. The final regulations provide that income from such arrangements is treated, subject to an anti-abuse rule, as income from a farming business. This rule is consistent with the policy underlying section 1301 of limiting the adverse effects of a progressive rate structure on farmers whose income varies significantly from year to year in response to fluctuations in the farm economy. A landlord's income from a crop-share lease or similar arrangement is affected by fluctuations in the farm economy to the same extent as that of any other farmer. Moreover, regulations under other Code sections provide precedent for the rule in the final regulations. For example, a similar rule in the regulations under section 175 (relating to the deduction for certain soil and water conservation expenditures) treats a landlord who receives rent (either cash or in kind) based on farm production as engaged in the business of farming.

Under the final regulations, a landlord's crop share income reported on Form 4835, ''Farm Rental Income and Expenses,'' Schedule F, ''Profit or Loss From Farming,'' or Part II of Schedule E, ''Supplemental Income or Loss,'' is eligible for income averaging if the landlord's share of a tenant's production is set in a written rental agreement before the tenant begins significant activities on the land. If a landlord receives a fixed rent or a share of a tenant's production that is set after the tenant begins significant activities, the landlord is not considered to be engaged in a farming business with respect to the leased land, and the rental income is not eligible for income averaging, even if the landlord materially participates in the tenant's farming business.

Treatment of Income From Partnerships

A commentator asked whether income attributable to a farming business carried on by a partnership is farm income without regard to the size of a partner's interest in the partnership or the activities of the partner. The commentator also asked how the farm income of a partnership may be allocated. Farm income is allocated under the partnership rules in Subchapter K of the Code, and these regulations do not modify those rules. The final regulations, like the proposed regulations, permit income attributable to a farming business carried on by a partnership to be averaged without regard to the partner's level of participation in the partnership or size of ownership interest.

Effect of Adjustments

A commentator requested that the final regulations expressly require an amended return if there is a change to a base year return as a result of either an IRS or taxpayer initiated adjustment. The IRS and Treasury do not believe that a special rule in the final regulations is necessary to address this point, as the situation is not unique to section 1301. If the election year tax liability is changed as a result of an adjustment to a base year, then, as with any correction, an amended return should be made for the election year if the statute of limitations is open.

Making, Changing, or Revoking an Election

Under the proposed regulations an individual may not make a late election, change an election, or revoke an election unless there has been an adjustment to taxable income or tax liability or the Commissioner has consented. One comment suggested that these limitations on a taxpayer's ability to make, change, or revoke an election should be eliminated. This suggestion has been adopted. Under the final regulations, a taxpayer may make a late election, change an election, or revoke an election subject only to the generally applicable rules on the period of limitations on filing a claim for credit or refund.

Negative Taxable Income

A number of commentators criticized the computational rules contained in Schedule J, Farm Income Averaging, for 1999 and earlier years. These rules prohibited the use of a negative amount for a base year's taxable income. The commentators suggested that taxpayers should be permitted to use a negative amount if appropriate adjustments are made for amounts, such as net operating losses, that may provide a tax benefit in another taxable year.

The final regulations adopt this suggestion. Thus, a base year's taxable income may be negative but amounts, such as a net operating loss or certain capital losses, that may be deducted in one or more other taxable years in the form of a carryover or carryback must be added back in computing negative taxable income. The Schedule J for years after 1999 includes worksheets and instructions for determining negative taxable income for purposes of the income averaging computation.

Calculation of Section 1 Tax

The proposed regulations provide that the tax is computed by reducing the election year taxable income by the applicable amount and increasing taxable income for the base years by one-third of that amount. One commentator suggested that taxable income for the election year should be computed by excluding the elected amount from the taxpayer's gross income. This would reduce adjusted gross income, which in turn might reduce the effect of limitations and phase-outs based on adjusted gross income. The statutory language unambiguously provides, however, that any election-year decrease (or base-year increase) must be made to taxable income. Moreover, consistent application of the rule suggested in the comment would require recomputation of adjusted gross income and all related limitations and phase-outs in base years. This would substantially increase the complexity of the income averaging computation. Accordingly, the final regulations do not adopt this suggestion.

Farm Income

A commentator suggested that the final regulations list specific items of income and deductions to clarify which items are attributable to a farming business under section 1301. The regulations are not a suitable format for providing the comprehensive guidance requested because of the difficulty in identifying the myriad items of income and expense that may be attributable to a farming business and because, in each case, a determination based on specific facts and circumstances is necessary. Taxpayers are encouraged to raise questions they may have concerning any specific types of income so that guidance can be given by revenue ruling, instructions, or other appropriate means.

The proposed regulations treat gain from the sale or other disposition of property (other than land) as attributable to a farming business if, taking into account all the facts and circumstances, the property was regularly used in the farming business for a substantial period of time. A commentator asked that the final regulations provide more specific

guidance on what constitutes a substantial period of time. The final regulations provide that property that has always been used solely in the farming business by the individual is deemed to meet both the regularly used and substantial period tests. For property not used solely in the farming business, what constitutes regular use or a substantial period of time is likely to vary significantly, depending upon the facts of the taxpayer's business. Accordingly, the final regulations retain the facts-and-circumstances test for such property.

The proposed regulations establish a presumption that sales or dispositions of property used in a farming business are attributable to that business if they occur within one year of its cessation. One comment expressed concern that this presumption may be construed as establishing a contrary presumption for sales or dispositions occurring after that one-year period. The comment suggested extending the period to two years, arguing that it is not uncommon for sales or dispositions of farm property to continue for more than one year after the cessation of the farming business, particularly in economically depressed areas.

The final regulations do not adopt this suggestion. The regulatory presumption is, however, only a safe harbor for sales or dispositions of property occurring within the one-year period; no contrary presumption is stated or implied for sales or dispositions occurring after that period. Rather, the determination of whether those sales or dispositions are attributable to a farming business appropriately depends upon all the facts and circumstances.

One commentator proposed an example to illustrate that elected farm income may not exceed taxable income, using a gross farm income amount reduced by farming deductions and the standard deduction. The regulations illustrate, as simply as possible, that elected farm income cannot exceed taxable income. These computations are illustrated in greater detail in Pub. 225, ''Farmer's Tax Guide,'' which provides a sample tax return including a Schedule J.

Similarly, one commentator requested examples demonstrating calculations involving capital gains. Although no such examples are provided in the final regulations, Pub. 225 does provide an example, and the IRS will consider including other examples in future guidance.

Married Taxpayers

Several comments were received regarding the application of the rules to married taxpayers. Two commentators asked how farm income reported on a joint return is associated with the proper spouse in a noncommunity property state. Two other commentators asked about the application of community property laws.

The final regulations do not provide specific guidance on these issues. As a general matter, however, an individual's filing status does not affect determinations regarding whether the individual is engaged in a farming business or the amount of profit or loss from that business reported on the individual's Schedule F, Profit or Loss From Farming, or Schedule K–1, Partner's (Shareholder's) Share of Income, Credits, Deductions, etc. Thus, if only one spouse engages in farming in the election year, only that spouse may have elected farm income, and if both spouses engage in farming, each spouse may have elected farm income from the business in which that spouse is engaged. Similarly, as a general matter, community property laws determine income and property ownership for Federal income tax purposes. Although the Code may provide otherwise in specific instances, there are no such exceptions in either section 1301 or the final regulations.

Alternative Minimum Tax

One commentator requested that the final regulations provide an example showing that the alternative minimum tax limits the benefits of an income averaging election. Although the final regulations do not provide an example of the application of the alternative minimum tax, they continue to note that the income averaging election does not apply for purposes of determining the alternative minimum tax in the election year or any base year, except to the extent the election is taken into account in determining the regular tax offset to the tentative minimum tax. There is no exception in the Code provisions relating to the alternative minimum tax that would permit the minimum tax to be computed without regard to the effect of farm income averaging on the regular tax.

Special Analyses

It has been determined that these final regulations are not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. It is hereby certified that the collection of information in these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that the collection of information imposed by these regulations is not significant as reflected in the estimated burden of information collection for Schedule J, which is 2 hours per respondent. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Code, the IRS submitted the notice of proposed rulemaking to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is John M. Moran of the Office of Associate Chief Counsel, Procedure and Administration (Administrative Provisions and Judicial Practice Division). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 602 are amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding an entry in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * * Section 1.1301–1 also issued under 26 U.S.C. 1301(c). * * *

Par. 2. An undesignated center heading and § 1.1301–1 are added immediately following the center heading ''Readjustment of Tax Between Years and Special Limitations'' to read as follows:

Income Averaging

§ 1.1301–1 Averaging of farm income.

(a) *Overview.* An individual engaged in a farming business may elect to compute current year (election year) income tax liability under section 1 by averaging, over the prior three-year period (base years), all or a portion of

the individual's current year electible farm income as defined in paragraph (e) of this section. To average farm income, the individual—

(1) Designates all or a portion of his or her electible farm income for the election year as elected farm income; and

(2) Determines the election year section 1 tax by determining the sum of—

(i) The section 1 tax that would be imposed for the election year if taxable income for the year were reduced by elected farm income; plus

(ii) For each base year, the amount by which the section 1 tax would be increased if taxable income for the year were increased by one-third of elected farm income.

(b) *Individual engaged in a farming business*—(1) *In general. Farming business* has the same meaning as provided in section 263A(e)(4) and the regulations thereunder. An individual engaged in a farming business includes a sole proprietor of a farming business, a partner in a partnership engaged in a farming business, and a shareholder of an S corporation engaged in a farming business. Services performed as an employee are disregarded in determining whether an individual is engaged in a farming business for purposes of section 1301. An individual is not required to have been engaged in a farming business in any of the base years in order to make a farm income averaging election.

(2) *Certain landlords.* A landlord is engaged in a farming business for purposes of section 1301 with respect to rental income that is based on a share of production from a tenant's farming business and, with respect to amounts received on or after January 1, 2003, is determined under a written agreement entered into before the tenant begins significant activities on the land. A landlord is not engaged in a farming business for purposes of section 1301 with respect to either fixed rent or, with respect to amounts received on or after January 1, 2003, rental income based on a share of a tenant's production determined under an unwritten agreement or a written agreement entered into after the tenant begins significant activities on the land. Whether the landlord materially participates in the tenant's farming business is irrelevant for purposes of section 1301.

(c) *Making, changing, or revoking an election*—(1) *In general.* A farm income averaging election is made by filing Schedule J, ''Farm Income Averaging,'' with an individual's Federal income tax return for the election year (including a late or amended return if the period of limitations on filing a claim for credit or refund has not expired).

(2) *Changing or revoking an election.* An individual may change the amount of the elected farm income in a previous election or revoke a previous election if the period of limitations on filing a claim for credit or refund has not expired for the election year.

(d) *Guidelines for calculation of section 1 tax*—(1) *Actual taxable income not affected.* Under paragraph (a)(2) of this section, a determination of the section 1 tax for the election year involves a computation of the section 1 tax that would be imposed if taxable income for the election year were reduced by elected farm income and taxable income for each of the base years were increased by one-third of elected farm income. The reduction and increases required for purposes of this computation do not affect the actual taxable income for either the election year or the base years. Thus, for each of those years, the actual taxable income is taxable income determined without regard to any hypothetical reduction or increase required for purposes of the computation under paragraph (a)(2) of this section. The following illustrates this principle:

(i) Any reduction or increase in taxable income required for purposes of the computation under paragraph (a)(2) of this section is disregarded in determining the taxable year in which a net operating loss carryover or net capital loss carryover is applied.

(ii) The net section 1231 gain or loss and the character of any section 1231 items for the election year is determined without regard to any reduction in taxable income required for purposes of the computation under paragraph (a)(2) of this section.

(iii) The section 68 overall limitation on itemized deductions for the election year is determined without regard to any reduction in taxable income required for purposes of the computation under paragraph (a)(2) of this section. Similarly, the section 68 limitation for a base year is not recomputed to take into account any allocation of elected farm income to the base year for such purposes.

(iv) If a base year had a partially used capital loss, the remaining capital loss may not be applied to reduce the elected farm income allocated to the year for purposes of the computation under paragraph (a)(2) of this section.

(v) If a base year had a partially used credit, the remaining credit may not be applied to reduce the section 1 tax attributable to the elected farm income allocated to the year for purposes of the computation under paragraph (a)(2) of this section.

(2) *Computation in base years*—(i) *In general.* As provided in paragraph (a)(2)(ii) of this section, the election year section 1 tax includes the amounts by which the section 1 tax for each base year would be increased if taxable income for the year were increased by one-third of elected farm income. For this purpose, all allowable deductions (including the full amount of any net operating loss carryover) are taken into account in determining the taxable income for the base year even if the deductions exceed gross income and the result is negative. If the result is negative, however, any amount that may provide a benefit in another taxable year is added back in determining base year taxable income. Amounts that may provide a benefit in another year include—

(A) The net operating loss (as defined in section 172(c)) for the base year;

(B) The net operating loss for any other year to the extent carried forward from the base year under section 172(b)(2); and

(C) The capital loss deduction allowed for the base year under section 1211(b)(1) or (2) to the extent such deduction does not reduce the capital loss carryover from the base year because it exceeds adjusted taxable income (as defined in section 1212(b)(2)(B)).

(ii) *Example.* The rules of this paragraph (d)(2) are illustrated by the following example:

Example. In 2001, F and F's spouse on their joint return elect to average $24,000 of income attributable to a farming business. One-third of the elected farm income, $8,000, is added to the 1999 base year income. In 1999, F and F's spouse reported adjusted gross income of $7,300 and claimed a standard deduction of $7,200 and a deduction for personal exemptions of $8,250. Therefore, their 1999 base year taxable income is −$8,150 [$7,300 − ($7,200+$8,250)]. After adding the elected farm income to the negative taxable income, their 1999 base year taxable income would be zero [$8,000+(−$8,150)=−$150]. If F and F's spouse elected to income average in 2002, and made the adjustments described in paragraph (d)(3) of this section to account for the 2001 election, their 1999 base year taxable income for the 2002 election would be −$150.

(3) *Effect on subsequent elections*—(i) *In general.* The reduction and increases in taxable income assumed in computing the election year section 1 tax (within the meaning of paragraph (a)(2) of this section) for an election year are treated as having actually occurred for purposes of computing the election year section 1 tax for any subsequent

election year. Thus, if a base year for a farm income averaging election is also an election year for another farm income averaging election, the increase in the section 1 tax for that base year is determined after reducing taxable income by the elected farm income from the earlier election year. Similarly, if a base year for a farm income averaging election is also a base year for another farm income averaging election, the increase in the section 1 tax for that base year is determined after increasing taxable income by elected farm income allocated to the year from the earlier election year.

(ii) *Example.* The rules of this paragraph (d)(3) are illustrated by the following example:

Example. (i) In each of years 1998, 1999, and 2000, T had taxable income of $20,000. In 2001, T had taxable income of $30,000 (prior to any farm income averaging election) and electible farm income of $10,000. T makes a farm income averaging election with respect to $9,000 of his electible farm income for 2001. Thus, for purposes of the computation under paragraph (a)(2) of this section, $3,000 of elected farm income is allocated to each of years 1998, 1999, and 2000. T's 2001 tax liability is the sum of—

(A) The section 1 tax on $21,000 (2001 taxable income minus elected farm income); plus

(B) For each of years 1998, 1999, and 2000, the section 1 tax on $23,000 minus the section 1 tax on $20,000 (the amount by which section 1 tax would be increased if one-third of elected farm income were allocated to such year).

(ii) In 2002, T has taxable income of $50,000 and electible farm income of $12,000. T makes a farm income averaging election with respect to all $12,000 of his electible farm income for 2002. Thus, for purposes of the computation under paragraph (a)(2) of this section, $4,000 of elected farm income is allocated to each of years 1990, 2000, and 2001. T's 2002 tax liability is the sum of—

(A) The section 1 tax on $38,000 (2002 taxable income minus elected farm income); plus

(B) For each of years 1999 and 2000, the section 1 tax on $27,000 minus the section 1 tax on $23,000 (the amount by which section 1 tax would be increased if one-third of elected farm income were allocated to such years after increasing taxable income for such years by the elected income allocated to such years from the 2001 election year); plus

(C) For year 2001, the section 1 tax on $25,000 minus the section 1 tax on $21,000 (the amount by which section 1 tax would be increased if one-third of elected farm income were allocated to such year after reducing taxable income for such year by the 2001 elected farm income).

(e) *Electible farm income*—(1) *Identification of items attributable to a farming business*—(i) *In general.* Farm income includes items of income, deduction, gain, and loss attributable to the individual's farming business. Farm losses include a net operating loss carryover or carryback, or a net capital loss carryover, to an election year that is attributable to a farming business. Income, gain, or loss from the sale of development rights, grazing rights, and other similar rights is not treated as attributable to a farming business. In general, farm income does not include compensation received by an employee. However, a shareholder of an S corporation engaged in a farming business may treat compensation received from the corporation that is attributable to the farming business as farm income.

(ii) *Gain or loss on sale or other disposition of property*—(A) *In general.* Gain or loss from the sale or other disposition of property that was regularly used in the individual's farming business for a substantial period of time is treated as attributable to a farming business. For this purpose, the term *property* does not include land, but does include structures affixed to land. Property that has always been used solely in the farming business by the individual is deemed to meet both the regularly used and substantial period tests. Whether property not used solely in the farming business was regularly used in the farming business for a substantial period of time depends on all of the facts and circumstances.

(B) *Cessation of a farming business.* If gain or loss described in paragraph (e)(1)(ii)(A) of this section is realized after cessation of a farming business, such gain or loss is treated as attributable to a farming business only if the property is sold within a reasonable time after cessation of the farming business. A sale or other disposition within one year of cessation of the farming business is presumed to be within a reasonable time. Whether a sale or other disposition that occurs more than one year after cessation of the farming business is within a reasonable time depends on all of the facts and circumstances.

(2) *Determination of amount that may be elected farm income*—(i) *Electible farm income.* The maximum amount of income that an individual may elect to average (electible farm income) is the sum of any farm income and gains minus any farm deductions or losses (including loss carryovers and carrybacks) that are allowed as a deduction in computing the individual's taxable income. However, electible farm income may not exceed taxable income. In addition, electible farm income from net capital gain attributable to a farming business cannot exceed total net capital gain. Subject to these limitations, an individual who has both ordinary and net capital gain farm income may elect to average any combination of such ordinary and net capital gain farm income.

(ii) *Examples.* The rules of paragraph (e)(2)(i) of this section are illustrated by the following examples:

Example 1. A has farm gross receipts of $200,000 and farm ordinary deductions of $50,000. A's taxable income is $150,000 ($200,000 − $50,000). A's electible farm income is $150,000, all of which is ordinary income.

Example 2. B has ordinary farm income of $200,000 and ordinary nonfarm losses of $50,000. B's taxable income is $150,000 ($200,000 − $50,000). B's electible farm income is $150,000, all of which is ordinary income.

Example 3. C has a farm capital gain of $50,000 and a nonfarm capital loss of $40,000. C also has ordinary farm income of $60,000. C has taxable income of $70,000 ($50,000 − $40,000+$60,000). C's electible farm income is $70,000. C can elect to average up to $10,000 of farm capital gain and up to $60,000 of farm ordinary income.

Example 4. D has a nonfarm capital gain of $40,000 and a farm capital loss of $30,000. D also has ordinary farm income of $100,000. D has taxable income of $110,000 ($40,000 − $30,000+$100,000). D's electible farm income is $70,000 ($100,000 ordinary farm income minus $30,000 farm capital loss), all of which is ordinary income.

Example 5. E has a nonfarm capital gain of $20,000 and a farm capital loss of $30,000. E also has ordinary farm income of $100,000. E has taxable income of $97,000 ($20,000 − $23,000 ($30,000 loss limited by section 1211(b))+$100,000). E has a farm capital loss carryover of $7,000 ($30,000 − $23,000 allowed as a deduction). E's electible farm income is $77,000 ($100,000 ordinary farm income minus $23,000 farm capital loss), all of which is ordinary income.

(f) *Miscellaneous rules*—(1) *Short taxable year*—(i) *In general.* If a base year or an election year is a short taxable year, the rules of section 443 and the regulations thereunder apply for purposes of calculating the section 1 tax.

(ii) *Base year is a short taxable year.* If a base year is a short taxable year, elected farm income is allocated to such year for purposes of paragraph (a)(2) of this section after the taxable income for such year has been annualized.

(iii) *Election year is a short taxable year.* In applying paragraph (a)(2) of this section for purposes of determining tax computed on the annual basis (within the meaning of section 443(b)(1)) for an election year that is a short taxable year—

(A) The taxable income and the electible farm income for the year are annualized; and

(B) The taxpayer may designate all or any part of the annualized electible farm income as elected farm income.

(2) *Changes in filing status.* An individual is not prohibited from making a farm income averaging election solely because the individual's filing status is not the same in an election year and the base years. For example, an individual who files married filing jointly in the election year, but filed as single in one or more of the base years, may still elect to average farm income using the single filing status used in the base year.

(3) *Employment tax.* A farm income averaging election has no effect in determining the amount of wages for purposes of the Federal Insurance Contributions Act (FICA), the Federal Unemployment Tax Act (FUTA), and the Collection of Income Tax at Source on Wages (Federal income tax withholding), or the amount of net earnings from self-employment for purposes of the Self-Employment Contributions Act (SECA).

(4) *Alternative minimum tax.* A farm income averaging election does not apply in determining the section 55 alternative minimum tax for any base year or the section 55(b) tentative minimum tax for the election year or any base year. The election does, however, apply in determining the regular tax under sections 53(c) and 55(c) for the election year.

(5) *Unearned income of minor child.* In an election year, if a minor child's investment income is taxable under section 1(g) and a parent makes a farm income averaging election, the tax rate used for purposes of applying section 1(g) is the rate determined after application of the election. In a base year, however, the tax on a minor child's investment income is not affected by a farm income averaging election.

(g) *Effective date.* The rules of this section apply to taxable years beginning after December 31, 2001, except with respect to the written agreement requirement of paragraph (b)(2) of this section.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 3. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 4. In § 602.101, paragraph (b) is amended by adding an entry in numerical order to the table to read as follows:

§ 602.101 OMB control numbers.

* * * * *

(b) * * *

CFR part or section where identified and described	Current OMB control No.
* * * * *	
1.1301–1	1545–1662
* * * * *	

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

Approved: December 12, 2001.

Mark Weinberger,

Assistant Secretary of the Treasury.

[FR Doc. 02–183 Filed 1–7–02; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AK–21–1709–a; FRL–7123–2]

Approval and Promulgation of State Implementation Plans; Inspection and Maintenance Program and Fuel Requirements: Alaska

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) approves two revisions to the carbon monoxide (CO) Alaska State Implementation Plan (SIP) in the Alaska Administrative Code (AAC). These two revisions to the SIP were submitted on February 24, 2000 and February 2, 2001. EPA is also granting final approval of Alaska's revised Inspection and Maintenance (I/M) Program SIP credit claim to 100% of credit applied to centralized I/M programs under Section 348 of the National Highway System Designation Act. This claim was resubmitted on November 7, 2001.

DATES: This direct final rule is effective on March 11, 2002 without further notice, unless EPA receives adverse comment by February 7, 2002. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be addressed to: Mr. Wayne Elson, Office of Air Quality (OAQ–107), EPA, 1200 Sixth Avenue, Seattle, Washington 98101.

Copies of the State's submittals and other information supporting this action are available for inspection during normal business hours at the following locations: EPA, Region 10, Office of Air Quality, 1200 Sixth Avenue (OAQ–107), Seattle, Washington 98101, and the Alaska Department of Environmental Conservation, 410 Willoughby Avenue, Suite 105, Juneau, Alaska 99801–1795.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne Elson, Office of Air Quality (OAQ–107), EPA, Seattle, Washington 98101, (206) 553–1463.

SUPPLEMENTARY INFORMATION: The information in this section is organized as follows:

A. What SIP amendments is EPA approving?
B. What are I/M programs?
C. What are the changes that have been made to Alaska's I/M program that EPA is approving?
D. What is the new ''sticker program''?
E. What changes are being made to oxygenated fuel requirements?
F. What is I/M program credit?
G. What is the basis for EPA's final approval of Alaska's I/M program credit claim of 100%?
H. How do these approvals effect on-going air quality planning in Alaska?

A. What SIP Amendments Is EPA Approving?

The following table outlines the submittals EPA received and is approving in this action:

Date of submittal to EPA	Items revised
2–24–2000	—Alaska State Air Quality Control Plan: Volume II, Sections II, III.A., III.B., and III.C. —Emissions Inspection and Maintenance Requirements for Motor Vehicles 18 AAC 52. —Alaska Inspection and Maintenance Program Manual Amendments 18 AAC 50.
2–2–2001	—Alaska State Air Quality Control Plan: Volume II, Sections II, III.A., III.B., and III.C. 18 AAC 50. —Emissions Inspection and Maintenance Requirements for Motor Vehicles 18 AAC 52. —Fuel Requirements for Motor Vehicles, and Air Quality Control Plan 18 AAC 53.

Date of submittal to EPA	Items revised
11–7–2001	—Alaska ECOS/STAPPA/EPA I/M Credit Evaluation Data resubmittal under the National Highway System Designation Act.

The SIP revisions cover amendments to I/M requirements for Motor Vehicles (18 AAC 52), the State Air Quality Control Plan (18 AAC 50), and Fuel Requirements for Motor Vehicles (18 AAC 53). The most salient aspects of these rule changes include: requiring new I/M equipment specifications and amending the Alaska I/M Program Manual; delaying the start date for On-Board Diagnostic (OBD II) I/M test requirements; making vehicle stickers mandatory; removing the ''fast fail'' option and begin to require that all inspections be full and complete; and streamlining and updating several portions of the Alaska Air Quality Control Plan for more efficient reading and organization. This final approval of Alaska's I/M program credit claim to 100% removes the interim status of EPA's interim approvals of October 10, 1996 (61 FR 53163) and May 19, 1997 (62 FR 27199) for 85% of credit applied to centralized I/M programs.

B. What Are I/M Programs?

In local areas I/M programs are designed to reduce motor vehicle emissions by requiring that vehicles periodically pass a tailpipe emissions test or, depending on the model year, a check of the OBD II system. Vehicles emissions are reduced when vehicles are repaired in order to pass these tests.

C. What Are the Changes That Have Been Made To Alaska's I/M Program That EPA Is Approving?

The changes being made update the I/M regulations and program manual to include new equipment specifications scheduled for early in the year 2000. These are called the ''Alaska 2000 Emissions Inspection System''. The new specifications are necessary to replace any obsolete hardware and software with up-to-date versions; to avoid possible Y2K malfunctions; and to incorporate federal requirements for OBD II I/M emissions testing on new vehicles. Other changes include: implementing a vehicle sticker requirement to help visually identify vehicles in compliance with the program; removing of the ''fast fail'' option and requiring that all inspections be full and complete; increasing the state's flexibility in establishing motorist response time when they are issued a violation; expanding equipment manufacturer enforcement and certification criteria; and expanding the definition of ''motorist'' to include any operator of a motor vehicle within a nonattainment area. Also the start date for OBD II I/M test requirements will be delayed from January, 1, 2001 to July 1, 2001. The Air Quality Control Plan will be updated for equipment references, make ''plain English'' clarifications, remove redundancies, and update program information.

D. What Is the New ''Sticker Program''?

EPA first approved the use of a sticker program in Alaska for the I/M program in a previous SIP revision (64 FR 72940, December 29, 1999). The new provision requires that the highly visible ''sticker'' program be implemented. This is to help visually identify vehicles in compliance with the I/M program.

E. What Changes Are Being Made To Oxygenated Fuel Requirements?

Gasoline fuel distributors, also referred to as Control Area Responsible parties (CAR), pay fees to ADEC to operate the oxygenated fuel program. These fees are being reduced to better match the costs of implementing the requirements of the oxygenated fuels program. This will reduce the initial costs by the CAR and reduce the unused fees refunded by ADEC at the end of the year.

F. What Is I/M Program Credit?

The National Highway System Designation Act of 1995 allowed states implementing a decentralized I/M programs, such as Alaska, to submit a SIP amendment that would allow more emissions credit than allowed under the automatic discount of 50% programmed in EPA's mobile emissions model (currently MOBILE5).

G. What Is the Basis for EPA's Final Approval of Alaska's I/M Credit Claim of 100%?

EPA is approving the I/M program credit claim of 100% under Section 348 of the National Highway System Designation Act of 1995 and Section 110 of the Clean Air Act. EPA proposed interim approvals on October 10, 1996 (61 FR 53163) and May 19, 1997 (62 FR 27199) for 85% of credit applied to centralized I/M programs. No comments were received by EPA on these interim approvals. The state subsequently submitted a qualitative program evaluation to document the credit claim on November 18, 1998. However, the state recognized that this credit request was probably conservative and that, based on new information and program changes, the Anchorage and Fairbanks I/M programs could justifiably request 100% credit. The state resubmitted the qualitative program on November 7, 2001, claiming 100% of centralized I/M program credit. This was done with the provision that Anchorage or Fairbanks I/M programs could select a lower level of credit (such as 85%). This would be viewed as taking a more conservative approach in air quality planning rather than a less stringent I/M program.

The qualitative program evaluation which was already submitted (Alaska ECOS/STAPPA/EPA I/M Program Evaluation Data Submittal, November 1998) demonstrates that Alaska's decentralized I/M program is similar to that of Oregon's centralized I/M program. Other improvements in Alaska's I/M program between 1995 and 2001 help reinforce this claim. Among these improvements include new test equipment, test procedures and quality control/quality assurance procedures that increase test accuracy and reduce fraud.

H. How Do These Approvals Effect On-Going Air Quality Planning in Alaska?

The Municipality of Anchorage and Fairbanks North Star Borough are currently preparing and submitting SIP revisions to demonstrate attainment of the national ambient air quality standard for carbon monoxide. The I/M program is an important and integral part of the ongoing local control measures for both communities. EPA's approval of these submittals, which include improvements and updates to the I/M programs in each community will support and strengthen these programs.

I. Summary of Action

The SIP revisions include amendments to I/M requirements for Motor Vehicles (18 AAC 52), the State Air Quality Control Plan (18 AAC 50), and Fuel Requirements for Motor Vehicles (18 AAC 53). EPA approves streamlining and updating of several portions of the Alaska Air Quality Control Plan for more efficient reading and organization. This action also promulgates final approval of Alaska's I/M program credit claim to 100% and removes the interim status of EPA's interim approvals of October 10, 1996

(61 FR 53163) and May 19, 1997 (62 FR 27199) for 85% of credit applied to centralized I/M programs.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective March 11, 2002 without further notice unless the Agency receives adverse comments by February 7, 2002.

If the EPA receives such comments, then EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this action. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on March 11, 2002 and no further action will be taken on the proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

II. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

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

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

Under Section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 11, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* Section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Reporting and record keeping requirements.

Dated: December 12, 2001.

L. John Iani,

Regional Administrator, Region 10.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart C—Alaska

2. Section 52.70 is amended by adding paragraph (c) (31) to read as follows:

§ 52.70 Identification of plan.

* * * * *

(c) * * *

(31) The Environmental Protection Agency (EPA) approves various amendments to the Alaska State Air Quality Control Plan which are contained in two separate submittals to EPA, dated February 24, 2000 and February 2, 2001, and which include the inspection and maintenance and fuels program.

(i) Incorporation by reference.

(A) Air Quality Control Regulations, 18 AAC 50. Effective December 30, 2000: Section 030.

(B) Emissions Inspection and Maintenance Requirements for Motor Vehicles 18 AAC 52.

(*1*) Effective January 1, 2000: Sections 005; 015; 020; 025; 035; 037; 055; 060;

065; 070; 085; 100; 105; 410; 415; 420; 440; 500; 510; 515; 520; 525; 527; 530; 535; and 540.

(*2*) Effective December 30, 2000: Sections 050 and 990.

(C) Fuel Requirements for Motor Vehicles 18 AAC 53. Effective December 30, 2000: Section 080.

[FR Doc. 02–218 Filed 1–7–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[VA001–1000; FRL–7126–8]

Approval of Section 112(l) Authority for Hazardous Air Pollutants; State of Virginia; Department of Environmental Quality

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule and delegation.

SUMMARY: EPA is taking direct final action to approve the Virginia Department of Environmental Quality's (VADEQ's) request for delegation of authority to implement and enforce Virginia's hazardous air pollutant regulations for perchloroethylene drycleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning, secondary lead smelting, hazardous waste combustors, portland cement manufacturing, and secondary aluminum smelting which have been adopted by reference from the Federal requirements set forth in the Code of Federal Regulations (CFR). This approval will automatically delegate future amendments to these regulations once VADEQ incorporates those amendments into its regulations. In addition, EPA is taking direct final action to approve of VADEQ's mechanism for receiving delegation of future hazardous air pollutant regulations. This mechanism entails VADEQ's incorporation by reference of the Federal standards, unchanged, into its hazardous air pollutant regulations and VADEQ's notification to EPA of such incorporations. EPA is not waiving its notification and reporting requirements under this approval; therefore, sources will need to send notifications and reports to both VADEQ and EPA. This action pertains only to affected sources, as defined by the Clean Air Act's (CAA's or the Act's) hazardous air pollutant program, which are not located at major sources, as defined by the CAA's operating permit program. The VADEQ's request for delegation of authority to implement and enforce its hazardous air pollutant regulations at affected sources which are located at major sources, as defined by the CAA's operating permit program, was initially approved on April 20, 1998. EPA is taking this action in accordance with the CAA.

DATES: This direct final rule will be effective March 11, 2002 unless EPA receives adverse or critical comments by February 7, 2002. If adverse comment is received, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments on this action should be sent concurrently to: Makeba A. Morris, Chief, Permits and Technical Assessment Branch, Mail Code 3AP11, Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103–2029, and Dennis H. Treacy, Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103 and the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: Dianne J. McNally, U.S. Environmental Protection Agency, Region 3, 1650 Arch Street (3AP11), Philadelphia, PA 19103–2029, *mcnally.dianne@epa.gov* (telephone 215–814–3297). Please note that any formal comments must be submitted, in writing, as provided in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION:

I. Background

Section 112(l) of the Act and Title 40 Code of Federal Regulations (40 CFR) part 63, subpart E authorize EPA to approve of State rules and programs to be implemented and enforced in place of certain CAA requirements, including the National Emission Standards for Hazardous Air Pollutants (NESHAPs) set forth at 40 CFR part 63. EPA promulgated the program approval regulations on November 26, 1993 (58 FR 62262) and subsequently amended these regulations on September 14, 2000 (65 FR 55810). An approvable State program must contain, among other criteria, the following elements:

(a) a demonstration of the state's authority and resources to implement and enforce regulations that are at least as stringent as the NESHAP requirements;

(b) a schedule demonstrating expeditious implementation of the regulation; and

(c) a plan that assures expeditious compliance by all sources subject to the regulation.

On April 20, 1998, the VADEQ received delegation of authority to implement all emission standards promulgated in 40 CFR part 63, as they apply to major sources, as defined by 40 CFR part 70. On May 25, 2001, VADEQ submitted to EPA a request to receive delegation of authority to implement and enforce the hazardous air pollutant regulations for the remaining affected sources defined in 40 CFR part 63. At the present time, this request includes the regulations for perchloroethylene drycleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning, secondary lead smelting, hazardous waste combustors, portland cement manufacturing, and secondary aluminum smelting which have been adopted, by reference, from the Federal requirements set forth in 40 CFR part 63, subparts M, N, O, T, X, EEE, LLL and RRR, respectively. The VADEQ also requested that EPA automatically delegate future amendments to these regulations and approve VADEQ's mechanism for receiving delegation of future hazardous air pollutant regulations which it adopts, unchanged, from the Federal requirements. This mechanism entails VADEQ's incorporation, by reference, of the Federal standard, unchanged, into its regulation for hazardous air pollutant sources found at 9 VAC 5–60–100, and notification to EPA of each such incorporation.

II. EPA's Analysis of VADEQ's Submittal

Based on VADEQ's program approval request and its pertinent laws and regulations, EPA has determined that such an approval is appropriate in that VADEQ has satisfied the criteria of 40 CFR 63.91. In accordance with 40 CFR 63.91(d)(3)(i), VADEQ submitted a written finding by the Commonwealth's Attorney General which demonstrates that the State has the necessary legal authority to implement and enforce its regulations, including the enforcement authorities which meet 40 CFR 70.11, the authority to request information from regulated sources and the authority to inspect sources and records to determine compliance status. In accordance with 40 CFR 63.91(d)(3)(ii),

VADEQ submitted copies of its statutes, regulations and requirements that grant authority to VADEQ to implement and enforce the regulations. In accordance with 40 CFR 63.91(d)(3)(iii)–(v), VADEQ submitted documentation of adequate resources and a schedule and plan to assure expeditious implementation by the Commonwealth and compliance by all sources. Therefore, the VADEQ program has adequate and effective authorities, resources, and procedures in place for implementation and enforcement of sources subject to the requirements of 40 CFR part 63, subparts M, N, O, T, X, EEE,[1] LLL and RRR, as well as any future emission standards, should VADEQ seek delegation for these standards. The VADEQ adopts the emission standards promulgated in 40 CFR part 63 into its regulation for hazardous air pollutant sources at 9 VAC 5–60–100. The VADEQ has the primary authority and responsibility to carry out all elements of these programs for all sources covered in Virginia, including on-site inspections, record keeping reviews, and enforcement.

III. Terms of Program Approval and Delegation of Authority

In order for VADEQ to receive automatic delegation of future amendments to the perchloroethylene drycleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning, secondary lead smelting, hazardous waste combustors,[2] portland cement manufacturing, and secondary aluminum smelting regulations, as they apply to facilities that are not located at major sources, as defined by 40 CFR part 70, each amendment must be legally adopted by the State of Virginia. As stated earlier, these amendments are adopted into VADEQ's regulation for hazardous air pollutant sources at 9 VAC 5–60–100. The delegation of amendments to these rules will be finalized on the effective date of the legal adoption. The VADEQ will notify EPA of its adoption of the Federal regulation amendments.

EPA has also determined that VADEQ's mechanism for receiving delegation of future hazardous air pollutant regulations which it adopts unchanged from the Federal requirements, as they apply to facilities that are not located at major sources, as defined by 40 CFR part 70, can be approved. This mechanism requires VADEQ to legally adopt the Federal regulation into its regulation for hazardous air pollutant sources at 9 VAC 5–60–100. The delegation will be finalized on the effective date of the legal adoption. The VADEQ will notify EPA of its adoption of the Federal regulation. The official notice of delegation of additional emission standards will be published in the **Federal Register**. As noted earlier, VADEQ's program to implement and enforce all emission standards promulgated under 40 CFR part 63, as they apply to major sources, as defined by 40 CFR part 70, was previously approved on April 20, 1998.

The notification and reporting provisions in 40 CFR part 63 requiring the owners or operators of affected sources to make submissions to the Administrator shall be met by sending such submissions to VADEQ and EPA Region III.

If at any time there is a conflict between a VADEQ regulation and a Federal regulation, the Federal regulation must be applied if it is more stringent than that of VADEQ. EPA is responsible for determining stringency between conflicting regulations. If VADEQ does not have the authority to enforce the more stringent Federal regulation, it shall notify EPA Region III in writing as soon as possible, so that this portion of the delegation may be revoked.

If EPA determines that VADEQ's procedure for enforcing or implementing the 40 CFR part 63 requirements is inadequate, or is not being effectively carried out, this delegation may be revoked in whole or in part in accordance with the procedures set out in 40 CFR 63.96(b).

Certain provisions of 40 CFR part 63 allow only the Administrator of EPA to take further standard setting actions. In addition to the specific authorities retained by the Administrator in 40 CFR 63.90(d) and the ''Delegation of Authorities'' section for specific standards, EPA Region III is retaining the following authorities, in accordance with 40 CFR 63.91(g)(2)(ii):

(1) approval of alternative non-opacity emission standards, *e.g.*, 40 CFR 63.6(g) and applicable sections of relevant standards;

(2) approval of alternative opacity standards, *e.g.*, 40 CFR 63.9(h)(9) and applicable sections of relevant standards;

(3) approval of major alternatives to test methods, as defined in 40 CFR 63.90(a), *e.g.*, 40 CFR 63.7(e)(2)(ii) and (f) and applicable sections of relevant standards;

(4) approval of major alternatives to monitoring, as defined in 40 CFR 63.90(a), *e.g.*, 40 CFR 63.8(f) and applicable sections of relevant standards; and

(5) approval of major alternatives to recordkeeping and reporting, as defined in 40 CFR 63.90(a), *e.g.*, 40 CFR 63.10(f) and applicable sections of relevant standards.

The following provisions are included in this delegation, in accordance with 40 CFR 63.91(g)(1)(i), and can only be exercised on a case-by-case basis. When any of these authorities are exercised, VADEQ must notify EPA Region III in writing:

(1) applicability determinations for sources during the title V permitting process and as sought by an owner/operator of an affected source through a formal, written request, *e.g.*, 40 CFR 63.1 and applicable sections of relevant standards;[3]

(2) responsibility for determining compliance with operation and maintenance requirements, *e.g.*, 40 CFR 63.6(e) and applicable sections of relevant standards;

(3) responsibility for determining compliance with non-opacity standards, *e.g.*, 40 CFR 63.6(f) and applicable sections of relevant standards;

(4) responsibility for determining compliance with opacity and visible emission standards, *e.g.*, 40 CFR 63.6(h) and applicable sections of relevant standards;

(5) approval of site-specific test plans,[4] *e.g.*, 40 CFR 63.7(c)(2)(i) and (d) and applicable sections of relevant standards;

(6) approval of minor alternatives to test methods, as defined in 40 CFR 63.90(a), *e.g.*, 40 CFR 63.7(e)(2)(i) and

[1] Delegation of the National Emission Standard for Hazardous Air Pollutants from Hazardous Waste Combustors (40 CFR part 63, subpart EEE) could be affected by the July 24, 2001 ruling by the United States Court of Appeals for the District of Columbia Circuit which vacated the rule.

[2] See Footnote 1.

[3] Applicabililty determinations are considered to be nationally significant when they:

(i) are unusually complex or controversial;

(ii) have bearing on more than one state or are multi–Regional;

(iii) appear to create a conflict with previous policy or determinations;

(iv) are a legal issue which has not been previously considered; or

(v) raise new policy questions and shall be forwarded to EPA Region III prior to finalization.

Detailed information on the applicability determination process may be found in EPA document 305–B–99–004 *How to Review and Issue Clean Air Act Applicability Determinations and Alternative Monitoring,* dated February 1999. The VADEQ may also refer to the Compendium of Applicability Determinations issued by the EPA and may contact EPA Region III for guidance.

[4] The VADEQ will notify EPA of these approvals on a quarterly basis by submitting a copy of the test plan approval letter. Any plans which propose major alternative test methods or major alternative monitoring methods shall be referred to EPA for approval.

applicable sections of relevant standards;

(7) approval of intermediate alternatives to test methods, as defined in 40 CFR 63.90(a), *e.g.*, 40 CFR 63.7(e)(2)(ii) and (f) and applicable sections of relevant standards;

(8) approval of shorter sampling times/volumes when necessitated by process variables and other factors, *e.g.*, 40 CFR 63.7(e)(2)(iii) and applicable sections of relevant standards;

(9) waiver of performance testing, *e.g.*, 40 CFR 63.7 (e)(2)(iv), (h)(2), and (h)(3) and applicable sections of relevant standards;

(10) approval of site-specific performance evaluation (monitoring) plans,[5] *e.g.*, 40 CFR 63.8(c)(1) and (e)(1) and applicable sections of relevant standards;

(11) approval of minor alternatives to monitoring methods, as defined in 40 CFR 63.90(a), *e.g.*, 40 CFR 63.8(f) and applicable sections of relevant standards;

(12) approval of intermediate alternatives to monitoring methods, as defined in 40 CFR 63.90(a), *e.g.*, 40 CFR 63.8(f) and applicable sections of relevant standards;

(13) approval of adjustments to time periods for submitting reports, e.g., 40 CFR 63.9 and 63.10 and applicable sections of relevant standards; and

(14) approval of minor alternatives to recordkeeping and reporting, as defined in 40 CFR 63.90(a), *e.g.,* 40 CFR 63.10(f) and applicable sections of relevant standards.

As required, VADEQ and EPA Region III will provide the necessary written, verbal and/or electronic notification to ensure that each agency is fully informed regarding the interpretation of applicable regulations in 40 CFR part 63. In instances where there is a conflict between a VADEQ interpretation and a Federal interpretation of applicable regulations in 40 CFR part 63, the Federal interpretation must be applied if it is more stringent than that of VADEQ. Written, verbal and/or electronic notification will also be used to ensure that each agency is informed of the compliance status of affected sources in Virginia. The VADEQ will comply with all of the requirements of 40 CFR 63.91(g)(1)(ii).

Quarterly reports will be submitted to EPA by VADEQ to identify sources determined to be applicable during that quarter.

[5] The VADEQ will notify EPA of these approvals on a quarterly basis by submitting a copy of the performance evaluation plan approval letter. Any plans which propose major alternative test methods or major alternative monitoring methods shall be referred to EPA for approval.

Although VADEQ has primary authority and responsibility to implement and enforce the hazardous air pollutant general provisions and hazardous air pollutant emission standards for perchloroethylene drycleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning, secondary lead smelting, hazardous waste combustors,[6] portland cement manufacturing, and secondary aluminum smelting, nothing shall preclude, limit, or interfere with the authority of EPA to exercise its enforcement, investigatory, and information gathering authorities concerning this part of the Act.

IV. Final Action

EPA is approving VADEQ's request for delegation of authority to implement and enforce its hazardous air pollutant regulations for perchloroethylene drycleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning secondary lead smelting, hazardous waste combustors,[7] portland cement manufacturing, and secondary aluminum smelting which have been adopted by reference from 40 CFR part 63, subparts M, N, O, T, X, EEE, LLL, and RRR, respectively. This approval will automatically delegate future amendments to these regulations. In addition, EPA is approving of VADEQ's mechanism for receiving delegation of future hazardous air pollutant regulations which it adopts unchanged from the Federal requirements. This mechanism entails legal adoption by the Commonwealth of Virginia of the amendments or rules into its regulation for hazardous air pollutant sources at 9 VAC 5–60–100 and notification to EPA of such adoption. This action pertains only to affected sources, as defined by 40 CFR part 63, which are not located at major sources, as defined by 40 CFR part 70. The delegation of authority shall be administered in accordance with the terms outlined in this document. This delegation of authority is codified in 40 CFR 63.99. In addition, VADEQ's delegation of authority to implement and enforce 40 CFR part 63 emission standards at major sources, as defined by 40 CFR part 70, approved by EPA Region III on April 20, 1998, is codified in 40 CFR 63.99.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial rule and anticipates no adverse comment because VADEQ's request for delegation of the hazardous air pollutant regulations pertaining to perchloroethylene drycleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning, secondary lead smelting, hazardous waste combustors,[8] portland cement manufacturing, and secondary aluminum smelting and its request for automatic delegation of future amendments to these rules and future standards, when specifically identified, does not alter the stringency of these regulations and is in accordance with all program approval regulations. However, in the ''Proposed Rules'' section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve of VADEQ's request for delegation if adverse comments are filed. This rule will be effective on March 11, 2002 without further notice unless EPA receives adverse comment by February 7, 2002. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

V. Administrative Requirements

A. General Requirements

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

[6] See Footnote 1.

[7] See Footnote 1.

[8] See Footnote 1.

will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant. In reviewing requests for rule approval under CAA section 112, 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 requests for rule approval under CAA section 112 for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a request for rule approval under CAA section 112, to use VCS in place of a request for rule approval under CAA section 112 that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 11, 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, pertaining to the approval of VADEQ's request for delegation of authority for the hazardous air pollutant emission standards for perchloroethylene dry cleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilizers, halogenated solvent cleaning, secondary lead smelting, hazardous waste combustors, portland cement manufacturing, and secondary aluminum smelting (CAA section 112), may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations.

Dated: December 26, 2001.

Judith M. Katz,

Director, Air Protection Division, Region III.

40 CFR part 63 is amended as follows:

PART 63—[AMENDED]

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

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

Subpart E—Approval of State Programs and Delegation of Federal Authorities

2. Section 63.99 is amended by adding paragraph (a)(46) to read as follows:

§ 63.99 Delegated Federal authorities.

(a) * * *

(46) Virginia.

(i) Virginia is delegated the authority to implement and enforce all existing and future unchanged 40 CFR part 63 standards at major sources, as defined in 40 CFR part 70, in accordance with the delegation agreement between EPA Region III and the Virginia Department of Environmental Quality, dated April 20, 1998, and any mutually acceptable amendments to that agreement.

(ii) Virginia is delegated the authority to implement and enforce all existing 40 CFR part 63 standards and all future unchanged 40 CFR part 63 standards, if delegation is sought by the Virginia Department of Environmental Quality and approved by EPA Region III, at affected sources which are not located at major sources, as defined in 40 CFR part 70, in accordance with the final rule, dated January 8, 2002, effective March 11, 2002, and any mutually acceptable amendments to the terms described in the direct final rule.

[FR Doc. 02–407 Filed 1–7–02; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 01–235 and 96–197; DA 01–2918]

RIN 4207

Cross-Ownership of Broadcast Stations and Newspapers

AGENCY: Federal Communications Commission.

ACTION: Final rule; extension of reply comment.

SUMMARY: This document extends the pleading cycle in an ongoing regulatory proceeding. The Commission takes this action at the request of a participant in the proceeding, and to ensure that the public has sufficient time to prepare comprehensive filings to help the Commission resolve the complex and significant public policy issues raised in the proceeding.

DATES: Reply comments are due February 15, 2002.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Eric J. Bash, Mass Media Bureau, Policy and Rules Division, (202) 418–2130 or *ebash@fcc.gov.*

SUPPLEMENTARY INFORMATION:

1. This is a summary of the *Order* in MM Docket No. 01–235; DA 01–2918, adopted December, 14, 2001, and released December 14, 2001. The complete text of this *Order* is available for inspection and copying during normal business hours in the FCC Reference Center, Room CY–A257, 445 12th Street, SW., Washington, DC and may also be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street SW, Room CY–B–402, Washington, DC 20554, telephone (202) 863–2893, facsimile (202) 863–2898, or via e-mail *qualexint@aol.com.*

2. On December 12, 2001, the AFL–CIO, Center for Digital Democracy, Civil Rights Forum on Communications Policy, Consumer Federation of America, Consumers Union, Leadership Conference on Civil Rights, Media Alliance, National Organization for Women, and Office of Communication of United Church of Christ (hereafter, ''petitioners'') filed a ''Request for Extension of Time to File Reply Comments'' in this proceeding. The current deadline to file reply comments is January 7, 2002; petitioners request the Commission to extend the deadline until February 15, 2002. Among other things, petitioners cite the volume and complexity of the record in this proceeding, and the pendency of various other proceedings in which they intend to participate, as reasons for their request. The petitioners claim that granting their requested extension will not prejudice this proceeding, and suggest that denying it could disadvantage them in particular.

3. On December 14, 2001, the Newspaper Association of America (hereafter, ''NAA'') filed an ''Opposition to Request for Extension of Time.'' NAA contends that review of the newspaper/broadcast cross-ownership rule is long overdue, and that the petitioners' requested extension is excessive and will unnecessarily delay this proceeding.

4. While we appreciate NAA's concerns, we believe that the public interest would be best served by granting petitioners' request. To date, nearly 1500 commenters have filed in this proceeding. Some of these comments are extensive, with detailed factual allegations, legal arguments, policy proposals, and supporting studies. NAA has not explained how or why a delay of approximately one month would harm its members. Given these circumstances, we believe that additional time would assist petitioners and other members of the public alike in preparing comprehensive responses, which in turn will help the Commission in its decision-making and resolving the complex and significant public policy issues raised in this proceeding.

5. Accordingly, the petitioners' Request for Extension of Time to File Reply Comments is *granted.*

6. The reply comment deadline in this proceeding is *extended* to February 15, 2002.

Federal Communications Commission.

William, F. Caton,

Deputy Secretary.

[FR Doc. 02–372 Filed 1–7–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2909; MM Docket No. 98–188, RM–9346, RM–9656, RM–9657

Radio Broadcasting Services; Paonia and Olathe, CO

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In response to a *Notice of Proposed Rule Making,* 63 FR 57637 (October 28, 1998), this document compared mutually exclusive proposals for Channel 293C at Olathe, Colorado, and Channel 293C1 at Paonia, Colorado, under the FM Allotment Priorities and allotted Channel 293C at Olathe because this would result in a first local service. The reference coordinates for Channel 293C at Olathe are 38–37–03 NL and 107–58–33 WL.

DATES: Effective January 28, 2002.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order in MM Docket No. 98–188, adopted November 28, 2001, and released December 14, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Colorado, is amended by adding Olathe, Channel 293C.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 02–375 Filed 1–7–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2987; MM Docket No. 00–53; RM–9823, RM–9950]

Radio Broadcasting Services; Detroit Lakes, and Barnesville, MN, and Enderlin, ND

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: At the request of T&J Broadcasting, Inc. this document reallots Channel 236C1 from Detroit Lakes, Minnesota, to Barnesville, Minnesota, and modifies the Station KRVI license to specify Barnesville as the community of license. This document also dismisses a Counterproposal filed by Enderlin Broadcasting Company for a Channel 233C1 allotment at Enderlin, North Dakota. *See* 65 FR 17618, published April 4, 2000. The reference coordinates for Channel 236C1 allotment at Barnesville, North Dakota, are 46–49–10 and 96–45–56.

DATES: Effective February 6, 2002.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau (202) 418–2177.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report*

and Order in MM Docket No. 00–53, adopted December 19, 2000, and released December 21, 2000. The full text of this decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street, SW, Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractor, Qualex International Portals II, 445 12th Street, SW, Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail: *qualexint@aol.com*.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Minnesota, is amended by removing Channel 236C1 at Detroit Lakes and adding Barnesville, Channel 236C1.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 02–374 Filed 1–7–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2988; MM Docket No. 01–110; RM–9927, RM–10336]

Radio Broadcasting Services; Newberry and Simpsonville, SC

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Georgia-Carolina Radiocasting Company, LLC, reallots Channel 292C3 from Newberry to Simpsonville, South Carolina, and modifies Station WGVC(FM)'s construction permit accordingly (RM–10336). We also dismiss petitioner's original proposal to downgrade Channel 292C3 to Channel 292A at Newberry, reallot Channel 292A to Simpsonville, and modify Station WGVC(FM)'s construction permit accordingly (RM–9927). *See* 66 FR 29747, June 1, 2001. Channel 292C3 can be reallotted to Simpsonville in compliance with the Commission's minimum distance separation requirements with a site restriction of 15.8 kilometers (9.8 miles) southeast at petitioner's requested site. The coordinates for Channel 292C3 at Simpsonville are 34–39–04 North Latitude and 82–07–12 West Longitude.

DATES: Effective February 4, 2002.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 01–110, adopted December 12, 2002, and released December 21, 2002. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under South Carolina, is amended by adding Simpsonville, Channel 292C3; and by removing Newberry, Channel 292C3.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 02–373 Filed 1–7–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2908; MM Docket No. 99–233; RM–9662 & RM–9828]

Radio Broadcasting Services; Bridgeport, Bonham, Graham, Palestine, Price, Ranger, Stephenville, TX and Ardmore, Lawton, Tecumseh, Fort Towson, OK

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition for reconsideration, withdrawal.

SUMMARY: This document dismisses a Petition for Reconsideration filed by North Texas Radio Group, L.P. (''North Texas'') in this proceeding. *See* 66 FR 12920, March 1, 2001. In response to the Notice of Proposed Rule Making in this proceeding, North Texas filed a counterproposal requesting the substitution of Channel 252C for Channel 252A at Bridgeport, TX and modification of the license for Station KBOC accordingly. To accommodate the upgrade at Bridgeport, North Texas requested changes at Bonham, Graham, Palestine, Price, Ranger & Stephenville, TX and Ardmore, Lawton, Tecumseh & Fort Towson, OK. Stowell, Texas. On December 3, 2001, North Texas withdrew its Petition for Reconsideration in compliance with Section 1.420(j) of the Commission's Rules. As requested, we shall dismiss the Petition for Reconsideration. With this action, this proceeding is terminated.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion and Order, MM Docket No. 99–233, adopted December 5, 2001, and released December 14, 2001. The full text of this Commission decision is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 02–371 Filed 1–7–02; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 195

[Docket No. RSPA–01–8663; Amdt. 195–75]

RIN 2137–AD56

Pipeline Safety: Hazardous Liquid Pipeline Accident Reporting Revisions

AGENCY: Office of Pipeline Safety, Research and Special Programs Administration, Department of Transportation.

ACTION: Final rule.

SUMMARY: This final rule makes changes to the reporting requirements for hazardous liquid pipeline accidents. The rule lowers the current release reporting threshold of 50 barrels to a new threshold of 5 gallons, and makes changes to the accident report form. The changes are necessary because the existing reporting threshold and report form do not yield sufficient information for effective safety analysis. This final rule also changes the ''bodily harm'' criteria for accident reporting to conform to the gas pipeline reporting requirements. This change is necessary to harmonize reporting by hazardous liquid and gas pipeline operators.

DATES: This rule is effective January 1, 2002.

FOR FURTHER INFORMATION CONTACT: Roger Little by phone at (202) 366–4569, by e-mail at *roger.little@rspa.dot.gov,* or by mail at the U.S. Department of Transportation (DOT), Research and Special Programs Administration (RSPA), Office of Pipeline Safety (OPS), Room 7128, 400 7th Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Background

The mission of RSPA's OPS is to ensure the safe, reliable, and environmentally sound operation of the nation's approximately 154 thousand miles of hazardous liquid pipelines. OPS shares responsibility for inspecting and overseeing the nation's pipelines with State pipeline safety offices. Both Federal and State regulators depend on accident reports submitted by pipeline companies to manage inspection programs and to identify trends in hazardous liquid pipeline safety. In recent years, Congress, the National Transportation Safety Board (NTSB) and DOT's Office of the Inspector General (OIG) have urged OPS to improve the quality of accident data required to be submitted by hazardous liquid pipeline operators.

Release Threshold

RSPA published a Notice of Proposed Rulemaking (NPRM) on March 20, 2001 (66 FR 15681). The NPRM proposed changing the hazardous liquid accident reporting requirement from a threshold release of 50 barrels to 5 gallons; and adding to the report form (RSPA F7000–1), more specific questions on accident location, causes, and consequences.

The NPRM also proposed that a spill under 5 barrels meeting all of the following criteria, need not be reported to RSPA:

(1) The other circumstances enumerated in § 195.50 did not apply to the spill;

(2) The spill did not result in water pollution;

(3) The spill was attributable to a pipeline maintenance activity;

(4) The spill was confined to company property or pipeline right-of-way; and

(5) The spill was cleaned up promptly.

After consideration of all comments, this final rule amends the pipeline safety regulations to lower the reporting threshold for hazardous liquid pipeline releases from 50 barrels to 5 gallons, with an exception for spills under 5 barrels resulting from pipeline maintenance activities. This rule makes corresponding changes to the hazardous liquid accident report form to make it more useful for safety analysis.

The old report form consisted of two pages. The new report form consists of four pages. Completion of the first page only, is required for small releases (between 5 gallons and under 5 barrels) that are not reportable under the other § 195.50 criteria, nor result in water pollution (water pollution is as described in § 195.52(a)(4)). Completion of all four pages will be required for releases of: 5 barrels or more that are reportable under the other criteria in 49 CFR 195.50; or 5 gallons or more that result in water pollution.

Change in ''Bodily Harm'' Criteria for Accident Reporting

In another NPRM (Docket No. RSPA–99–6106; 65 FR 15290; March 22, 2000), RSPA proposed changing the ''bodily harm'' criteria in 49 CFR 195.50(e). RSPA proposed changing the language in 49 CFR 195.50(e) to require reporting only if an injury associated with a hazardous liquid pipeline accident requires hospitalization of the injured person.

The current language at § 195.50(e) which triggers a reporting requirement reads as follows:

Bodily harm to any person resulting in one or more of the following:

(1) Loss of consciousness.

(2) Necessity to carry the person from the scene.

(3) Necessity for medical treatment.

(4) Disability which prevents the discharge of normal duties or the pursuit of normal activities beyond the day of the accident.

These criteria require reporting of even the most minor injury. The lack of a definition of medical treatment in the regulations means, if a bandage is applied at the scene the accident is reportable, even if it does not meet any of the other reportability criteria.

The comparable language in the gas pipeline safety rules requires gas operators to report releases of gas that involve a ''personal injury necessitating in-patient hospitalization.'' (49 CFR 191.3, 191.5, 191.9, and 191.15). As explained in the NPRM, this wording better describes the information that RSPA is seeking. Accordingly, RSPA proposed to update the hazardous liquid pipeline accident reporting requirements at § 195.50(e) to eliminate the discrepancy between the accident reporting criteria for gas and hazardous liquid pipelines.

This final rule removes the language currently in § 195.50(e) and replaces it with ''a personal injury necessitating in-patient hospitalization.''

Comments

Comments on Proposed Change in ''Bodily Harm'' Criteria

On May 3, 2000, the proposed changes in the injury criteria for reportability of hazardous liquid pipeline accidents were discussed at a joint meeting of the Technical Hazardous Liquid Pipeline Safety Standards Committee and the Technical Pipeline Safety Standards Committee. These statutorily mandated committees, which are made up of representatives from the government, industry, and the general public, review pipeline safety regulations. Some committee members expressed concern that the change would weaken the reporting requirements for hazardous liquid pipeline accidents. The concern was that some accidents that are reportable under the current language, would no longer be reportable under the proposed language.

We noted the proposed change would not cause any otherwise reportable hazardous liquid pipeline accident to

become non-reportable. For example, under the proposed change, the 1994 San Jacinto River accident in Harris County, Texas, would still need to be reported based on product loss and property damage criteria. We also noted, most accidents causing serious injury are also reportable under one of the other criteria. The ''bodily harm'' category was included as a reporting criterion in the unlikely event that an accident resulting in such injury would not fall into one of the other reporting criteria. Additionally, we noted that the reporting language in Part 192, which embodies our original intent relative to the injury criteria for reportability of pipeline accidents, was adopted before the ''bodily harm'' language in part 195.

In response to the NPRM in Docket No. RSPA–99–6106, RSPA received comments from the American Petroleum Institute (API) and the Cascade Columbia Alliance.

API supported the proposed accident reporting criteria change in § 195.50 to make the injury criteria consistent with that used for natural gas pipelines. It noted that the clarification makes reporting of accidents consistent across gas and hazardous liquid pipelines, and ''grew out of discussions among RSPA, the pipeline industry, and State regulators.'' In contrast, the Cascade Columbia Alliance asserted that the proposed injury language weakened reporting requirements for hazardous liquid pipelines and would ''encourage pipeline operators to avoid hospitalization for their workers so as to avoid filing an accident report.''

RSPA's intention for the change is to ensure that reporting of accidents is consistent for both gas and hazardous liquid pipelines. The regulation is not aimed at tracking worker injuries.

Comments on Lower Reporting Threshold

RSPA received comments from eleven sources in response to the NPRM in this docket (66 FR 15681; March 20, 2001). Virtually all commenters were supportive of the need for improved information about hazardous liquid pipeline accidents. The American Society of Safety Engineers supported the data improvement initiative and believed the benefits of the improved information would outweigh the small increased costs. The American Petroleum Institute (API) and the Association of Oil Pipe Lines (AOPL), trade associations that represent many companies involved in all aspects of the oil and gas industry, filed joint comments prepared in coordination with both API and AOPL's members.

Several commenters suggested that the $50,000 property damage threshold for an accident report was redundant and should be eliminated in light of the lowering of the volumetric release threshold for reporting from 50 barrels to 5 gallons. For the same reason, one commenter suggested that the $50,000 property damage threshold for telephonic notice of a release of hazardous material be eliminated.

The NPRM did not propose any change in the property damage threshold for filing accident report Form F7000–1. Although many ''over-$50,000-property-damage'' accidents may also be reportable under the 5 gallon threshold criterion, retaining the ''over-$50,000-property-damage'' criterion will continue to provide more complete data, than if eliminated. Changes to the telephonic reporting requirement are beyond the scope of the NPRM.

Several commenters believed we underestimated the time and cost of reporting the expanded information required by the revisions to Form F7000–1.

In response, we point the commenters to the analysis of costs in the ''Paperwork Reduction Act'' section of this Final Rule for more information on the basis of our estimates.

A group of students from Miami International University submitted four recommendations—

''(1) Given the twofold environmental effect of hazardous liquid or carbon dioxide spills to not only the immediate ground but also the atmosphere (air), and therefore, consequences realistic on any property, the reporting requirement should be lowered from 5 barrels to 10 gallons (38 liters) for spills on any property whether from accident or maintenance.

(2) Aggregate spills of hazardous liquid or carbon dioxide of a minimum of 10 gallons (38 liters) will pose sufficient damage to warrant immediate clean-up, and therefore, it should be mandated.

(3) Lowering the reporting requirement for spills from 5 barrels to 5 gallons (19 liters) only when it is not readily cleaned up on any property.

(4) Tools for Reporting Accidents (§ 195.50): Since technology has evolved and continues to do so, accident reporting should be done in an efficient, cost-effective, time-constrained manner in tune with the technology available to us today. Furthermore, electronic accident reporting is effective and productive for meaningful incident information. The DOT, Office of Public [sic] Safety, should establish a web site where different accident report-hazardous liquid pipeline forms could be electronically filled out in case of an accident. Some of the benefits of electronic filing are: (i) instant information available, (ii) immediate dangers readily visible, and, (iii) reduced cost to companies. * * *''

In addition, API and Colonial Pipeline Company suggested that access to information both by RSPA, the public, and pipeline operators can be significantly improved by providing for electronic reporting of accidents. They urged us to move expeditiously to provide operators with the ability to file accident reports electronically.

We believe the bulk of hazardous liquid releases remain liquid at ambient temperatures, and therefore have little impact on the atmosphere. The exception is highly volatile liquid spills, which are gaseous at ambient temperatures. We have chosen to exclude from the reporting requirement hazardous liquid releases under 5 barrels that result from maintenance operations. Our information is that such spills occur regularly upon the opening of pipelines for insertion of spheres, smart pigs, or for routine inspections. The spills are usually caught in a berm or other containment device; are cleaned up immediately; and have little or no impact on the environment. We believe information on such releases would not be helpful in accident trending analysis. Maintenance spills must be promptly cleaned up to avoid the reporting requirement. Any non-maintenance spill of 5 gallons or more must be reported.

With regard to electronic reporting, we agree that electronic reporting is efficient and economical. Electronic reporting for hazardous liquid pipeline accidents will be available via the OPS Internet homepage at *http://ops.dot.gov* beginning January 1, 2002.

API and AOPL suggested reorganizing the sections in the accident report to simplify it. API suggested that [the] first page of [the] accident reporting form should be reorganized to clearly differentiate the information that must be provided for all spills from that which is required for those spills greater than 5 barrels.'' API also suggested that latitude and longitude should be collected for all spills, not just those greater than 5 barrels as proposed in the NPRM. API suggested that the causal categories for small accidents should ''use identical language to that for large spills (i.e., 'Excavation' should be 'Excavation damage or other outside force', 'Material and Welds' should be 'Material and/or weld failures,' 'Operation should be 'Incorrect Operation.' This will allow the longer

form to provide insight for defining causes consistently across both types of releases.'' In addition, API suggested that instead of collecting spill quantity in two separate places on the form, that spill size be collected on page one for all spills.

We agreed with these comments and reorganized and changed the form as suggested.

API further noted that ''The instructions for the accident reporting form change the definition of 'injury' for the purpose of accident reporting. The regulations must also be changed in § 195.50 (reporting accidents) and § 195.52 (telephonic notification). The changes in the definition for 'injury' under the instructions will make hazardous liquid pipeline reporting requirements comparable to those for natural gas pipelines. These changes must be implemented in the regulations themselves under § 195.50 and § 195.52. The changes cannot be implemented through the reporting form or instructions alone.''

We agree with the suggested change to § 195.50(e) and adopted it. However, Section 195.52 was not the subject of the NPRM, and a change to that section would be beyond the scope of this rulemaking.

API suggested that categories for property damage should be modified to more accurately define the categories that are applicable and that make sense to pipeline operators. ''For accuracy, this section of the reporting form should be titled 'Compensated losses.' Losses that accrue to the operator should be separated from losses that accrue to affected individuals or the public. Property damage or loss is really a misnomer. Although losses do occur, on this reporting form we are really accounting for damages for which an operator has provided reimbursement to the community, the public, or affected individuals. It is actually a measure of those losses that can in some way be reimbursed or losses that accrue to the operating company itself. API recommends that this portion of the accident form be redrafted as follows:

Compensated Losses (Estimated)

* Public/Community Losses:
- —Estimated Public/private property damage reimbursed by operator. $
- —Cost of emergency response undertaken by or reimbursed by operator. $
- —Cost of longer term environmental remediation undertaken by or reimbursed by operator. $
- —Other ..... $

Operator losses:
- —Value of product lost .... $
- —Value of operator property damage. $
- —Other ..... $''

We adopted the API suggestions with some changes.

API also suggested that:

''Form Part F (environmental impacts), item 6 should be changed from 'wildlife mortality' to 'wildlife impact.' Mortality is too high a threshold for measuring the impact of accidents on wildlife. As an example, any bird that is oiled during an accident and survives is clearly impacted. We believe that a reasonable person would judge such oiling as an impact and expect that the industry be held to such a reasonable standard.''

We agree and changed the form accordingly.

Colonial Pipeline Company (Colonial) recommended that additional information be added to Part G (Leak Detection Information) of the proposed accident form. Specifically, Colonial recommended that line items be added for ''estimated leak rate'' and ''estimated percentage of flow.'' Colonial believes this would provide valuable information to RSPA and the regulated community.

We may consider obtaining this additional information through a separate rulemaking.

Gregg Zimmerman, Administrator, Planning/Building/Public Works Department, with City of Renton, Washington, suggested that a ''requirement for immediate notification of the local public safety/emergency management agencies is critical. These are the first line responders, and our experience shows us that often they are not contacted in the event of a leak for hours or even days. However, this requirement clearly should be part of the federal law, or at least the agency rules.''

We determined this recommendation to be beyond the scope of this rulemaking.

Enron Transportation Services (ETS) commented that ''[t]he availability of more detailed pipeline accident information is of value not only to OPS for regulatory purposes, but is also highly valued by the pipeline industry in identifying potential risks to pipeline safety and integrity. Most pipeline operators utilize this accident information to immediately evaluate their systems for the potential of similar risk factors and take steps to mitigate those factors on a timely basis whenever possible. ETS therefore strongly agrees that improving the method of accident data collection provides a benefit to the industry in being able to more reliably identify the cause of these accidents. Reducing the reporting limits to those proposed may indeed be counterproductive, however, in that the database will be flooded with information relating to minor pipeline problems as opposed to obtaining better information about potentially serious pipeline safety related issues. One of the reasons that the cost level limit for reportable accidents was raised in 1984 was to eliminate the reporting of non-significant pipeline accidents, and this proposed rulemaking will completely reverse that intent.''

We noted that the cost threshold for reporting accidents was raised in 1994 from $5,000.00 to $50,000.00 to achieve parity between reporting of hazardous liquid and natural gas pipeline accidents, not ''to eliminate reporting of non-significant pipeline accidents.'' Regarding ''flooding the database with information relating to minor problems,'' we believe the only way to determine that small spills are ''minor problems'' is to collect information on such spills.

ETS commented that ''the decision process for the determination of any pipeline remedial action should be the responsibility of the pipeline operator based upon that operator's assessment of the known risks and economic issues that only the operator must bear. Without first hand knowledge of all of the numerous factors that must be considered in making the repair versus replacement decision, this pipeline safety data may lead to hasty decisions that are not in the overall best interests of public safety. One of the consequences may be outside pressure to apply significant financial resources to a pipeline facility that presents a much lower risk to public safety than another less publicly visible facility.''

We recognize that it is industry's responsibility to determine when rehabilitation and replacement of any pipeline facility may be needed. We believe that better overall accident information will provide industry with a useful tool to help make better decisions about rehabilitation and replacement.

ETS noted that ''[t]he reduction in the spill reporting limit is noted in this section as being included in proposed bills now before Congress.'' ETS estimates that the low reporting limit is going to have a major impact on both the pipeline operators and DOT. Therefore, it believes the reporting limit should be established by Congress.

Based on outreach with the hazardous liquid pipeline industry and comments by that industry to the NPRM, we do not believe that a reduced spill reporting limit will have a major impact on pipeline operators because the additional burden to the pipeline

industry to provide the data does not require significant effort. The additional data will improve the information available upon which to make safety decisions. Based on action thus far in Congress, we have no reason to believe that Congress would object to this final rule.

ETS also commented that ''* * * flooding the DOT accident database with numerous minor leaks or spills will ultimately bias the accident cause data and thereby mask the causes of more serious pipeline accidents that need to be addressed by DOT and the industry. This reporting requirement is also redundant in that data concerning leaks impacting bodies of water are already being documented under the applicable environmental regulations.''

We believe the accident database will not be flooded with minor releases because the proposed changes eliminate the need for reporting releases that occur during normal maintenance activities as described in the NPRM. We are focused on obtaining sufficient information about small releases to adequately categorize the risks posed by such accidents. At the same time we will obtain more precise information on spills of 5 or more barrels—information that is needed to further address safety issues. Although information on spills is being reported to environmental agencies under other regulations, we need to obtain this information to properly manage our pipeline safety responsibilities.

Tosco Corporation (Tosco) participated in an industry effort to accumulate information about releases that are now less than the current 50 barrel or more criteria. Tosco noted that ''information has been collected by a majority of the liquid industry on releases down to 5 gallons for the past few years. We believe it is critical information that can be used in the future for risk and integrity management efforts.'' Tosco also suggested that ''[t]he proposed * * * criteria for the non-reporting of releases of 5 gallons or more but less than 5 barrels may need to be better defined in the preamble to the final rule. Would a release occurring during the hydrostatic testing of a pipeline during maintenance activities that has a petroleum liquid as the test medium fall under this criteria?'' Tosco also commented that the revisions to the accident reporting form are ''well thought out'' and that the information that ''will be generated by this new form will indeed help to precisely detect trends in the causes of reportable pipeline accidents.''

We pointed out that releases meeting the requirements of the normal maintenance operations exception in the final rule need not be reported.

The Citizens Advisory Committee on Pipeline Safety (Washington State) ''disagreed with our proposal to reduce the threshold for reportable spills from the current level of 50 barrels to 5 gallons. The Committee stated that sufficient information can be acquired from pipeline operators by requiring reporting of incidents that are 1 (one) barrel or larger. The requirement of reporting all spills of 5 gallons or more appears to be more stringent than is required by good practice and necessary record keeping.'' OPS worked with a joint data team composed of State, Federal, and industry representatives to determine a reasonable accident reporting threshold. Higher reporting thresholds were considered, but we chose 5 gallons because we believe the benefit of reporting releases at the 5 gallon level outweighs the burden of collecting it. The benefit is in increased awareness of pipeline releases, especially the frequency of small spills. The data team believed that a higher threshold than 5 gallons would still leave concerns about the lack of information about such spills, especially if they impacted water.

The Minerals Management Service (MMS) of the U.S. Department of the Interior supported RSPA's efforts to improve pipeline accident data collection and analyses. MMS suggested that 49 CFR 195.1(b)(5) should be deleted since it includes jurisdictional criteria used prior to the 1996 Memorandum of Understanding (MOU) between MMS and OPS, which clarified each agency's jurisdiction over offshore pipeline facilities. MMS also questions whether the same reporting requirements and accident form would apply for a cumulative 5 gallons leaked from a pipeline slowly or intermittently over a period of weeks or months.

The NPRM did not address the jurisdictional issues raised by MMS. We are addressing those issues in a separate rulemaking. As for the intermittent leak scenario, 49 CFR 195.401(b) requires a hazardous liquid pipeline operator to correct within a reasonable time any condition that could adversely affect the safe operation of the pipeline system. We consider a release of hazardous material (a leak) from a pipeline to be a condition that must be promptly corrected.

Regulatory Analyses and Notices

Executive Order 12866 and DOT Polices and Procedures

RSPA does not consider this rulemaking to be significant under Section 3(f) of Executive Order 12866 (85 FR 51735; October 4, 1993). RSPA also does not consider this rulemaking to be significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 20, 1979).

Benefits

The additional data that OPS will receive by lowering of the accident reporting threshold from 50 barrels to 5 gallons and the more detailed causation reporting, will enable RSPA and the hazardous liquid pipeline industry to better identify safety issues and trends in pipeline safety. Operators can then make informed decisions about changing their procedures to improve pipeline safety.

Costs

RSPA's revised form is composed of a ''short'' form (page one of the four page form for spills of less than 5 barrels as described above) and a ''long'' form of 4 pages for spills of 5 barrels or more, or spills to water as described above. We estimate that it will take each operator about 1 hour to complete the short form (2 minutes per field x 37 fields on short form) and that the long form will take about 7 hours to complete (2 minutes per fields x 224 fields). We recognize that some fields will take only a few seconds to complete and that some will take more than 2 minutes, but we estimate that the type of information requested on the long and the short forms will require 1 and 7 hours to complete, respectively. We also recognize that more time may be needed to collect the basic information required for completing the form, but we believe that companies already maintain this information as part of routine recordkeeping.

We estimate that the number of accidents reported annually will be 1,839. OPS extrapolated from data in the American Petroleum Institute (API) Pipeline Performance Tracking Initiative (PPTI), an anonymous reporting system that collects information on spills down to 5 gallons. Of the 1,839 annual reports, we estimate that 427 will require the long form and 1,412 will require the short form. Below is RSPA's estimates of the aggregate time required to complete the revised forms:

427 long forms × 7 hours = 2,989 hours.
1,412 short forms × 1 hour =1,422 hours.
Total: 1,839 forms; 4,411 hours

We estimated the hourly cost of the person completing the form would be $40. This was based on the U.S. Department of Labor's National Occupational Employment and Wage Earnings for 1999. The hourly wage for

a Transportation, Storage, and Distribution Manager (the closest category to a pipeline manager) was $26.03 per hour. This was multiplied by 1.35 to account for fringe benefits ($26.03 × 1.35 = $35.14). We added an inflation factor of 14% to account for inflation from 1999 to 2002 ($35.14 × 1.14 = $40.05). If the average cost per hour is $40, the total annual industry cost is $176,440 annually (4,411 × $40 = $176,440).

The hazardous liquid pipeline industry historically files an average of 166 reports annually. Completion of each of these reports was estimated to take 6 hours, based on the time needed to research the information, or 996 hours annually (166 reports × 6 hours). At $40 per hour, the total industry cost averages $39,840 annually (996 × $40 = $39,840).

The net annual increase to the hazardous liquid pipeline industry resulting from the revisions to the reporting criteria and to the form is $136,600 ($176,440 − $39,840 = $136,600). Dividing the incremental cost increase of $136,600 by approximately 200 hazardous liquid pipeline operators, the average incremental cost increase of this proposal is $683 per operator.

Comments

Two commenters, a pipeline operator and the Chief Counsel for Advocacy of the Small Business Administration (SBA), questioned RSPA's estimate of 7 hours to complete the long form. The SBA Chief Counsel for Advocacy wanted to know the basis for the 7 hour estimate.

We worked with a government/industry pipeline data team over the last several years to determine the extent of information that needed to be collected. RSPA is asking for only the most important information so as not to unduly burden pipeline operators. Moreover, the information requested on the revised form is not available from other sources.

We estimate that it will take each operator about 1 hour to complete the short form (2 minutes per field x 37 fields on short form) and that the long form will take about 7 hours to complete (2 minutes per fields x 224 fields). Electronic reporting of accidents, which will begin on January 1, 2002, should further reduce the time needed to complete the form. We believe this estimate is accurate based on these considerations.

Conclusion

RSPA believes that the additional cost of $136,600 annually is a minimal economic impact on the hazardous liquid pipeline industry. The benefits accruing to OPS and the pipeline industry; through the improvements in the quality of the information collected, should easily outweigh the cost.

Regulatory Flexibility Act

We sought input from the public on the impact of the proposed rule on small entities in the Notice of Proposed Rulemaking in this docket (66 FR 15681; March 20, 2001). No one responded to this request. The SBA Chief Counsel for Advocacy, however, made a few comments on behalf of small businesses. SBA asked the basis for using the short versus the long form. We described the usage of the short versus long form above. SBA also posed a question regarding how many operators RSPA would consider small. For several years, RSPA has sought public comment from small hazardous liquid operators. RSPA solicited public comment from small operators in its recent rulemakings on pipeline integrity management. No comments from small hazardous liquid operators were forthcoming.

The hazardous liquid pipeline industry is a highly competitive, capital intensive industry that has experienced many mergers and buyouts in recent years. SBA's criteria for defining a small entity in the hazardous liquid pipeline industry is 1,500 employees, as specified in the North American Industry Classification System codes (486110—Pipeline Transportation of Crude Oil and 486910—Pipeline Transportation of Refined Petroleum Products). We do not collect information on number of employees or revenues for pipeline operators. Such a collection would require OMB approval. However, we have discussed with SBA the characterization of hazardous liquid pipelines for purposes of this rulemaking. We intend to continue our dialog with SBA on its efforts to ascertain the number of small business operators in the hazardous liquid pipeline industry.

We made the following observations in assessing the effect of this rule on small businesses:

(1) Whether you characterize a hazardous liquid pipeline company as small or large, the cost is small in absolute terms. The average cost for all companies based on an estimated total impact of $136,600 annually is $683.00 per operator. We believe the benefits of this rule far outweigh the company cost.

(2) Assuming equal operating conditions across all pipeline mileage, the probability of having a reportable accident on a per mile basis is 1,839 expected reportable accidents per year over 154,000 miles of hazardous liquid pipeline, or about 1 reportable accident per hundred miles of pipeline. Companies with thousands of miles of pipe will typically have more reportable accidents than companies with hundreds of miles of pipe or less. Companies with less mileage will have a proportionately lower share of the estimated $136,600 annual cost posed by this rulemaking, for an average total per company cost of less than $683;

(3) We estimate that the nation's 80 largest hazardous liquid pipeline companies (based on pipeline mileage reported to RSPA by operators annually) operate more than 91% of the nation's total hazardous liquid pipeline mileage. About 120 companies operate the remaining 9% of mileage. Assuming this 9% of mileage were operated by ''small operators,'' these operators would experience no more than 9% of the reportable accidents and incur 9% or less of the $136,600 annual cost. This amounts to $12,294 total annual costs, or about $102 per company. Many of these 120 operators are, however, owned by or parts of nationally recognized large corporations, so the burden would actually be less than $102 per small business annually.

Based on the increase in costs to the industry of this rulemaking, RSPA certifies, pursuant to section 605 of the Regulatory Flexibility Act (5 U.S.C. 605), that this rulemaking would not have a significant impact on a substantial number of small entities.

Paperwork Reduction Act

This final rule contains information collection requirements as required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507 (d)). RSPA has previously submitted a copy of the Paperwork Reduction Act analysis to OMB for its review. The name of the information collection is ''Transportation of Hazardous Liquids by Pipeline: Record Keeping and Accident Reporting.'' The purpose of this information collection is to improve the current hazardous liquid pipeline accident information collection.

According to the Paperwork Reduction Act, no persons are required to respond to a collection of information unless a valid OMB control number is displayed. OMB has approved the revised form RSPA F7000–1 and this information collection. The OMB control number for this information collection is 2137–0047. For more details, see the Paperwork Reduction Analysis available for copying and review in the public docket.

Executive Order 13175

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13175 (''Consultation and Coordination with Indian Tribal Governments''). Because this final rule does not significantly or uniquely affect the communities of the Indian tribal governments and does not impose substantial direct compliance costs, the funding and consultation requirements of Executive Order 13175 do not apply.

Executive Order 13132

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 (''Federalism''). This final rule does not adopt any regulation that (1) has substantial direct effects on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government; (2) imposes substantial direct compliance costs on States and local governments; or (3) preempts State law. Therefore, the consultation and funding requirements of Executive Order 13132 (64 FR 43255; August 10, 1999) do not apply.

Executive Order 13211

This rulemaking is not a ''significant energy action'' within the meaning of Executive Order 13211 (''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.'') It is not a significant regulatory action under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Further, this rulemaking has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action.

Unfunded Mandates

This rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of $100 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objective of the rule.

National Environmental Policy Act

RSPA has analyzed the final rule in accordance with section 102(2)(c) of the National Environmental Policy Act (42 U.S.C. 4332), the Council on Environmental Quality regulations (40 CFR 1500–1508), and DOT Order 5610.1D, and has determined that this action would not significantly affect the quality of the human environment, because information collection does not impact the environment.

List of Subjects in 49 CFR Part 195

Anhydrous Ammonia, Carbon dioxide, Incorporation by reference, Petroleum, Pipeline safety, Reporting and recordkeeping requirements.

For all the reasons described in this final rule, RSPA is amending Title 49, Part 195, Code of Federal Regulations, as follows:

PART 195—TRANSPORTATION OF HAZARDOUS LIQUIDS BY PIPELINE

1. The authority citation for part 195 continues to read as follows:

Authority: 49 U.S.C. 5103, 60102, 60104, 60108, 60109, 60118; and 49 CFR 1.53.

2. Amend § 195.50 to revise paragraph (b), to remove paragraph (c), to redesignate paragraphs (d) through (f) as paragraphs (c) through (e) and revising the newly designated paragraphs, to read as follows:

§ 195.50 Reporting accidents.

* * * * *

(b) Release of 5 gallons (19 liters) or more of hazardous liquid or carbon dioxide, except that no report is required for a release of less than 5 barrels (0.8 cubic meters) resulting from a pipeline maintenance activity if the release is:

(1) Not otherwise reportable under this section;

(2) Not one described in § 195.52(a)(4);

(3) Confined to company property or pipeline right-of-way; and

(4) Cleaned up promptly;

(c) Death of any person;

(d) Personal injury necessitating hospitalization;

(e) Estimated property damage, including cost of clean-up and recovery, value of lost product, and damage to the property of the operator or others, or both, exceeding $50,000.

Issued in Washington, DC, on December 21, 2001.

Ellen G. Engleman,

Administrator.

BILLING CODE 4910–60–P

NOTICE: This report is required by 49 CFR Part 195. Failure to report can result in a civil penalty not to exceed $25,000 for each violation for each day that such violation persists except that the maximum civil penalty shall not exceed $500,000 as provided in 49 USC 60122

Form Approved
OMB No. 2137-0047

U.S. Department of Transportation
Research and Special Programs
Administration

ACCIDENT REPORT – HAZARDOUS LIQUID PIPELINE SYSTEMS

Report Date _____

No. _____
(DOT Use Only)

INSTRUCTIONS

Important: *Please read the separate instructions for completing this form before you begin. They clarify the information requested and provide specific examples. If you do not have a copy of the instructions, you can obtain one from the Office Of Pipeline Safety Web Page at http://ops.dot.gov.*

PART A – GENERAL REPORT INFORMATION Check: ☐ **Original Report** ☐ **Supplemental Report** ☐ **Final Report**

1. a. Operator's OPS 5-digit Identification Number (if known) /___/___/___/___/___/
2. b. If Operator does not own the pipeline, enter Owner's OPS 5-digit Identification Number (if known) /___/___/___/___/___/
   c. Name of Operator _____
   d. Operator street address _____
   e. Operator address _____
   City, County, State and Zip Code

IMPORTANT: IF THE SPILL IS SMALL, THAT IS, THE AMOUNT IS AT LEAST 5 GALLONS BUT IS LESS THAN 5 BARRELS, COMPLETE THIS PAGE ONLY, UNLESS THE SPILL IS TO WATER AS DESCRIBED IN 49 CFR §195.52(A)(4) OR IS OTHERWISE REPORTABLE UNDER §195.50 AS REVISED IN CY 2001.

2. Time and date of the accident
   /___/___/___/___/ hr. /___/___/ month /___/___/ day /___/___/ year
3. Location of accident
   (If offshore, do not complete a through d. See Part C.1)
   a. Latitude: _____ Longitude: _____
   (if not available, see instructions for how to provide specific location)
   b. _____
   City, and County or Parish
   c. _____
   State and Zip Code
   d. Mile post/valve station ○ or survey station no. ○
   (whichever gives more accurate location)
   _____
4. Telephone report
   /___/___/___/___/___/___/___/ NRC Report Number /___/___/ month /___/___/ day /___/___/ year

5. Losses *(Estimated)*

Public/Community Losses reimbursed by operator:

Public/private property damage	$_____
Cost of emergency response phase	$_____
Cost of environmental remediation	$_____
Other Costs	$_____
(describe) _____	

Operator Losses:

Value of product lost	$_____
Value of operator property damage	$_____
Other Costs	$_____
(describe) _____	
Total Costs	$_____

6. Commodity Spilled ○Yes ○ No
(If Yes, complete Parts a through c where applicable)
   a. Name of commodity spilled _____
   b. Classification of commodity spilled:
      ○ HVLs /other flammable or toxic fluid which is a gas at ambient conditions
      ○ CO_2/ N_2 or other non-flammable, non-toxic fluid which is a gas at ambient conditions
      ○ Gasoline, diesel, fuel oil or other petroleum product which is a liquid at ambient conditions
      ○ Crude oil

c. Estimated amount of commodity involved :
○ **Barrels**
○ **Gallons (check only if spill is less than one barrel)**

Amounts:
Spilled : _____
Recovered: _____

CAUSES FOR SMALL SPILLS ONLY (5 gallons to under 5 barrels) : ***(For large spills [5 barrels or greater] see Part H)***

○ **Corrosion** ○ **Natural Forces** ○ **Excavation Damage** ○ **Other Outside Force Damage**
○ **Material and/or Weld Failures** ○ **Equipment** ○ **Incorrect Operation** ○ **Other**

PART B – PREPARER AND AUTHORIZED SIGNATURE

_____ (type or print) Preparer's Name and Title
_____ Area Code and Telephone Number
_____ Preparer's E-mail Address
_____ Area Code and Facsimile Number
_____ Authorized Signature
_____ (type or print) Name and Title
_____ Date
_____ Area Code and Telephone Number

Form RSPA F 7000-1 (01-2001) *Page 1 of 4*

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PART C – ORIGIN OF THE ACCIDENT (Check all that apply)

1. Additional location information
   a. Line segment name or ID _____
   b. Accident on Federal land other than Outer Continental Shelf O Yes O No
   c. Is pipeline interstate? O Yes O No

Offshore: O Yes O No *(complete d if offshore)*
d. Area _____ Block # _____
State /___/___/ or Outer Continental Shelf ☐

2. Location of system involved (*check all that apply*)
   ☐ Operator's Property
   ☐ Pipeline Right of Way
   ☐ High Consequence Area (HCA)?
   Describe HCA_____

3. Part of system involved in accident
   O Above Ground Storage Tank
   O Cavern or other below ground storage facility
   O Pump/meter station; terminal/tank farm piping and equipment, including sumps
   O Other *Specify:* _____
   O Onshore **pipeline**, including valve sites
   O Offshore **pipeline**, including platforms

4. Failure occurred on
   O Body of Pipe O Pipe Seam O Scraper Trap
   O Pump O Sump O Joint
   O Component O Valve O Metering Facility
   O Repair Sleeve O Welded Fitting O Bolted Fitting
   O Girth Weld
   Other *(specify)* _____

Year the component that failed was installed: /___/___/___/___/___/

5. Maximum operating pressure *(MOP)*
   a. Estimated pressure at point and time of accident: _____ *PSIG*
   b. MOP at time of accident: _____ *PSIG*
   c. Did an overpressurization occur relating to the accident? O Yes O No

If failure occurred on Pipeline, complete items a -g:

a. Type of leak or rupture
   O Leak: O Pinhole O Connection Failure *(complete sec. H5)*
   O Puncture, diameter *(inches)* _____
   O Rupture: O Circumferential – Separation
   O Longitudinal – Tear/Crack, length *(inches)* _____
   Propagation Length, total, both sides *(feet)* _____
   O N/A
   O Other _____

b. Type of block valve used for isolation of immediate section:
   Upstream: ☐ Manual ☐ Automatic ☐ Remote Control ☐ Check Valve
   Downstream: ☐ Manual ☐ Automatic ☐ Remote Control ☐ Check Valve

c. Length of segment isolated _____ ft
d. Distance between valves _____ ft
e. Is segment configured for internal inspection tools? O Yes O No
f. Had there been an in-line inspection device run at the point of failure? O Yes O No O Don't Know
   O Not Possible due to physical constraints in the system
g. If *Yes*, type of device run (*check all that apply*)
   ☐ High Resolution Magnetic Flux tool Year run: _____
   ☐ Low Resolution Magnetic Flux tool Year run: _____
   ☐ UT tool Year run: _____
   ☐ Geometry tool Year run: _____
   ☐ Caliper tool Year run: _____
   ☐ Crack tool Year run: _____
   ☐ Hard Spot tool Year run: _____
   ☐ Other tool Year run: _____

PART D – MATERIAL SPECIFICATION

1. Nominal pipe size *(NPS)* /___/___/___/___/___/ in.
2. Wall thickness /___/___/___/___/___/ in.
3. Specification _____ SMYS /___/___/___/___/___/___/
4. Seam type _____
5. Valve type _____
6. Manufactured by _____ in year /___/___/___/___/

PART E – ENVIRONMENT

1. Area of accident
   O Under pavement O In open ditch
   O Underground O Above ground
   O Inside/under building O Under water
   O Other _____
2. Depth of cover: _____ inches

PART F – CONSEQUENCES

1. Consequences *(check and complete all that apply)*

a.

	Fatalities	Injuries
Number of operator employees:		_____
Contractor employees working for operator:		_____
General public:		_____
Totals:		_____

b. Was pipeline/segment shutdown due to leak? O Yes O No
If Yes, how long? _____ days _____ hours _____ minutes

c. Product ignited O Yes O No d. Explosion O Yes O No
e. ☐ Evacuation *(general public only)* /___/___/___/___/___/ people
Reason for Evacuation:
O Precautionary by company
O Evacuation required or initiated by public official

f. Elapsed time until area was made safe:
/___/___/ hr. /___/___/ min.

2. Environmental Impact

a. Wildlife Impact: Fish/aquatic O Yes O No
Birds O Yes O No
Terrestrial O Yes O No

b. Soil Contamination O Yes O No
If Yes, estimated number of cubic yards: _____

c. Long term impact assessment performed: O Yes O No
d. Anticipated remediation O Yes O No
If Yes, check all that apply: ☐ Surface water ☐ Groundwater ☐ Soil ☐ Vegetation ☐ Wildlife

e. Water Contamination: O Yes O No (*If Yes, provide the following*)
Amount in water _____ barrels
Ocean/Seawater O No O Yes
Surface O No O Yes
Groundwater O No O Yes
Drinking water O No O Yes (*If Yes, check below.*)
O Private well O Public water intake

PART G – LEAK DETECTION INFORMATION

1. Computer based leak detection capability in place? O Yes O No

2. Was the release initially detected by? (check one):
O CPM/SCADA-based system with leak detection
O Static shut-in test or other pressure or leak test
O Local operating personnel, procedures or equipment
O Remote operating personnel, including controllers
O Air patrol or ground surveillance
O A third party O Other (specify) _____

3. Estimated leak duration days ____ hours ____

PART H – APPARENT CAUSE

Important: *There are 25 numbered causes in this Part H. Check the box corresponding to the primary cause of the accident. Check one circle in each of the supplemental categories corresponding to the cause you indicate. See the instructions for guidance.*

H1 – CORROSION

1. ☐ External Corrosion

2. ☐ Internal Corrosion

(Complete items a – e where applicable.)

a. Pipe Coating
O Bare
O Coated

b. Visual Examination
O Localized Pitting
O General Corrosion
O Other _____

c. Cause of Corrosion
O Galvanic O Atmospheric
O Stray Current O Microbiological
O Cathodic Protection Disrupted
O Stress Corrosion Cracking
O Selective Seam Corrosion
O Other _____

d. Was corroded part of pipeline considered to be under cathodic protection prior to discovering accident?
O No O Yes, Year Protection Started: /___/___/___/___/

e. Was pipe previously damaged in the area of corrosion?
O No O Yes ⇒ Estimated time prior to accident: /___/___/ *years* /___/___/ *months* *Unknown* ☐

H2 – NATURAL FORCES

3. ☐ Earth Movement ⇒ O Earthquake O Subsidence O Landslide O Other _____
4. ☐ Lightning
5. ☐ Heavy Rains/Floods ⇒ O Washouts O Flotation O Mudslide O Scouring O Other _____
6. ☐ Temperature ⇒ O Thermal stress O Frost heave O Frozen components O Other _____
7. ☐ High Winds

H3 – EXCAVATION DAMAGE

8. ☐ Operator Excavation Damage (including their contractors/Not Third Party)
9. ☐ Third Party *(complete a-f)*

a. Excavator group
O General Public O Government O Excavator other than Operator/subcontractor

b. Type: O Road Work O Pipeline O Water O Electric O Sewer O Phone/Cable
O Landowner-not farming related O Farming O Railroad
O Other liquid or gas transmission pipeline operator or their contractor
O Nautical Operations O Other _____

c. Excavation was: O Open Trench O Sub-strata (boring, directional drilling, etc...)

d. Excavation was an ongoing activity (Month or longer) O Yes O No If Yes, Date of last contact /___/___/___/

e. Did operator get prior notification of excavation activity?
O Yes; Date received: /___/___/ mo. /___/___/ day /___/___/___/___/ yr. O No
Notification received from: O One Call System O Excavator O Contractor O Landowner

f. Was pipeline marked as result of location request for excavation? O No O Yes *(If Yes, check applicable items i - iv)*
i. Temporary markings: O Flags O Stakes O Paint
ii. Permanent markings: O
iii. Marks were (check one) : O Accurate O Not Accurate
iv. Were marks made within required time? O Yes O No

H4 – OTHER OUTSIDE FORCE DAMAGE

10. ☐ Fire/Explosion as primary cause of failure ⇒ Fire/Explosion cause: O Man made O Natural
11. ☐ Car, truck or other vehicle not relating to excavation activity damaging pipe
12. ☐ Rupture of Previously Damaged Pipe
13. ☐ Vandalism

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H5 – MATERIAL AND/OR WELD FAILURES

Material

14. ☐ Body of Pipe ⇒ O Dent O Gouge O Bend O Arc Burn O Other _____
15. ☐ Component ⇒ O Valve O Fitting O Vessel O Extruded Outlet O Other _____
16. ☐ Joint ⇒ O Gasket O O-Ring O Threads O Other _____

Weld

17. ☐ Butt ⇒ O Pipe O Fabrication O Other _____
18. ☐ Fillet ⇒ O Branch O Hot Tap O Fitting O Repair Sleeve O Other _____
19. ☐ Pipe Seam ⇒ O LF ERW O DSAW O Seamless O Flash Weld
O HF ERW O SAW O Spiral O Other _____

*Complete a-g if you indicate **any** cause in part H5.*

a. Type of failure:
O Construction Defect ⇒ O Poor Workmanship O Procedure not followed O Poor Construction Procedures
O Material Defect

b. Was failure due to pipe damage sustained in transportation to the construction or fabrication site? O Yes O No

c. Was part which leaked pressure tested before accident occurred? O Yes, *complete d-g* O No

d. Date of test: /___/___/___/___/ yr. /___/___/ mo. /___/___/ day

e. Test medium: O Water O Inert Gas O Other _____

f. Time held at test pressure: /___/___/ hr.

g. Estimated test pressure at point of accident: _____ *PSIG*

H6 – EQUIPMENT

20. ☐ Malfunction of Control/Relief Equipment ⇒ O Control valve O Instrumentation O SCADA O Communications
O Block valve O Relief valve O Power failure O Other _____
21. ☐ Threads Stripped, Broken Pipe Coupling ⇒ O Nipples O Valve Threads O Dresser Couplings O Other _____
22. ☐ Seal Failure ⇒ O Gasket O O-Ring O Seal/Pump Packing O Other _____

H7 – INCORRECT OPERATION

23. ☐ Incorrect Operation

a. Type: O Inadequate Procedures O Inadequate Safety Practices O Failure to Follow Procedures
O Other _____

b. Number of employees involved who failed a post-accident test: drug test: /___/___/___/ alcohol test /___/___/___/

H8 – OTHER

24. ☐ Miscellaneous, *describe:* _____
25. ☐ Unknown
O Investigation Complete O Still Under Investigation *(submit a supplemental report when investigation is complete)*

PART I – NARRATIVE DESCRIPTION OF FACTORS CONTRIBUTING TO THE EVENT *(Attach additional sheets as necessary)*

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INSTRUCTIONS FOR FORM RSPA F 7000-1 (1-2001)
ACCIDENT REPORT - HAZARDOUS LIQUID PIPE SYSTEMS

GENERAL INSTRUCTIONS

Each hazardous liquid pipeline operator shall file Form RSPA F 7000-1 for an accident that meets the criteria in 49 CFR §195.50 as soon as practicable but not more than 30 days after the accident. Hazardous liquid releases during maintenance activities need not be reported if the spill was less than 5 barrels, not otherwise reportable under 49 CFR §195.50, and did not result in water pollution as described by 49 CFR §195.52(a)(4). Any spill of 5 gallons or more to water shall be reported.

Consult 49 CFR §195.50 for reporting requirements. If you have questions about this report or these instructions or need copies of Form RSPA F 7000-1, please write to the Information Resources Manager, or call (202)366-4569. All forms and instructions are on the OPS home page, http://ops.dot.gov.

SPECIAL INSTRUCTIONS

1. An entry should be made in each space.
2. Please try to obtain the information necessary to accurately and completely answer each question.
3. If the data is unavailable, enter "unknown"
4. If possible, provide an estimate in lieu of answering a question with "Unknown".
5. For unknown or estimated data entries, the operator should file a supplemental report when additional information becomes available.
6. If the block is not applicable, please enter N/A.

In blocks requiring numbers, all blocks should be filled in using zeroes when appropriate. When decimal points are required, the decimal point should be placed in a separate block.

Examples: (Part D, item 1) Nominal Pipe Size /0/0/2/4/ inches
/1/./5/0/ inches

(Part D, item 1) Wall Thickness /./5/0/0/ inches
/1/./2/5/ inches

If OTHER is checked, include an explanation or description on the line next to the item checked.

SPECIFIC INSTRUCTIONS

PART A - GENERAL REPORT INFORMATION

Initial, Supplemental, Final Report Section

Check the appropriate box:
☐ Original Report ☐ Supplemental Report ☐ Final Report.

If this is the initial report filed for this accident, check the box for "Original Report". If all of the information requested is known and provided at the time the initial report is filed, including final property damages and failure cause information, check the box for Final Report as well as the box for Original Report, indicating that no further information will be forthcoming.

If this is an update or revision to an Original Report but all information requested is still not known, check "Supplemental Report".

If all requested relevant information has been provided, and there will be no further updates to reported property damages or accident cause information, check the box for "Final Report".

If you are filing a supplemental or final report, please check the Supplemental Report or Final Report box and complete Part A(1)and Part B. Please do not enter previously submitted information.

A 1. The Research and Special Programs Administration (RSPA) assigns the operator's five-digit identification number. If you do not know the operator identification number, please leave that item blank. The operator address entry in 1.d and 1.e is the office filing the accident report. If the operator does not own the pipeline, enter the Owner's five digit identification number in 1.b. You may contact us at (202)366-8075 during our business hours of 7:30 AM to 5:00 PM Easter time if you need assistance with an identification number for 1.a or 1.b.

SMALL SPILLS (5 GALLONS TO 5 BARRELS)

IMPORTANT: For small spills not otherwise reportable under CFR 195.50 nor resulting in water pollution as described by 49 CFR 195.52, complete only page one. If spill is less than one barrel, enter loss in gallons. Estimate amount spilled and recovered as closely as possible. Estimate the total property damage for sections under property damage reporting if exact amounts aren't known. Complete preparer's name and contact information section. Check the box for FINAL REPORT and submit the report.

ALL OTHER REPORTABLE SPILLS

For spills: of 5 or more gallons resulting in water pollution as described in 49 CFR §195.52(A)(4); of 5 or more barrels; or reportable by other criteria as per 49 CFR §195.50, complete as much of the form as possible within the 30 day filing period. If total property damage, cause information or other information is not known within 30 days, submit the original report and provide supplemental updates every 6 months until such time as a final report can be submitted. We plan to remind operators every six months about reports needing updates.

A 2. The time of the accident should be shown by 24-hour clock notation.

Examples:

1. (0000) = midnight = /0/0/0/0/
2. (0800) = 8:00 a.m. = /0/8/0/0/
3. (1200) = Noon = /1/2/0/0/
4. (1715) = 5:15 p.m. = /1/7/1/5/
5. (2200) = 10:00 p.m.= /2/2/0/0/

A 3. Accident location information should be as complete as possible, including the nearest City, Town, Township, County or Parish, Borough, Section, and Range. Offshore accident identification should be located by State or Outer Continental Shelf (OCS) identification and block identification. In addition to the general location information, provide latitude and longitude, if available, including projection and datum used in collecting the data.

Federal Land other than Outer Continental Shelf means all lands the United States owns, including military reservations, except lands in National Parks and lands held in trust for Native Americans. Accidents at Federal buildings, such as Federal Court Houses, Custom Houses, and other Federal office buildings and warehouses, are not to be reported as being on Federal Lands.

A 5. Estimate costs/losses for the items provided in this section. Do not report costs incurred for facility repair, replacement, or change that is not related to the accident done solely for convenience. An example of doing work solely for convenience is working on facilities unearthed because of the accident. Litigation and other legal expenses related to the accident are not reportable.

PART B - PREPARER AND AUTHORIZED SIGNATURE

Preparer is the name of the person who prepared the responses to the form and who is to be contacted for more information (preferably the person most knowledgeable about the information in the report).

Authorized Signature may be the preparer, an officer, or other person whom the operator has designated to review and sign reports. Please enter the preparer's e-mail address if the preparer has one.

PART C - ORIGIN OF Accident

C 2. Location of System Involved:

High consequence area means:

1. A commercially navigable waterway, which means a waterway where a substantial likelihood of commercial navigation exists;
2. A high population area, which means an urbanized area as defined and delineated by the Census Bureau that contains 50,000 or more people and has a population density of at least 1,000 people per square mile;
3. Any other populated area, which means a place as defined and

delineated by the Census Bureau that contains a concentrated population, such as an incorporated or unincorporated city, town, village, or other designated residential or commercial area;

4. An unusually sensitive area, as defined in 195.6

C 3. Part of System Involved in Accident

If the failure occurred on an item not provided in this section, check the "OTHER" box and specify in the space provided the part of the structure that failed. If failure occurred on **onshore or offshore pipeline**, complete C a through g.

Leak - an unintentional release of product from a pipeline requiring repair to the pipeline. The source of the leak may be holes, cracks (including propagating and non-propagating, longitudinal and circumferential cracks), separation or pull-out, and loose connections.

Rupture - a complete failure of a portion of the pipeline.

Propagation - the extension of the original opening in the pipeline in an area of nominal wall thickness resulting from the internal forces on the pipeline.

Tear - an extension of the original opening in the pipeline resulting from an externally applied force, such as a bulldozer, backhoe, or grader.

Note: for C 3 a - {Type of Leak or Rupture}, *Connection Failure* refers only to accidents where failure occurred on a connection that joined two segments of pipe.

"Year the pipe/component which failed was installed" means the year installed at the accident location.

PART D - MATERIAL SPECIFICATION

Complete section D (1 through 6), if pipe or valve failed.

ITEM 1. Nominal pipe size is the diameter in inches used to describe the pipe size; for example, 2-inch, 4-inch, 8-inch, 12-inch, 30-inch.

ITEM 2. Enter pipe wall thickness in inches. Use decimals as necessary.

ITEM 3. Specification is the specification to which the pipe or component was manufactured, such as API 5L or ASTM A106. When more than one item has failed, and the origin of the failure is not clear, complete Part C ITEM 2 to explain the additional item(s).

ITEM 4. *Common seam types: (Acronyms used in Part H5, item 19:*
LF ERW : low frequency electro-resistance weld
HF ERW : high frequency electro-resistance weld
DSAW : double-submerged arc weld
SAW : submerged arc weld

ITEM 5. Some valve types are: flange-welded, bell-plug, etc.

PART E - ENVIRONMENT

"Under pavement" includes under streets, sidewalks, paved roads, driveways and parking lots.

Provide depth of cover in inches where accident involved buried pipe or component.

PART F - CONSEQUENCES

F 1 a. - injuries are those that require in-patient hospitalization, meaning hospital admission and at least one overnight stay.

For F 2 a, because of the difficulty in estimating number of individual animals or species affected, we do not ask quantity, rather, we only provide a check box to indicate if any species were impacted.

If product ignited, but there was no explosion, check box F1c. If an explosion occurred, check box F1d.

For F 1 f, "Elapsed time until the area was made safe" means the amount of time starting from the accident occurrence until the time that the accident is brought under control and does not significantly threaten public safety. This does not necessarily mean that the flow of product has been stopped. If the time of occurrence is unknown, the time when the operator was first notified or made aware of the accident should be used to calculate elapsed time.

PART G - LEAK DETECTION INFORMATION

Enter the requested information about leak detection systems.

PART H - APPARENT CAUSE

There are 25 numbered causes in Part H. The 25 causes are divided into 8 categories in sections H1 through H8. Check the box indicating the general cause of the accident and check the circle indicating the specific cause.

PART H1 - CORROSION

Corrosion includes a leak or failure caused by galvanic, bacterial, chemical, stray current, or other corrosive action. Examples: A corrosion leak is not limited to a hole in the pipe. If the bonnet or packing gland on a valve or flange on piping becomes loose and leaks due to corrosion and failure of bolts, it is classified as Corrosion. If the bonnet, packing, or other gasket has deteriorated before the end of its expected life and caused a leak or failure and a new gasket is required, it is classified as a Material Defect. Leaks resulting from materials deteriorating after the expected life of the materials are classified as "Other". Leaks due to deterioration from corrosion, however, are classified as "Corrosion".

Complete H1 parts a - e where applicable.
If the cause was Stress Corrosion Cracking, check the block for Stress Corrosion Cracking under H1 (c).

Subpart a - Pipe Coating
Galvanized pipe with no dielectric coating is considered bare.

Subpart d - Cathodic Protection

"Under cathodic protection" means cathodic protection in accordance with Part 192, Appendix D. Recognizing that older pipelines may have had cathodic protection added over a number of years, provide an estimate if exact year cathodic protection started is unknown.

PART H2 - NATURAL FORCES

ITEMS 3 - 7: Natural Forces.

This includes all outside forces attributable to causes not involving humans. "Earth Movement" refers to failures caused by land shifts such as earthquakes, landslides, or subsidence.

"Heavy rains and floods" refer to all water related failure causes such as washouts, flotation, mudslides, or water scouring. While mudslides involve earth movement, report them here since typically they are an effect of heavy rains or floods.

"Temperature" refers to those causes that are related to temperature effects, or where temperature was the initial cause; for example, thermal stress, frost heave, or frozen component failures.

PART H3 - EXCAVATION DAMAGE

This section covers excavator damage by operator, operator's contractor, utilities, or others.

Complete subparts a - g if any cause was checked in Part H3(9).

ITEMS 8 - 9: Excavation.

Item 8: check this item if the operator or the operator's contractor or agent caused the failure, or if caused by another party working for the operator as a result of excavation.

Item 9: Third Party Damage- check this item if failure cause was from excavation damages resulting from action by a third party, that is, by a party other than the operator or the operator's agent.

Subpart 9e- "Prior notification" means that the operator had been notified that excavation or construction work was to be done near the pipeline before the accident occurred. If the operator was notified, but the operator believes the notice was inadequate, improper, or incomplete, check NO and explain in Part G, Narrative Description Of Factors Contributing to the Event, how the notice was inadequate, improper or incomplete.

Subpart 9f- "Was pipeline marked as a result of location request for excavation?": Indicate whether the pipeline was marked. If the pipeline was marked, complete all items i through iv that apply.

PART H4 - OTHER OUTSIDE FORCE DAMAGE

This section covers damages to pipelines or facilities caused by external forces other than excavation damage.

ITEMS 10- 13 Cover other failures caused by damages to pipelines by external

forces other than excavation or natural forces. Fire/explosion as primary cause of failure implies that fire/explosion occurred prior to failure and not as a result of failure. If a fire/explosion occurred as a result of the failure not as primary cause of the failure, do not check item 10, but check Part F item 1c or 1d. If the primary failure cause was damage by a vehicle other than a vehicle involved in excavation, check item 11. If a vehicle involved in excavation caused the damage, check the appropriate item under the Excavation Damage section (items 8 and 9).

PART H5 - MATERIAL AND/OR WELD FAILURES

"Fitting" means a device, usually metal, for joining lengths of pipe into various piping systems. It includes couplings, ells, tees, crosses, reducers, unions, caps and plugs.

ITEMS 14 - 16, Material.

This section includes leaks or failures from a defect within the material of the pipe, component or joint due to faulty manufacturing procedures. Leaks or failures resulting from material deterioration and not resulting from an original defect or corrosion are reported under "Other". Complete subparts a - g if any cause was checked in Part H5.

ITEMS 17 - 19, Welds.

Acronyms used in this section:
LF ERW : low frequency electro-resistance weld
HF ERW : high frequency electro-resistance weld
DSAW : double-submerged arc weld
SAW : submerged arc weld

"Weld-related material defects" includes leaks or failures from a defect within the material of the pipe, component or longitudinal weld or seam due to faulty welding or weld-related manufacturing procedures.

Sub-Elements a - g
"Construction defect" includes leaks in or failures of originally sound material due to force being applied during field construction that caused a dent, gouge, excessive stress, or some other defect that eventually resulted in failure. Included are leaks in or failures of wrinkle bends, field welds, and damage sustained in transportation to the construction or fabrication site.

PART H6 - EQUIPMENT

This section includes malfunctions of control and relief equipment (typically the result of failed and leaking valves), failures of threaded components and broken pipe couplings, including thread failures, and failures in seal/pump packings. Accidents resulting from incorrect operations or inadequate procedures are also included in this category. Report gasket or o-ring failures under Part H5, item 16, Joints, by checking the appropriate circle for gasket or o-ring.

Item 20- Malfunction of Control/Relief Equipment

Examples of this type of failure cause include: overpressurizations resulting from malfunction of control or alarm device; relief valve malfunction: and valves failing to open or close on command; or which opened or closed when not commanded to do so.

Item 21 - Threads stripped, broken pipe coupling

Examples of this type of failure include failures on compressors, meters, or regulator stations where the failure resulted from a crack in a component or threads of a component such as nipples, flanges, valve connections, line pipe collars, etc.

Item 22 - Ruptured or Leaking Seal/Pump Packing

Examples of this type of failure generally include failures of compressor pump packing or other pump seals.

PART H7 - INCORRECT OPERATION

Incorrect operation failures typically result from faulty or inadequate procedures. These types of failures most often occur during maintenance activities. Some examples of this type of failure are unintentional product ignition during a welding or maintenance activity; other reportable accidents causing a fire, or failures where human error, employee fatigue, and/or lack of experience may have played a role.

PART H8 - OTHER

This section is provided for failure causes that do not fit in any category in Sections H1 through H7. If the failure cause is unknown at time of filing this report, check item 25. If the failure cause is known but doesn't fit in any category in sections H1 through H7, check item 24 and describe the cause. Continue in Part I, narrative description, if more space is needed.

PART I - NARRATIVE DESCRIPTION OF FACTORS CONTRIBUTING TO THE ACCIDENT

Concisely describe the accident, including the facts, circumstances, and conditions that may have contributed directly or indirectly to causing the accident. You may explain any estimated data in the narrative. If you checked the OTHER block in Part H8 item 24 or 25, the narrative should describe the accident in detail, including the timeline, sequence of events, and all known or suspected causes. Use this section to clarify or explain unusual conditions.

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Rules and Regulations

Federal Register

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Tuesday, January 8, 2002

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.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Farm Service Agency

7 CFR Part 764

Rural Housing Service

Rural Business-Cooperative Service

Rural Utilities Service

Farm Service Agency

7 CFR Part 1945

RIN 0560–AF72

Streamlining of the Emergency Farm Loan Program Loan Regulations

AGENCY: Farm Service Agency, USDA.

ACTION: Final rule.

SUMMARY: The Farm Service Agency amends its regulations governing the Farm Service Agency's (FSA) Emergency Farm Loan Program. It clarifies, simplifies, and streamlines the procedures to apply for and make FSA emergency loans.

DATES: This regulation is effective on February 7, 2002.

FOR FURTHER INFORMATION CONTACT: Mike Hinton, Branch Chief, Loan Making Division, Farm Loan Programs, Farm Service Agency, United States Department of Agriculture, STOP 0522, 1400 Independence Avenue, SW., Washington, DC 20250–0522 telephone (202) 720–1632; or e-mail: *mike_hinton@wdc.fsa.usda.gov*.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be significant for purposes of Executive Order 12866 and, therefore, was reviewed by the Office of Management and Budget.

Regulatory Flexibility Act

The FSA certifies that this rule will not have a significant economic effect on a substantial number of small entities because under the rule the economic effect of the regulation is reduced from the prior rule. Therefore, FSA is not required to perform a Regulatory Flexibility Analysis as required by the Regulatory Flexibility Act (5 U.S.C. 601). This rule does not impact small entities to a greater extent than large entities.

Environmental Impact Statement

FSA has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, (42 U.S.C. 4321 *et seq.*) neither an Environmental Impact Statement nor an environmental assessment is required.

Executive Order 12988

This rule has been reviewed in accordance with E.O. 12988, Civil Justice Reform. All State and local laws and regulations that are in conflict with this rule will be preempted. No retroactive effect will be given to this rule. It will not affect agreements entered into prior to the effective date of the rule. The administrative appeal provisions published at 7 CFR parts 11 and 780 must be exhausted before bringing any action for judicial review.

Executive Order 12372

For reasons contained in the Notice related to 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983) the programs and activities within this rule are excluded from the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

Executive Order 13132

The policies contained in this rule do not have any substantial direct effect on states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among various levels of government. Nor does this rule impose substantial direct compliance costs on state and local governments. Therefore, consultation with the states is not required.

Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments or the private sector. Agencies generally must prepare a written statement, including a cost benefit assessment, for proposed and final rules with ''Federal mandates'' that may result in expenditures of $100 million or more in any 1 year for State, local, or tribal governments, in the aggregate, or to the private sector. UMRA generally requires agencies to consider alternatives and adopt the more cost effective or least burdensome alternative that achieves the objectives of the rule.

The rule contains no Federal mandates, under the regulatory provisions of title II of the UMRA, for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Paperwork Reduction Act

The amendments to 7 CFR parts 764 and 1945 contained in this final rule require no revisions to the information collection requirements that are currently approved by OMB under control number 0560–0159. A proposed rule containing an estimate of the information collection burden of this rule was published on September 12, 2000 (65 FR 54973–54981). No comments regarding the burden estimates were received. This information collection has been approved through January 31, 2004.

Federal Assistance Programs

These changes affect the following FSA program as listed in the Catalog of Federal Domestic Assistance: 10.404—Emergency Loans.

New CFR Part

The proposed rule proposed changes to the existing 7 CFR part 1945, subpart B, and removed subpart D. This final rule, in addition to finalizing, with changes, the proposed rule, moves these provisions to 7 CFR part 764 and removes 7 CFR 1945 subparts B, C, and D. In order to facilitate this change in the final regulation, in all places 1945.5 was replaced with 764 and any numbers following the .5 remained the same. An

example of this is in the proposed rule there is a section 1945.53(b)(1) in the final rule this has been changed to 764.3(b)(1). FSA is moving its Emergency loan program regulations from Chapter XVIII to Chapter VII of the Code of Federal Regulations (CFR). Prior to the Department of Agriculture Reorganization Act of 1994 (1994 Act), Chapter XVIII was assigned to the Farmers Home Administration (FmHA) and Chapter VII was assigned to the Agricultural Stabilization and Conservation Service (ASCS). Under provisions of the 1994 Act, FmHA and ASCS were abolished. FmHA's Farm Loan Programs and ASCS programs were consolidated under the newly created FSA while the remaining FmHA programs were transferred to one of the following Rural Development mission agencies: Rural Business Cooperative Service, Rural Housing Service, and Rural Business Service. Chapter VII is now assigned to FSA while Chapter XVIII is shared by FSA and the Rural Development mission area agencies.

Discussion of Comments Received

In response to the proposed rule, 23 respondents, including a farm interest group and individuals, from 14 States commented. The comments received involved a number of different sections of the proposed rule and overwhelmingly supported most of the changes proposed by the Agency.

Emergency Loan Fund Uses

Eighteen comments were received concerning the authorized uses of emergency loan funds outlined in the proposed rule. Five comments supported items that were included as new specific emergency loan fund uses in the proposed rule.

One comment on proposed § 1945.53(b)(1), which is now § 764.3(b)(1), requested an administrative clarification regarding what reorganizing meant. This comment was not addressed in the final rule because the usage is the same as what is in the existing regulation and the Agency will follow the common definition of reorganizing. However, examples of reorganizing will be given in the Agency handbook for clarification.

One comment received expressed concern that the proposed regulation did not mention that loan funds can be used to replace dwellings or farm structures or other farm buildings. Another comment suggested that loan funds used for needs associated with the physical loss of real estate be limited to essential real estate. Wording to implement this suggestion was adopted in the introductory text of § 764.3(a)(1) of the final rule. This change makes the final rule consistent with the existing regulation, 7 CFR 1945.163(b), which requires that to qualify for a physical loss loan, if the destroyed property is not repaired or replaced, the farmer would be unable to continue the operations on a reasonably sound basis. If the lost or destroyed real estate is not essential to the operation then the policy is that an Emergency loan is not necessary for the operator to continue operation. A definition of ''essential real estate (or chattel)'' was also added to § 764.2 for clarity.

One comment suggested that use of funds should only be allowed for replacing buildings or other structures that are essential to the ongoing viability of the operation, that are modest in design and cost, and that meet the functionality of the property destroyed in the disaster. We agree that this loan purpose should be limited for practical reasons and to conserve limited emergency loan funds. Section 764.3(a)(1)(ii) has been modified to state that emergency loan funds may be used to replace or repair buildings or other structures essential to the ongoing viability of the operation. However, the Agency will only finance such replacement or repair to the extent the structures conform to industry standards and meet the needs of the operation and intended purposes of the structure. The intent of this language is to allow the replacement of what was lost with a similar structure which meets the needs of the operation but not necessarily exactly what was lost. One example of this would be the destruction of a family residence. An EM loan to rebuild the house would be based on an assessment of the current needs of the family, not necessarily on the replacement value of the lost residence. Another example is if a 300 foot poultry house was destroyed. Current industry standards require a 400 foot poultry house. The Agency in this case would make a loan for a 400 foot house since a 300 foot house no longer meets the needs of the operation.

Two comments suggested that use of physical loss loan funds be limited to replacing what was destroyed. These comments were partially adopted. Physical loss funds can be used to replace or repair what was lost as a result of the disaster. As discussed above, however, consideration of industry standards, needs of the operation, and purposes of the structure may result in a replacement similar to, but not the same as, the structure destroyed. The changes to § 764.3(a)(1)(ii) of the final rule address these concerns.

Two commentors suggested said that use of physical loss funds for family living, as included in the proposed rule, should not be allowed. This suggestion was not adopted. All livestock losses are treated as physical losses in the final rule, therefore, lost income from market animals should be allowed for family living expenses and operating expenses. However, the language of § 764.3(a)(2)(v) was changed to clarify that family living and operating expenses could not be paid if the physical loss was to breeding stock. If the loss was to breeding stock then the physical loss funds should be used to replace the breeding stock because that stock has been determined to be an essential part of the operation. Other livestock losses would be considered to generate normal production income and a loan to replace that income would be allowed for use as family living expenses.

One commentor suggested that the restriction in § 1945.53(a)(2)(vi) and § 1945.53(b)(6) of the proposed rule which prohibits the refinancing of a Farm Loan Program loan with emergency loan funds when the applicant has refinanced the loan more than four times, be removed. This suggestion was not adopted in the final rule as it is a statutory requirement for subtitle B loan purposes in § 312(a)(9) of the Consolidated Farm and Rural Development Act (Act) (7 U.S.C. 1942(a)(9)) as adopted by § 323 of the Act (7 U.S.C. 1963) for emergency loans.

One commentor suggested that livestock should be eligible as a production loss, as well as a physical loss. This suggestion was not adopted because based on the past history of the program and on the experience of Farm Loan Managers in the field, livestock loss rarely qualifies as production loss and by making all livestock losses physical losses it will be easier for livestock producers to qualify for a loan because they will not have to suffer a 30 percent loss to qualify, as is the case for production loans.

One commentor suggested that use of loan funds should not be allowed for the payment of bankruptcy expenses as a cost associated with reorganizing the farm. The Agency adopted this suggestion in § 764.3(b)(1) of the final rule because it does not make sense for the Agency to make a loan to file bankruptcy which could result in the Agency having to write-off the loan or other Agency debt. Such debt forgiveness generally renders the farmer in-eligible for further assistance from the Agency.

Eligibility Requirements

Twenty-two comments were received concerning eligibility requirements contained in the proposed rule. Ten of those comments addressed changes to the test for credit requirement. One comment suggested that the test for credit documentation requirements be consistent with existing requirements in other Agency direct loan programs. In response, § 764.4(a)(9) of the final rule was modified to eliminate the proposed extra letter requirement when the applicant's net worth exceeds $1 million. Instead, the final rule allows Agency officials flexibility to contact other commercial lending institutions within reasonable proximity of the applicant and make an independent determination of the applicant's ability to obtain credit elsewhere. This addition allows the Agency to investigate cases where the applicant's net worth or other circumstances indicate that credit may be available elsewhere without increasing the applicant's burden in obtaining additional written declinations of credit. This current flexibility in § 1945.156(b)(2) was inadvertently left out of the proposed rule. The provisions in the existing Emergency loan procedures give the loan approval official the ability to contact other lenders and require more than the minimum number of rejection letters if they determine that, based on the applicant's financial condition or local lending practices, other credit should be available.

Two commentors disagreed with the proposed changes to the current test for credit documentation requirements. Two others disagreed with inclusion of a waiver for loans of less than $100,000. One suggested that all loans should have at least two rejection letters. Another suggested that one rejection letter be required if the loan request was for $200,000 or less and two rejection letters if the loan request was for more than $200,000, and one suggested that a letter from a Farm Credit institution be required as one of the rejection letters. Although the Agency understands the concerns expressed by these comments, it did not adopt any of these suggestions. The final rule gives the Agency maximum flexibility and is consistent with the minimum requirements of the Act.

One commentor pointed out that the proposed rule was inconsistent with § 373(b)(2) of the Act (7 U.S.C. 2008h(b)(2)) regarding when an applicant who has received debt forgiveness is eligible for an Emergency loan. This error is corrected in § 764.4(a)(10) of the final rule.

One comment was received suggesting that the proposed provision that an applicant may demonstrate managerial ability by farming experience within the last 5 years be changed to 3 years. This suggestion was not adopted because it is too restrictive. The Agency believes that farming experience in the last five years is current enough to demonstrate that the applicant understands current farming practices. Additionally, if the change to three years was made many college graduates who were raised on a farm and spent the last 4 years getting a degree would not be eligible for a loan because they had not farmed in the last three years.

One commentor suggested that the borrower training requirement contained in the proposed § 1945.54(a)(13) should only apply to beginning farmers or farmers who have demonstrated poor management. Section 335 of the Act (7 U.S.C. 2006) does not provide blanket exceptions for certain types of farmers. Furthermore, there are specific criteria under which a waiver of the borrower training requirements may be requested by an applicant in 7 CFR 1924.74. The final rule adopts the proposed language without change in § 764.4(a)(13).

One comment was received objecting to the proposed § 1945.54(a)(15), which established as an eligibility requirement that an applicant demonstrate that they would honestly endeavor to carry out the conditions of the loan and provide current, complete, and truthful information. The comment indicated that this was not an appropriate eligibility requirement because there was no objective criteria. Two other comments were received which supported the provision and one comment suggested incorporating the concept in the definition of past credit history. The Agency agrees that this should not be included as a separate eligibility criteria and removed the proposed requirement from the final rule. Instead, the eligibility requirement of past credit history in § 764.4(a)(8) of the final rule was expanded as suggested, to state that as part of the credit history analysis, the Agency will determine whether the applicant has dealt with the Agency in good faith which includes providing current, complete, and truthful information to the Agency and fulfilling its obligations to other Federal agencies and third parties. The Agency believes this language is sufficiently objective.

One commentor suggested that harvested and stored crops should be eligible as a physical loss. The Agency agrees and incorporated this very practical suggestion into the final rule in § 764.4(b)(2)(iii). This coverage in § 1945.163(b) was inadvertently left out of the proposed rule.

The Agency also is adding an eligibility requirement in § 764.4(a)(15) that the applicant must agree to repay any duplicative Federal assistance to the agency providing such assistance. A person receiving Federal assistance for a major disaster or emergency is liable to the United States to the extent that the assistance duplicates benefits available to the person for the same purpose from another source. This provision is required by 42 U.S.C. 5155, part of the Robert T. Stafford Disaster Relief and Emergency Assistance Act. If the Agency determines that it has provided duplicative assistance, the Agency will collect the duplicative assistance from the recipient in accordance with the Federal Debt Collection Act.

Loan Limitations

Fifteen comments were received regarding proposed changes to loan limitations, including qualifying losses. Three comments were received commending the change in maximum loan amount from 80 percent to100 percent of production loss while two others recommended that the level be left at 80 percent or raised to only 90 percent. Another commentor pointed out that increasing the limit will increase loan losses. Another commentor suggested that if the limit is increased to 100 percent, the Agency should make adjustments for costs not incurred and for substitute crops. Increasing the maximum loan amount to 100 percent should not increase loan losses. In many cases the Agency makes an operating loan for the additional 20 percent of the loss not currently covered by the Emergency loan. Therefore, the Agency has the same exposure as if the Emergency loan were made at 100 percent. However, because the Emergency loan is at a lower interest rate, there is a higher chance of repayment because less interest accrues. Therefore, loan losses could actually be reduced. The suggestions that adjustments be made for costs not incurred and substitute crops were not adopted because they are not required by statute, and such adjustments would only make the calculations more complicated and more prone to error. The Agency believes that the increase to 100 percent is needed to better serve the needs of applicants who have suffered a loss and would not add significant risk of loss to the Agency. Therefore, the language of the proposed § 1945.55(b) is incorporated in the final rule at § 764.5(b) without revision.

One commentor suggested that when loan funds are used for construction, Agency regulations dealing with planning and monitoring construction should be followed. The Agency agrees and has adopted this comment by adding in § 764.5(a)(2) of the final rule a requirement that any construction financed by the Agency comply with 7 CFR part 1924, subpart A.

Two comments were received suggesting that the use of Emergency loan funds for refinancing consumer debt not be authorized or be restricted. In response, the final rule includes a new section § 764.5(a)(3) that prohibits use of emergency loan funds for refinancing consumer debt unless the debt is directly attributable to the farming operation. Subsidized Federal disaster assistance should not be used to refinance vacations, automobiles, or other expenses that were incurred by the farmer but have nothing to do with the farming operation or its recovery from the effects of the disaster. This change balances the farmer's need for funds with the Agency's need to allocate limited emergency loan funds.

Repayment and Security Requirements

Thirty-eight comments were received on the proposed § 1945.58 which addressed repayment and security requirements. One commentor recommended that this provision be reworded to ensure that the feasible plan demonstrate that the applicant will meet all other obligations for which the applicant is legally responsible. The Agency agrees and revised the wording in § 764.8(a)(1) accordingly.

Twelve comments were received expressing opposition to proposed § 1945.58(f) which allowed, under certain conditions, an Emergency loan to be made when adequate security is not available because of the disaster. These comments expressed the opinion that the Agency should never make a loan if the value of the security is less than the loan amount. Unfortunately, while we agree from a sound lending standpoint this should never be done, the statute requires otherwise. Due to provisions contained in section 324(d)(2) of the Act, the Agency is prohibited from rejecting a loan because it lacks a particular amount of security. The Agency believes that the proposed rule language complied with this statutory requirement while protecting the Agency's interest. Therefore, the proposed language is adopted as final, with some minor modifications, as discussed below, at § 764.8(f).

One commentor suggested that, at a minimum, an assignment on any USDA program payments to be received be required when adequate security was lacking. The Agency agrees and added § 764.8(f)(4) to the final rule which requires such assignment when there is a lack of adequate security. Incorporating this comment will result in sounder lending practices by allowing the Agency to take Government program payments and apply them to the applicant's loan, thereby reducing the under-secured position.

The proposed rule also required that the plan indicate how pricing risks will be addressed through the use of marketing contracts, hedging, options, or revenue insurance and include a marketing plan or similar risk management practice. One comment was received recommending revenue insurance be included as a method of addressing pricing risk, and six comments were received indicating concerns with requiring a marketing plan. The latter comments suggested that the Agency might be opening itself up to lender liability issues and that substantial guidance and clarification was needed as to what constituted an acceptable marketing plan. In response to these comments, the final rule, at § 764.8(f)(2), included revenue insurance as an example of risk management for clarity. The Agency removed the requirement for a marketing plan to avoid a wide variance in the interpretation of the term and administrative difficulty in establishing appropriate standards on what would be an acceptable marketing plan.

The proposed rule also provided that, where there is a lack of adequate security, the applicant must demonstrate a positive net cash income in at least 1 of the immediately preceding 5 years. The Agency received fifteen comments on this proposed requirement. One suggested that this requirement would keep farmers who have had droughts for the last 5 years from being eligible; 6 commentors said that 1 out of 5 years is not much of an indication that the farmer is successful; one suggested that it should be 50 percent of the time; three suggested it should be 3 out of the last 5 years; and one suggested 1 out of the last 3 years. The other three commentors were concerned that it was too easy to manipulate a farm plan to show repayment ability or wanted a much more complicated formula than that proposed based on net farm income. In response to these comments, § 764.8(f)(3) provides that if the applicant is using ability to repay the loan as security, the applicant must have had positive net cash farm income in at least 3 of the past 5 years. Due to natural disasters and fluctuating prices it was determined that 1 out of 3 years was too restrictive. Given the concern that 1 out of 5 years was too liberal and not a good indication of ability to repay, the Agency determined that requiring records from 3 out of the last 5 years to show net cash income made the most sense from a lending standpoint.

The proposed rule stated that the Agency will require that the applicant pledge all available assets (including personal assets for both individuals and members of entities). One commentor suggested that if substantial non-essential assets are available, the Agency should require that they be liquidated to reduce the need for an Emergency loan or, if they are not liquidated, the applicant would not be eligible. The Agency did not adopt this suggested change because it believes that taking a lien on such assets is adequate. Also, if there is a substantial amount of non-essential assets, the applicant may be able to obtain credit elsewhere and, therefore, would not be eligible for Agency assistance. The final rule adopted the proposed language at § 764.8(g).

One comment noted that the proposed regulation did not address taking Indian Trust land as security. In response to that comment, the Agency included § 764.8(j), which specifically authorizes taking Indian Trust land as security if the requirements in § 1943.17(a)(7) for such security are met.

Appraisal and Valuation Requirements

The proposed rule, at § 1945.59(b), provided that the security value of annual agricultural commodities production is presumed to be 100 percent of the amount loaned for annual operating and essential family household expenses. One commentor noted that this may overstate the security value in certain cases. The Agency agreed and revised the final regulation at § 764.9(b) to provide that the security value is the lower of the amount loaned for annual operating and essential family household expenses or the amount of expected crop revenue. The amount of expected crop revenue will be equal to the amount of gross receipts from all crop and livestock production as shown on the cashflow used to approve the loan. Expected revenue does not include farm program or crop insurance payments.

Insurance for Loan Security

The proposed rule, at § 1945.60(b), required that all security except growing crops be covered by hazard insurance. One commentor pointed out that this was too restrictive. The Agency agrees.

In response, the final rule, at § 764.10(b), provides that there must be hazard insurance if it is readily available (*i.e.* normally sold by insurance agents in the farmer's normal trade area) and economically feasible.

Definitions

Thirty comments were received concerning the proposed definitions. Thirteen of the comments were requests for clarifications and five comments pointed out errors. The proposed definitions of *additional security, adequate security, agency, agricultural commodity, applicant, basic part of an applicant's total farming operation, established farmer, majority interest, physical loss,* and *security value* were modified in the final rule at § 764.2 to clarify the definitions or to correct errors. For additional clarity, the definition of ''entity'' was properly alphabetized. Two comments suggested that the final rule include the entire definition, rather than a reference to another Agency regulation. This suggestion was adopted.

Three comments pointed out that the proposed definition of ''normal production yield'' could cause inconsistent treatment depending upon whether an applicant had or had not been an Agency borrower. The Agency agrees. The definition was revised as the comments suggested so that all applicants will be treated consistently when determining normal production yield.

The Agency modified the definition of *established farmer* to state that the term did not include an operation that employs a full-time manager. This provision in current § 1945.162(d) was unintentionally omitted in the proposed rule.

List of Subjects

7 CFR Part 764

Agriculture, Credit, Disaster assistance, Loan programs—Agriculture.

7 CFR Part 1945

Agriculture, Credit, Disaster assistance, Loan programs—Agriculture.

Accordingly, 7 CFR chapters VII and XVIII are amended as follows:

1. Part 764 is added to read as follows:

PART 764—EMERGENCY FARM LOANS

Sec.

764.1 Purpose.
764.2 Definitions.
764.3 Emergency loan funds uses.
764.4 Eligibility requirements.
764.5 Limitations.
764.6 Interest rate.
764.7 Loan terms.
764.8 Repayment and security requirements.
764.9 Appraisal and valuation requirements.
764.10 Insurance for loan security.
764.11 Charges and fees.

Authority: 5 U.S.C. 301 and 7 U.S.C. 1989.

§ 764.1 Purpose.

The purpose of the Emergency Loan Program is to provide financial assistance to family farmers who have suffered losses as the result of a disaster so that they can return to normal farming operations as soon as possible after the disaster. Specifically, this part describes the policies and procedures of the Agency for making Emergency loans to operators of such farms.

§ 764.2 Definitions.

Act means the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 *et seq.*).

Additional security means property that provides security in excess of the amount of security value equal to the loan amount, excluding security described in § 764.8(g).

Adequate security means property that provides a security value at least equal to the loan amount.

Agency means the Farm Service Agency, including its employees, any predecessor agency, and any successor agency.

Agricultural commodity means livestock, grains, cotton, oilseeds, dry beans, tobacco, peanuts, sugar beets, sugar cane, fruit, vegetable, forage, tree farming, nursery crops, nuts, aquacultural species, and other plant or animal production as determined by the Agency.

Allowable costs means those costs for replacement or repair that are supported by acceptable documentation, including but not limited to written estimates, invoices, and bills.

Applicant means an individual or entity (including each owner of the entity unless specified otherwise) operating a farming operation at the time of the disaster, who is requesting assistance from the Agency under this part. All requirements of applicants apply to owners of the entity individually and collectively unless specified otherwise.

Aquacultural species means aquatic organisms (including fish, mollusks, crustaceans or other invertebrates, amphibians, reptiles, or aquatic plants) raised in a controlled or selected environment which the applicant has exclusive rights to use.

Basic part of an applicant's total farming operation means any single agricultural commodity or livestock production enterprise of an applicant's farming operation which normally generates sufficient income to be considered essential to the success of such farming operation.

Borrower means an individual or entity which has an outstanding obligation to the Agency under any Farm Loan Program loan, without regard to whether the loan has been accelerated. A borrower includes all parties liable for such obligation owed to the Agency, including collection-only borrowers, except for debtors whose total loans and accounts have been voluntarily or involuntarily foreclosed, sold, or conveyed; or who have been discharged of all such obligations owed to the Agency.

Chattel means any property that is not real estate.

Chattel or real estate essential to the farming operation means chattel or real estate that would be necessary for the applicant to continue operating the farm on a after the disaster in a manner similar to the manner in which the farm was operated immediately prior to the disaster, as determined by the Agency.

Corporation means a private domestic entity recognized as a corporation and authorized as a corporation under the laws of the State or States in which the entity does business.

County means a local administrative subdivision of a State or similar political subdivision of the United States.

Debt forgiveness means reducing or terminating a debt under the Act in a manner that results in a loss to the Agency (excluding a consolidation, rescheduling, reamortization, or deferral), through:

(1) Writing down or writing off a debt pursuant to 7 U.S.C. 2001;

(2) Compromising, adjusting, reducing, or charging off a debt or claim pursuant to 7 U.S.C. 1981; or

(3) Paying a loss pursuant to 7 U.S.C. 2005 on a Farm Loan Program loan guaranteed by the Agency.

Disaster means an event of unusual and adverse weather conditions or other natural phenomena that has substantially affected producers of agricultural commodities by causing physical property or production losses in a county, or similar political subdivision, that triggered the inclusion of such county or political subdivision in the disaster area designated by the Agency.

Disaster area means the county, declared or designated as a disaster area for Emergency loan assistance as a result of disaster related losses and counties

contiguous to those counties declared or designated as disaster areas.

Disaster yield means the per-acre yield of an agricultural commodity for the farming operation during the production period when the disaster occurred.

Entity means a partnership, corporation, cooperative, or joint operation that is an operator of an operation engaged in farming, ranching, or aquaculture activities at the time the disaster occurs.

Essential family household expenses means the expenses associated with providing food, clothing, and shelter necessary to maintain the borrower and the immediate family of the borrower.

Established farmer means a farmer who is an operator of the farming operation (in the case of a farming operation operated by an entity, its owners as a group) who:

(a) Actively participated in the operation and the management, including but not limited to, exercising control over, making decisions regarding, and establishing the direction of the farming operation at the time of the disaster;

(b) Spends a substantial portion of time in carrying out the farming operation;

(c) Planted the crop, or purchased or produced the livestock on the farming operation;

(d) In the case of an entity, is primarily engaged in farming and has over 50 percent of its gross income from all sources from its farming operation based on the farming operation's projected cash flow for the next crop year or the next 12 month period, as mutually determined; and

(e) Is not:

(1) A corporation with an ownership interest of 50 percent or more held by one or more estates, trusts, other corporations, partnerships, or joint operations;

(2) A partnership or joint operation with an ownership interest of 50 percent or more held by one of more estates, trusts, corporations, other partnerships or other joint operations;

(3) An integrated livestock, poultry, or fish processor who operates primarily and directly as a commercial business through contracts or business arrangements with farmers, except a grower under contract with an integrator or processor may be considered an established farmer, provided the operation is not managed by an outside full-time manager or management service and such loans shall be based on the applicant's share of the agricultural production as contained in the contract; or

(4) An operation that employs a full-time farm manager.

Family farm means a farm that:

(a) Produces agricultural commodities for sale in sufficient quantities so that it is recognized in the community as a farm rather than a rural residence.

(b) Provides enough agricultural income by itself, including rented land, or together with any other dependable income, to enable the borrower to:

(1) Pay necessary family and operating expenses;

(2) Maintain essential chattel and real property; and

(3) Pay debts.

(c) Is managed by:

(1) The borrower, when a loan is made to an individual.

(2) The members, stockholders, partners, or joint operators responsible for operating the farm when a loan is made to a entity.

(d) Has a substantial amount of the labor requirements for the farm enterprise provided by:

(1) The borrower and family members for a loan made to an individual.

(2) The members, stockholders, partners, or joint operators responsible for operating the farm, along with the families of these individuals, for a loan made to an entity.

(e) May use a reasonable amount of full-time hired labor and seasonal labor during peak load periods.

Farm Loan Program loan means a Farm Ownership loan, Operating loan, Emergency loan, Soil and Water loan, or Economic Emergency loan made or guaranteed by the Agency pursuant to the Act.

Farmer means individuals, cooperatives, corporations, partnerships or joint operations who are farmers, ranchers, or aquaculture operators actively engaged in their operation at the time a disaster occurs.

Feasible plan means a plan based upon the applicant's records that show the farming operation's actual production and expenses. These records will be used along with realistic anticipated prices, including farm program payments when available, to determine that the income from the farming operation, along with any other reliable off-farm income, will provide the income necessary for an applicant to at least be able to:

(a) Pay all operating expenses and all taxes that are due during the projected farm budget period;

(b) Meet necessary payments on all debts; and

(c) Provide living expenses for family members of an individual borrower or a wage of the farm operator in the case of a entity borrower which is in accordance with the essential family needs. Family members include the individual borrower, or farm operator in the case of an entity, and the immediate members of the family who reside in the same household.

Hazard insurance means coverage against losses due to fire, windstorm, lightning, hail, explosion, business interruption, riot, civil commotion, aircraft, land vehicles, marine vehicles, smoke, builders risk, public liability, property damage, flood or mudslide, workman's compensation, or any similar insurance that is available and needed to protect the security, or that is required by law.

Household contents means the essential household items necessary to maintain viable living quarters such as: stove, refrigerator, furnace, couch, chairs, tables, beds, lamps, clothes, etc. The term excludes all luxury items including jewelry, furs, antiques, paintings, etc.

Livestock means a member of the animal kingdom, or product thereof, as determined by the Agency.

Majority interest means an ownership interest of more than 50 percent of the entity.

Non-essential asset means those assets in which the applicant has an ownership interest that do not contribute a net income to pay essential family living expenses or to maintain a sound farming operation and are not exempt from judgment creditors or in a bankruptcy action.

Nonfarm enterprise means any nonfarm business enterprise, including recreation, that is closely associated with the farm operation and located on or adjacent to the farm and provides income to supplement farm income. This may include, but is not limited to, such enterprises as raising earthworms, exotic birds, tropical fish, dogs, and horses for nonfarm purposes, welding shops, roadside stands, boarding horses and riding stables.

Normal production yield means:

(a) The per-acre actual production history of the crops produced by the farming operation used to determine Federal crop insurance payments or payment under the Non-Insured Assistance Program for the production year during which the disaster occurred;

(b) When the actual production history is not available, the applicant's own production records for the previous three years will be used. If the applicant's production records are not available, the records of production on which FSA farm program payments are made that are contained in the applicant's farm program file, for the previous three years will be used;

(c) When the production records outlined in paragraphs (a) and (b) of this definition are not available, the county average production yield will be used.

Owner means those persons with an interest in the entity as a stockholder, partner, member, or joint operator.

Physical loss means verifiable damage or destruction with respect to real estate or chattel, excluding annual growing crops.

Production loss means verifiable damage or destruction with respect to annual growing crops.

Security value means the Agency-established market value of property (less the value of any prior liens) used as security for a loan under this part as of the date of the closing of the loan.

United States means each of the several States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

Working capital means cash available to conduct normal daily farming or ranching operations including, but not limited to, feed, seed, fertilizer, pesticides, farm or ranch supplies, cooperative stock, and cash rent.

§ 764.3 Emergency loan funds uses.

(a) *Physical losses*—(1) *Real estate losses.* Emergency loans may be used to address the needs of the farming operation associated with physical losses of essential real estate that were the result of a disaster to:

(i) Acquire or enlarge the farm, as specified in § 1943.16(a) of this title, as long such acquisition or enlargement does not cause the farm to exceed the requirements for a family farm;

(ii) Replace or repair buildings or other structures which are essential to the ongoing viability of the operation. The Agency will finance such replacement or repair only to the extent that the structures conform to industry standards and meet the needs of the operation and intended purposes of the structure.

(iii) Pay for activities to promote soil and water conservation and protection on the family farm as specified in § 1943.16(c) of this title;

(iv) Pay loan closing costs related to acquiring, enlarging, or improving the family farm as specified in § 1943.16(d) of this title, that an applicant cannot pay from other sources;

(v) Replace land or water resources on the family farm which resources cannot be restored;

(vi) Pay costs associated with land and water development for conservation or use purposes;

(vii) Establish a new site for farm dwelling and service buildings outside of a flood or mudslide area; and

(viii) Replace land from the family farm that was sold or conveyed as a direct result of the disaster, if such land is necessary for the farming operation to be effective.

(2) *Chattel losses.* Emergency loans may be used to address the needs of the farming operation associated with the physical losses of essential chattel that were the result of a disaster to:

(i) Purchase livestock and farm equipment, including but not limited to quotas, and cooperative stock for credit, production, processing, or marketing purposes;

(ii) Pay customary costs associated with obtaining, planning, and closing a loan that an applicant cannot pay from other sources (*e.g.* fees for legal, architectural, and other technical services, but not fees for agricultural management consultation and preparation of Agency forms);

(iii) Repair or replace *essential* household contents damaged in the disaster;

(iv) Pay the costs to restore perennials that produce an agricultural commodity, to the stage of development the damaged perennials had obtained prior to the disaster;

(v) In the case of a farming operation that has suffered livestock losses not from breeding stock, pay essential farm operating and family household expenses; and

(vi) Refinance debt (in the case of Farm Loan Program loan debt, as long as the applicant has not refinanced the loan more than 4 times).

(b) *Production losses.* Emergency loans may be used to address the losses of the farming operation associated with production of agricultural commodities (except the losses associated with the loss of livestock) of the farming operation that were the result of a disaster to:

(1) Pay costs associated with reorganizing the family farm to improve its profitability except that such costs shall not include the payment of bankruptcy expenses;

(2) Pay annual operating expenses, which include, but are not limited to, feed, seed, fertilizer, pesticides, farm or ranch supplies, cooperative stock, and cash rent;

(3) Pay costs associated with Federal or State-approved standards under the Occupational Safety and Health Act of 1970 (29 U.S.C. 655 and 667) if the applicant can show that compliance or non-compliance with the standards will cause substantial economic injury;

(4) Pay training costs required or recommended by the Agency;

(5) Pay essential family household expenses;

(6) Refinance debt (in the case of Farm Loan Program loan debt, as long as the applicant has not refinanced the loan more than 4 times); and

(7) Replace lost working capital.

§ 764.4 Eligibility requirements.

(a) *General borrower eligibility requirements.* An applicant for an Emergency loan must meet the following requirements:

(1) *Legal capacity.* The applicant must have the legal capacity to incur the obligation of the loan.

(2) *Citizenship*—(i) *Applicant who is an individual.* The individual applicant must be a citizen of the United States or an alien lawfully admitted to the United States for permanent residence as determined by the U.S. Immigration and Naturalization Service.

(ii) *Applicant that is an entity.* If the applicant is an entity, the majority interest of the applicant must be held by individuals who are citizens of the United States or aliens lawfully admitted to the United States for permanent residence, as determined by the U.S. Immigration and Naturalization Service.

(3) *Family farm and nonfarm enterprise.* The applicant's farming operation must qualify as a family farm and must not be a nonfarm enterprise.

(4) *Established farmer.* An applicant must be an established farmer.

(5) *Owner and operator requirements.*

(i) *Loans for physical losses to real estate.* In the case of a loan for a purpose specified in § 764.3(a)(1), an applicant must be:

(A) The owner and operator of the farming operation; or

(B) An operator of the farming operation whose lease on the affected real estate would exceed the term of the loan and give the Agency prior notification of the termination of the lease during the term of the loan, and whose lessor would provide the Agency a mortgage on the real estate as security for the loan.

(ii) *Loans for physical losses to chattel.* In the case of a loan for a purpose specified in § 764.3(a)(2), an applicant must be the operator of the farming operation.

(iii) *Loans for production losses.* In the case of a loan for a purpose specified in § 764.3(b), an applicant must be the operator of the farming operation.

(6) *Entity applicants.* For entity applicants:

(i) If the owners holding a majority interest in the entity applicant are

related by blood or marriage, at least one of such related owners must operate the family farm.

(ii) If the owners holding a majority interest in the entity applicant are not related by blood or marriage, the majority interest holders must all operate the family farm.

(iii) If the entity applicant has an operator interest in any other farming operation, that farming operation must not exceed the requirements of a family farm.

(7) *Intent to continue farming.* The applicant must demonstrate the intent to continue the farm operation after the disaster.

(8) *Credit history.* The applicant must demonstrate a credit history satisfactory to the Agency. As part of the credit history the Agency will determine whether the applicant has dealt with the Agency in good faith. This includes the applicant providing current, complete, and truthful information when applying for assistance and in all past dealings with the Agency. The Agency will also examine whether the applicant has properly fulfilled its obligations to other parties, including other Federal agencies. The Agency may use credit reports or any other available information to evaluate credit history.

(9) *Availability of credit elsewhere.* The applicant must be unable to obtain sufficient credit elsewhere at reasonable rates and terms. To establish this, the applicant must obtain written declinations of credit from legally organized commercial lending institutions within reasonable proximity of the applicant that specify the reasons for the declination as follows:

(i) In the case of a loan for $300,000 or more, two written declinations of credit are required;

(ii) In the case of a loan of less than $300,000, one written declination of credit is required; and

(iii) In the case of a loan of $100,000 or less, the Agency may waive the requirement for obtaining a written declination of credit if the Agency determines that it would pose an undue burden on the applicant, the applicant certifies that they cannot get credit elsewhere, and based on the applicant's circumstances credit is not likely to be available;

(iv) Notwithstanding the applicant's submission of the required written declinations of credit, the Agency may contact other commercial lending institutions within reasonable proximity of the applicant and make an independent determination of the applicant's ability to obtain credit elsewhere.

(10) *Prior debt forgiveness.* The applicant must not have received debt forgiveness from the Agency on more than one occasion on or before April 4, 1996, or any time after April 4, 1996.

(11) *Federal judgment lien.* The applicant's property must not be subject to a Federal judgment lien (other than a United States Tax Court lien).

(12) *Managerial ability.* The applicant must have sufficient managerial ability to assure reasonable prospects of loan repayment, as determined by the Agency. The applicant must demonstrate this managerial ability by education, on-the-job training, or farming experience within the last 5 years that covers an entire production cycle.

(13) *Borrower training.* The applicant must agree to meet the borrower training requirements in accordance with § 1924.74 of this title.

(14) *Prior drug convictions.* The applicant cannot have been convicted under Federal or State law of planting, cultivating, growing, producing, harvesting, or storing a controlled substance, as defined in 21 CFR part 1308, during the current crop year or the previous 4 crop years.

(15) *Recovery of duplicative benefits.* The applicant must agree to repay any duplicative Federal assistance to the agency providing such assistance. A person receiving Federal assistance for a major disaster or emergency is liable to the United States to the extent that the assistance duplicates benefits available to the person for the same purpose from another source.

(b) *Additional Emergency loan eligibility requirements*—(1) *Timely loan application.* A loan application must be received by the Agency not later than 8 months after the date the disaster is declared or designated in the county of the applicant's farming operation.

(2) *Qualifying losses*—(i) *Loss must occur in a disaster area.* The applicant may seek an Emergency loan only with respect to a family farm that had production or physical losses as a result of a disaster in a disaster area.

(ii) *Eligible production loss.* For production loss loans, the applicant must have a disaster yield that is at least 30 percent below the normal production yield of any single crop, as determined by the Agency, that comprises a basic part of an applicant's total farming operation.

(iii) *Eligible physical loss.* For physical loss loans, the applicant must have suffered disaster-related damage to chattel or real estate essential to the farming operation, to household items that must be repaired or replaced, to harvested or stored crops, or to perennial crops.

(3) *Changes in ownership structure.* The ownership structure of a family farm may change between the time of a qualifying loss and the time an Emergency loan is closed. In such case, all of the following requirements must be met:

(i) The applicant, in its new form, including all owners must meet all applicable eligibility requirements contained in this section;

(ii) The new individual applicant, or all owners of a new entity applicant must have had an ownership interest in the farming operation at the time of the disaster; and

(iii) The amount of the loan will be based on the percentage of the former farming operation transferred to the new applicant and in no event will the individual portions, aggregated, equal more than would have been authorized for the former farming operation.

(4) *Insurance requirement.* Emergency loan funds may not be used for physical loss purposes (excluding losses to livestock) unless that physical property was covered by general hazard insurance at the time that the damage caused by the natural disaster occurred. The level of the coverage in effect at the time of the disaster must have been the tax or cost depreciated value, whichever is less. Chattel property must have been covered at the tax or cost depreciated value, whichever is less, when such insurance was readily available and the benefits of the coverage (i.e. the amount of coverage equaling the lesser of the property's tax or cost depreciated value) justify the cost of the insurance.

§ 764.5 Limitations.

(a) *General limitations*—(1) *Highly erodible soil and wetlands conservation.* The Agency will not make a loan under this part for any purpose that contributes to erosion of highly-erodible land or the conversion of wetlands to produce an agricultural commodity.

(2) *Construction.* Any construction financed by the Agency must comply with applicable Federal, State, local, and industry building standards and subpart A of part 1924 of this title.

(3) *Refinancing.* Emergency loan funds may not be used to refinance consumer debt, such as automobile loans, or credit card debt unless such credit card debt is directly attributable to the farming operation.

(b) *Restriction on loan amount.* An Emergency loan may not exceed the lesser of:

(1) The amount of credit necessary to restore the family farming operation to its pre-disaster condition;

(2) In the case of a physical loss loan, the total eligible physical losses caused by the disaster; or

(3) In the case of a production loss loan, 100 percent of the total actual production loss sustained by the applicant calculated pursuant to paragraph (d) of this section.

(c) *Maximum cumulative loan principal.* The maximum cumulative Emergency loan principal that any individual or entity may have outstanding is $500,000.

(d) *Production losses.* The applicant's actual production loss with respect to a crop is calculated as follows:

(1) Subtract the applicant's disaster yield from the applicant's normal production yield to determine the applicant's per acre production loss;

(2) Multiply the applicant's per acre production loss by the number of acres of the farming operation devoted to the crop to determine the volume of the production loss;

(3) Multiply the volume of the applicant's production loss by the market price for such crop as determined by the Agency to determine the dollar value for the production loss; and

(4) Subtract any other disaster related compensation or insurance indemnities received or to be received by the applicant for the production loss.

(e) *Physical loss*—(1) *Amount of loss.* The applicant's total eligible physical loss is calculated as follows:

(i) Add the allowable costs associated with replacing or repairing chattel covered by hazard insurance (excluding labor, machinery, equipment, or materials contributed by the applicant to repair or replace chattel);

(ii) Add the allowable costs associated with repairing or replacing real estate, covered by hazard insurance;

(iii) Add the value of livestock and livestock products (such valuation will be based on a national or regional valuation of species or product classification, whichever the Agency determines is more accurate);

(iv) Add the allowable costs to restore perennials, which produce an agricultural commodity, to the stage of development the damaged perennials had obtained prior to the disaster;

(v) Add, in the case of an applicant that is an individual, the allowable costs associated with repairing or replacing essential household contents, not to exceed $20,000; and

(vi) Subtract any other disaster-related compensation or insurance indemnities received or to be received by the applicant for the loss or damage to the chattel or real estate.

(2) *Documentation.* In the case of physical losses associated with livestock, the applicant must have written documentation of the inventory of livestock and records of livestock product sales sufficient to allow the Agency to value such livestock or livestock products just prior to the loss.

§ 764.6 Interest rate.

The interest rate applicable for an Emergency loan will be the lower of the interest rate at the time of either loan approval or loan closing and in no event shall exceed 8 percent annually.

§ 764.7 Loan terms.

(a) *Basis for repayment.* The Agency schedules repayment of Emergency loans based on the useful life of the loan security, the applicant's repayment ability, and the type of loss.

(b) *Minimum payment requirement.* The repayment schedule must include at least one payment every year.

(c) *Repayment of loans for annual operating expenses.* Emergency loans for annual operating expenses, except those expenses associated with establishing a perennial crop, must be repaid within 12 months. The Agency, however, may extend this term to not more than 18 months to accommodate the production cycle of the agricultural commodities of the farming operation.

(d) *Repayment of loans for production or physical losses to chattel.* The repayment schedule for loans for production losses or physical losses to chattel (including but not limited to assets with an expected life between 1 and 7 years) may not exceed 7 years. If necessary to improve the repayment ability of the loan and real estate security is available, the term of the loan may be extended up to a total length not to exceed 20 years.

(e) *Repayment of loans for physical losses to real estate.* The repayment schedule for loans for physical losses to real estate is based on repayment ability of the applicant and the useful life of the security, but in no case will the term of repayment exceed 40 years.

§ 764.8 Repayment and security requirements.

(a) *General requirements*—(1) *Ability to repay.* The applicant must submit a feasible plan that demonstrates the applicant's ability to repay the loan. The plan also must demonstrate that the applicant will meet all other credit needs and obligations, including judgments, for which the applicant is legally responsible.

(2) *Sufficient equity.* The applicant must have sufficient equity in the security pledged for an Emergency loan to provide adequate security for the loan except as permitted in paragraph (f) of this section. The applicant must provide additional security, if available, not to exceed 150 percent of the loan amount.

(3) *Interests in property not owned by the applicant.* Interests in property not owned by the applicant (such as leases that provide a mortgageable value, water rights, easements, mineral rights, and royalties) can be offered as security for the loan and will be considered in determining whether adequate security is available.

(b) *Real estate loans.* In the case of an Emergency loan for real estate losses, the loan shall be secured at a minimum by the real estate that is being purchased, repaired, replaced, or improved with the loan funds.

(c) *Chattel and production loans.* In the case of an Emergency loan for chattel and production losses, the loan shall be secured, at a minimum, by the chattel that is being purchased, repaired, replaced, refinanced, or produced with the loan funds.

(d) *Agency lien position*—(1) *Real estate security.* If real estate is pledged as security for a loan, the Agency must obtain a first lien, if available, on the real estate. When a first lien is not available, the Agency may take a junior lien under the following conditions:

(i) The prior lien does not contain any provision that may jeopardize the Agency's interest or the applicant's ability to repay the loan to the Agency;

(ii) Prior lienholders agree to notify the Agency of acceleration and foreclosure whenever State law or other arrangements do not require such notice; and

(iii) The applicant must agree to obtain permission from the Agency prior to granting any additional security interests in the real estate.

(2) *Real estate held under a purchase contract.* If the real estate offered as security is held under a recorded purchase contract:

(i) The applicant must provide a security interest in the real estate;

(ii) The applicant and the purchase contract holder must agree in writing that any insurance proceeds received to compensate for real estate losses will be used only to replace or repair the damaged real estate;

(iii) The applicant must refinance the existing purchase contract, or demonstrate that financing is not available, if an acceptable contract of sale cannot be negotiated or the purchase contract holder refuses to agree to apply all the insurance proceeds to repair or replace the damaged real estate and wants to retain

some of the proceeds as an extra payment on the balance owed;

(iv) The purchase contract must not be subject to summary cancellation on default and must not contain any provisions that are contrary to the Agency's best interests; and

(v) The contract holder must agree in writing to notify the Agency of any breach by the purchaser, and give the Agency the option to rectify the conditions that amount to a breach within 30 days after the date the Agency receives written notice of the breach.

(3) *Chattel security.* If chattel property is pledged as security for a loan the Agency must obtain a first lien on the chattel that is being purchased, repaired, replaced, refinanced, or produced with the loan funds.

(e) *Same security for multiple loans.* The same property may be pledged as security for more than one Farm Loan Program loan.

(f) *Lack of adequate security.* When adequate security is not available because of the disaster, the loan application may be approved if the Agency determines, based on the plan required in paragraph (a)(1) of this section, that there is a reasonable assurance that the applicant has the ability to repay the loan (based on an on-going operational basis, excluding special one-time sources of income or expenses) provided:

(1) The applicant has pledged as collateral for the loan, all available personal and business collateral, except those items listed in paragraphs (h)(1) and (h)(2) of this section;

(2) The feasible plan, approved by the Agency, indicates the loan will be repaid based upon the applicant's production and income history and addresses applicable pricing risks through the use of marketing contracts, hedging, options, revenue insurance or similar risk management practices;

(3) The applicant has had positive net cash farm income in at least 3 of the past 5 years; and

(4) The applicant has given the Agency an assignment on any USDA program payments to be received.

(g) *Conditions for taking other assets as security*—(1) *Conditions.* In addition to the requirements for adequate and additional security, the Agency will take a security interest in other assets (other than assets listed under the exceptions in paragraph (h) of this section), if available, when:

(i) An applicant has non-essential assets that are not being converted to cash to reduce the loan amount; or

(ii) The real estate security and chattel security do not provide adequate security for the loan.

(2) *List of other assets.* Other assets may include:

(i) A pledge of real estate or chattel by a third party;

(ii) Patents, copyrights, life insurance, stocks, other securities, and membership in cooperatives, owned by the applicant;

(iii) Assets owned by an applicant that cannot be converted to cash without jeopardizing the farm operation; and

(iv) Non-essential assets owned by the applicant with an aggregate value in excess of $5,000.

(h) *Exceptions to security requirements.* The Agency will not take a security interest in certain property in the following situations:

(1) The property proposed as security has environmental contamination, restrictions, or historical impact that could impair the value or expose the Agency to potential liability;

(2) The Agency cannot obtain a valid lien on the security;

(3) The applicant's personal residence and appurtenances are on a parcel of land separate and apart from that real estate being used as adequate security for the loan; or

(4) The applicant's other assets are used for farming or for essential living expenses and are not needed for security purposes, including but not limited to, subsistence livestock, cash or special cash collateral accounts, retirement accounts, personal vehicles, household goods, and small tools and equipment such as hand tools, power lawn mowers.

(i) *Requirements for security.* (1) For loans over $25,000, title clearance is required when real estate is taken as security.

(2) For loans of $25,000 or less, when real estate is taken as security, a certification of ownership in real estate is required. Certification of ownership may be in the form of an affidavit which is signed by the applicant, naming the record owner of the real estate in question and listing the balances due on all known debts against the real estate. Whenever the loan approving official is uncertain of the record owner or debts against the real estate security, a title search is required.

(j) *Taking Indian Trust lands as security.* The Agency may take a lien on Indian Trust lands as security provided that the requirements of § 1943.19(a)(7) of this title are satisfied.

§ 764.9 Appraisal and valuation requirements.

(a) *Establishing value for real estate.* Real estate appraisals conducted pursuant to this part may be completed by designated appraisers or contract appraisers and shall conform to the Uniform Standards of Professional Appraisal Practice guidelines and standards in accordance with § 761.8 of this chapter.

(b) *Establishing value for agricultural commodities and equipment.* Valuations of agricultural commodities and equipment shall be established as follows:

(1) The security value of the annual agricultural commodities production (excluding livestock) will be 100 percent of the amount loaned for annual operating and essential family household expenses, or the amount of expected crop revenue, excluding farm program and insurance payments, whichever is lower.

(2) The value of livestock and equipment will be the market value as determined by the Agency in accordance with § 761.8 of this chapter.

(c) *Assets damaged by the disaster.* In the case of farm assets damaged by the disaster, the value of such security shall be established as of the day before the disaster occurred.

§ 764.10 Insurance for loan security.

(a) *Adequacy of insurance.* An applicant must obtain insurance, consistent with this section, equal to the lesser of the value of the security at the time of loan closing, or the principal of the loan.

(b) *Hazard insurance.* All security (except growing crops) must be covered by hazard insurance if it is readily available (*i.e.* sold by insurance agents in the applicants normal trade area) and economically feasible.

(c) *Flood or mudslide insurance.* Real estate security located in flood or mudslide prone areas, as determined by the Agency, must be covered by flood or mudslide insurance.

(d) *Crop insurance*—(1) *Requirement to obtain crop insurance.* Except as provided in paragraph (d)(2) of this section, prior to closing the loan, the applicant must have obtained at least the catastrophic risk protection level of crop insurance coverage for the crop during the crop year for which the loan is sought for each crop which is a basic part of an applicant's total farming operation, if such insurance is available, unless the applicant executes a written waiver of any emergency crop loss assistance with respect to such crop.

(2) *Exception.* Growing crops used to provide adequate security must be covered by crop insurance if such insurance is available.

(e) *Indemnities.* A borrower must:

(1) List the Agency as loss payee for the insurance indemnity payment or as

a beneficiary of a mortgagee loss payable clause; and

(2) In the case of crop insurance, execute an assignment of indemnity in favor of the Agency.

§ 764.11 Charges and fees.

The applicant must pay all filing, recording, notary, and lien search fees necessary to process and close a loan. The applicant may pay or be reimbursed for these fees from Emergency loan funds.

PART 1945—EMERGENCY

2. Subparts B, C and D are removed.

Signed at Washington, DC, on December 31, 2001.

J.B. Penn,

Under Secretary for Farm and Foreign Agricultural Services.

[FR Doc. 02–359 Filed 1–7–02; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 905

[Docket No. FV01–905–2 IFR]

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Modifying Procedures and Establishing Regulations To Limit the Volume of Small Red Seedless Grapefruit

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule modifies the procedures used to limit the volume of sizes 48 and 56 red seedless grapefruit entering the fresh market under the marketing order for oranges, grapefruit, tangerines, and tangelos grown in Florida (order). The order is administered locally by the Citrus Administrative Committee (Committee). This rule increases the number of weeks available under weekly percentage of size regulation from 11 weeks to 22 weeks and institutes weekly percentages for 6 additional weeks of the 2001–02 season. It will be beneficial to have the additional weeks available, when necessary, to help stabilize the market and improve grower returns. The percentages established for the 2001–02 season are intended to supply enough small red seedless grapefruit without saturating all markets with small sizes.

DATES: Effective January 7, 2002; comments received by January 23, 2002 will be considered prior to issuance of a final rule. Pursuant to the Paperwork Reduction Act, comments on the information collection burden must be received by March 11, 2002.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW Stop 0237, Washington, DC 20250–0237; Fax: (202) 720–8938, or e-mail: *moab.docketclerk@usda.gov.* All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.ams.usda.gov/fv/moab.html.*

FOR FURTHER INFORMATION CONTACT: William G. Pimental, Marketing Specialist, Southeast Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, PO Box 2276, Winter Haven, Florida, 33881; telephone: (863) 324–3375, Fax: (863) 325–8793; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW Stop 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW Stop 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: Jay.Guerber@usda.gov.

SUPPLEMENTARY INFORMATION: This interim final rule is issued under Marketing Agreement 84 and Marketing Order No. 905, both as amended (7 CFR part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

This rule modifies the procedures used to limit the volume of sizes 48 ($3\frac{9}{16}$ inches minimum diameter) and 56 ($3\frac{5}{16}$ inches minimum diameter) red seedless grapefruit entering the fresh market under the order by increasing the number of weeks available under weekly percentage of size regulation from 11 weeks to 22 weeks. This rule also institutes weekly percentages for 6 additional weeks of the 2001–02 season. It will be beneficial to have the additional weeks available, when necessary, to help stabilize the market and improve grower returns. This rule is intended to supply enough small red seedless grapefruit without saturating all markets with small sizes during 2001–02.

Section 905.52 of the order provides authority to limit shipments of any grade or size, or both, of any variety of Florida citrus. Such limitations may restrict the shipment of a portion of a specified grade or size of a variety. Under such a limitation, the quantity of such grade or size a handler may ship during a particular week would be established as a percentage of the total shipments of such variety by such handler in a prior period, established by the Committee and approved by the USDA.

Section 905.153 of the regulations provides procedures for limiting the volume of small red seedless grapefruit entering the fresh market. The procedures specify that the Committee may recommend that only a certain percentage of sizes 48 and 56 red seedless grapefruit be made available for shipment into fresh market channels for any week or weeks during the regulatory period. Currently, the regulation period

covers 11 weeks starting the third Monday in September. Under such a limitation, the quantity of sizes 48 and 56 red seedless grapefruit that may be shipped by a handler during a regulated week is calculated using the recommended percentage. By taking the recommended weekly percentage times the average weekly volume of red seedless grapefruit handled by such handler in the previous five seasons, handlers can calculate the total volume of sizes 48 and 56 they may ship in a regulated week.

This rule expands the weeks available for limiting the volume of small red seedless grapefruit entering the fresh market from the first 11 weeks of each season to the first 22 weeks. This adds 11 weeks to a tool that has been effective in stabilizing the market and in improving returns to growers. This rule also establishes weekly base percentages for 6 additional weeks of the 2001–02 season. The Committee recommended the percentages be set at 40 percent for the first 3 weeks (December 3 through December 23) and 30 percent for the remaining eight weeks (December 24 through February 17) of the second 11 weeks. These actions are based on unanimous recommendations of the Committee made at meetings on May 22, 2001, and August 29, 2001. Because of the current timeframe, this action establishes weekly percentages for the 6 remaining weeks of the second 11-week regulatory period (January 7 through February 17, 2002).

At the May 22, 2001, meeting, the Committee also unanimously voted to establish percentage of size regulation for the first 11 weeks of the season (September 17 through December 2, 2001). The Committee's initial recommendation was issued as a proposed rule published in the **Federal Register** on July 31, 2001 (66 FR 39459). No comments were received during the comment period, which expired August 10, 2001. At the August 29, 2001 meeting, the Committee unanimously recommended adjusting the proposed percentages. The Committee's revised recommendation was issued as an interim final rule published in the **Federal Register** on September 26, 2001 (66 FR 49088). No comments were received during the comment period, which expired October 9, 2001.

The first action considered in this rulemaking modifies the procedures for limiting the volume of small red seedless grapefruit entering the fresh market as specified in § 905.153 of the order. This change increases the number of weeks available for regulation from the first 11 weeks of each season to the first 22 weeks. The red seedless grapefruit season runs approximately 33 weeks, from mid-September through May. Prior to this rule, only the first 11 weeks of a season could be regulated to control shipments of sizes 48 and 56 red seedless grapefruit. This change in itself does not limit shipments, but expands the weeks available for percentage of size regulation to 22 weeks so small sizes can be regulated for an additional 11 weeks, if needed.

The original rule creating § 905.153 (December 31, 1996, 61 FR 69011) established procedures for percentage of size regulation of small red seedless grapefruit. This rule provided a tool, if needed, to help stabilize the price and supply of red seedless grapefruit. The procedures were established to cover an 11-week period to address problems associated with the oversupply of small-sized red seedless grapefruit early in the season. The Committee believed the overshipment of early, small-sized fruit was depressing the market for all red seedless grapefruit, and concluded having a tool to limit the amount of small red grapefruit entering the fresh market would be very helpful in addressing this problem.

Under the original procedures, authority to limit shipments of sizes 48 and 56 red seedless grapefruit was established for the period starting the third Monday in September through the next 11 weeks. The Committee recommended 11 weeks at the time because the majority of small sizes were being shipped during this period. By the end of the 11 weeks, fruit had begun to size naturally, and there were fewer small sizes available.

However, this is no longer the case. The fruit is not sizing as it has in past seasons for reasons yet to be determined. This leaves a larger supply of smaller sizes available later in the season. For the past three seasons, the volume of small sizes available from December through February has been much larger than in past seasons. Returns on red seedless grapefruit have also been declining during this period. The Committee has concluded that the problems associated with small red seedless grapefruit have begun to extend beyond the 11-week regulation period. The Committee believes the increased volumes of small red seedless grapefruit shipped or available to be shipped during the middle of the season is having a detrimental effect on the market. The Committee recommended increasing the weeks available for percentage of size regulation to address this problem.

The last three seasons, 1998–99, 1999–2000, 2000–01, have shown a marked increase in the volume of small-sized red seedless grapefruit available later in the season. For these three seasons, the percentage of the crop represented by small sizes in the month of February has averaged 51 percent. This compares to an average of 26 percent for the same month for the three prior seasons (1995–98). In fact, the last three seasons have averaged a greater percentage of smaller sizes across each month, October through February, than over the three previous seasons. The trend across the last six seasons has been a continuing increase in the volume of small sizes as a percentage of the overall crop. This is most dramatically evidenced by the 72 percent increase in small sizes as a percentage of the overall crop from February 1996 to February 2001.

The available volumes of small-sized red seedless grapefruit in December, January, and February for the 1998–99, 1999–2000, and 2000–01 seasons were comparable or exceeded volumes available for October, November, and December for the 1995–96, 1996–97, and 1997–98 seasons. The following chart that shows the volume of sizes 48 and smaller red seedless grapefruit available for these months as a percentage of the total crop.

SIZES 48 AND SMALLER AS A PERCENTAGE OF TOTAL CROP

	95–96	96–97	97–98		98–99	99–00	00–01
October	43	62	73	December	56	64	64
November	34	56	61	January	54	58	57
December	32	51	52	February	50	49	54

It was following the 1995–96 season that the Committee began its initial discussions regarding the need to control the volume of small-sized red seedless grapefruit entering the fresh market early in the season. Percentage of

size regulation was first used to control the volume of small sizes during the first 11 weeks of the 1997–98 season. Small sizes were problem at those volume levels for the months of October through December for the 1995–96, 1996–97, and 1997–98 seasons. Having comparable or greater volumes of small sizes available during midseason also represents a problem for the industry.

The University of Florida, Citrus Research and Education Center published an estimated cost of production per acre for the 2000–2001 season. The cost to produce Florida citrus fruit for the fresh market was estimated at $882.25 per acre for the SunRidge area, or the interior of the state, $907.72 per acre for the Gulf production area, and $974.46 per acre for the Indian River area, or the Atlantic coast region. Using an average of these estimates, it cost approximately $921 per acre to cultivate citrus for the fresh market in 2000–2001. This average represents a somewhat lower cost of production than what most growers of red seedless grapefruit experience because a major share of production is in the Indian River area.

During the past five seasons, red seedless grapefruit production has averaged around 409 boxes (1⅗ bushels) per acre. For the 2000–2001 season, the average on-tree value for red seedless grapefruit is estimated at $2.10 per box. Using these numbers, total on-tree revenue for the 2000–2001 season calculates as approximately $859 per acre. When combined with the cost of production, the average red seedless grapefruit producer in Florida had a negative return of more than $62 per acre or a $0.15 per box loss.

On-tree returns have been at below production costs for all but one of the last eight seasons. Eleven-week regulation has helped. Growers have benefited from several years of increased on-tree returns due to percentage of size regulation. While 11-week regulation has improved the situation, it has not solved all the problems.

For the first time since the 1997–98 season, grower returns have again decreased. Total on-tree returns declined from $3.36 during the 1999–2000 season to $2.10 for the 2000–01 season. On-tree returns for fresh red grapefruit also declined by 22 percent. Comparing on-tree returns for fresh sales by month, shows that for the seasons 1997–98, 1998–99, and 1999–2000, there was an average decline in returns of $.60 per box from November to February. When you combine this $.60 reduction with the average volume of 4.7 million boxes of all red seedless grapefruit moved during this period, the drop in revenue to growers is nearly $2.8 million. During a period when growers are struggling to realize returns that at least equal the cost of production, this $.60 can mean the difference between profit and loss.

A similar situation is observable with f.o.b. prices. F.o.b. prices have stabilized somewhat under 11-week regulation. However, while it has helped eliminate dramatic drops in price during the first 11 weeks, prices have continued to decrease throughout the season. In the three seasons 1998–99, 1999–2000, and 2000–01, prices of red seedless grapefruit fell from an average f.o.b. price of $7.72 per carton (⅘ bushel) in November to an average f.o.b. price of $7.02 in February. Also, as with grower returns, after two years of increased average season f.o.b. prices, this past season, 2000–01, represented a $.50 per carton decrease from the prior season.

The Committee believes the overshipment of smaller sized red seedless grapefruit during the middle of the season is contributing to poor returns and lower prices. While there is a market for small-sized red seedless grapefruit, the shipment of large quantities in a short time oversupplies the fresh market and negatively impacts the market for all sizes. Smaller sizes normally return the lowest prices, and when there is too much volume, the overabundance of lower priced fruit drives prices down for all sizes.

The purpose of this change is to provide the Florida citrus industry a tool, when needed, that helps stabilize the market and the price of red seedless grapefruit during the middle part of the season. Committee members agreed that extending the weeks available under § 905.153 for percentage of size regulation an additional 11 weeks provides a tool that will help address the problems associated with small sizes during the middle of the season. The Committee supports the additional weeks because they have successfully used the provisions of § 905.153 to address very similar problems for the first 11 weeks of the season.

For the seasons 1994–95, 1995–96, and 1996–97, returns for red seedless grapefruit had been declining, often not returning the cost of production. On-tree prices for red seedless grapefruit had fallen steadily from $9.60 per carton (4/5 bushel) during the 1989–90 season, to $3.45 per carton during the 1994–95 season, to $1.41 per carton during the 1996–97 season.

The Committee determined that one problem contributing to the market's condition was the excessive number of small-sized grapefruit shipped early in the marketing season. In the 1994–95, 1995–96, and 1996–97 seasons, sizes 48 and 56 accounted for 34 percent of total shipments during the 11-week regulatory period, with the average weekly percentage exceeding 40 percent of shipments. This contrasted with sizes 48 and 56 representing only 26 percent of total shipments for the remainder of the season.

To address this situation the Committee recommended weekly percentage of size regulation under § 905.153 for the first 11 weeks of the 1997–98, 1998–99, 1999–2000, 2000–01, and 2001–02 seasons. Under 11-week regulation, f.o.b. prices and on-tree returns increased and movement stabilized as compared to years with no 11-week percentage of size regulation.

Average f.o.b. prices were higher during the 11-week percentage of size regulation than for the three years prior to regulation. The average price for red seedless grapefruit in late October was $8.46 per carton for the regulated seasons compared to $7.22 for the same period for the three years before regulation. Prices have also remained at a higher level, with an average f.o.b. price of $7.29 per carton in mid-December during the years with regulation compared to $6.02 for the three prior years. The average season f.o.b. price has also been higher, averaging $7.15 per carton during years with 11-week regulation compared to $5.83 for the three prior seasons without regulation.

The on-tree returns per box for fresh red seedless grapefruit also improved during 11-week regulation, providing better returns to growers. On-tree returns increased from $2.85 in 1997–98, to $4.52 in 1998–99, to $5.52 for the 1999–2000 season.

Eleven-week percentage of size regulation also helped stabilize the volume of small sizes entering the fresh market early in the season. During the three years prior to the 11-week regulation, small sizes accounted for over 34 percent of the total shipments of red seedless grapefruit during the 11-week period covered. This compares to 31 percent for the same period during the last four years with 11-week regulation. There has also been a 43 percent reduction in the volume of small sizes entering the fresh market during the 11-week regulatory period from 1995–96 to 2000–01.

An economic study done by Florida Citrus Mutual (Lakeland, Florida) in April 1998, found the weekly percentage regulation had been effective. The study stated that part of the strength in early season pricing appeared to be due to the use of the

weekly percentage rule to limit the volume of sizes 48 and 56. It said prices were generally higher across the size spectrum with sizes 48 and 56 having the largest gains, and larger-sized grapefruit registering modest improvements. The rule shifted the size distribution toward the higher-priced, larger-sized grapefruit, helping raise weekly average f.o.b. prices. It further stated that sizes 48 and 56 grapefruit accounted for around 27 percent of domestic shipments during the same 11 weeks during the 1996–97 season. Comparatively, sizes 48 and 56 accounted for only 17 percent of domestic shipments during the same period in 1997–98, as small sizes were used to supply export customers with preferences for small sized grapefruit.

Much of what the Committee is now seeing in the second 11 weeks of a season reminds them of the adverse conditions they were facing during the first 11 weeks for the 1994–95, 1995–96, and 1996–97 seasons. The Committee believes the problems successfully addressed by using the 11-week percentage of size regulation during the first part of the season are the same problems they are now seeing during the middle of the season. The Committee believes the overshipment of smaller sized red seedless grapefruit during the middle of the season is contributing to poor returns and lower prices. Therefore, the Committee believes expanding the period available for percentage of size regulation under § 905.153 from 11 weeks to 22 weeks will provide them with the best tool to address these problems.

In making this decision, the Committee considered expanding the regulated period to cover all thirty-three weeks of a season. However, it was decided that the addition of 11 weeks best serves the current marketing situation. A major factor in deciding to expand the regulated period by 11 weeks rather than 22 weeks is the timing of the majority of export shipments. On average, more than 45 percent of export shipments occur after the second week in February. Export markets also tend to prefer smaller grapefruit. Last season, 85 percent of shipments to the Pacific Rim, 75 percent of shipments to Canada, and 60 percent of shipments to Europe were sizes 48 and 56. Consequently, starting in February, there is a much larger demand for sizes 48 and 56 red seedless grapefruit. This effectively addresses the problem with the volume of small sizes during the last 11 weeks of the season. Therefore, the Committee believed that under these conditions, it was not necessary to be able to regulate small sizes during the last 11 weeks of a season, even though weak marketing conditions exist in some export markets.

During deliberations regarding percentage of size regulation in past seasons, the Committee considered how shipments had affected the market. Based on available statistical information, Committee members concluded once shipments of sizes 48 and 56 reached levels above 250,000 cartons a week, prices declined on those and most other sizes of red seedless grapefruit. The Committee determined if shipments of small sizes could be maintained at or below 250,000 cartons a week, prices should stabilize and demand for larger sizes should increase.

In the last three seasons, weekly shipments of sizes 48 and 56 red seedless grapefruit exceeded 250,000 cartons an average of 5 of the 11 weeks of the second 11 weeks of the season. When the initial 11-week regulated period ends, handlers are shipping greater quantities of smaller sizes to the fresh market. In 1998–99, 1999–2000, and 2000–01, shipments of sizes 48 and 56 red seedless grapefruit during the second 11 weeks of the season exceeded shipments of small sizes for the first 11 weeks by an average of nearly one million cartons. These factors may have contributed to the marketing problems experienced by the industry.

Approximately 51 percent of red seedless grapefruit on average is shipped to fresh market channels. There is a processing outlet for grapefruit. The majority, 49 percent on average, is squeezed for juice. This outlet offers limited returns and currently is not profitable. Recent statistics from the Florida Department of Citrus show there is a 40-week inventory of processed grapefruit from last season. This will have an additional negative impact on expected returns.

For the 2000–2001 season, on-tree returns were negative for processed red seedless grapefruit. During the last five years, only 1999–2000 produced on-tree returns for processed red seedless grapefruit that exceeded one dollar per box. When on-tree returns for processed grapefruit drop below a dollar, there is pressure to shift a larger volume of the overall crop to the fresh market to benefit from the higher prices normally paid for fresh fruit.

A fair percentage of red seedless grapefruit shipped for processing tend toward the smaller sizes. When returns for processed red grapefruit are low, an additional volume of small sizes can be shifted toward the fresh market, further exacerbating problems with excessive volumes of small sizes. Current projections of on-tree prices for processed red seedless grapefruit for the 2001–02 season are low due to the large quantities of stored juice. This fact, combined with the past history for juice prices, further supports the need to have the additional 11 weeks available to control excessive volumes of small sizes during the middle of the season.

Shipments during the 11 weeks added by this regulation account for nearly 50 percent of the total volume of red seedless grapefruit shipped to the fresh market. Considering this volume and the limited returns for processing, it is important that returns from the fresh market be maximized during this period. Even a small increase in price when coupled with the volume shipped represents a significant increase in the overall return to growers.

The 11-week percentage of size regulation in place for the first part of the season has been having the desired effect on early markets the past four seasons. However, when the regulation period ends, there is an increased supply of small red seedless grapefruit shipped to the fresh market. This has had a depressing effect on price and grower returns. The Committee decided it needed to have a tool available to regulate shipments of small-sized red seedless grapefruit during the middle part of the marketing season. Therefore, the Committee voted to recommend increasing the weeks available for regulation under § 905.153 from 11 to 22 weeks to provide them with that tool.

To use these procedures, the committee would meet and recommend a base percentage of sizes 48 and 56 that could enter the fresh market in any week or weeks from the first Monday in September for the next 22 weeks. If approved by the USDA, this percentage would be applied to each handler's average week of fresh shipments to determine the amount of sizes 48 and 56 red grapefruit each handler could ship.

The second action taken by this rule establishes weekly base percentages for 6 additional weeks during the 2001–02 season. The Committee met August 29, 2001, and recommended that percentages be set at 40 percent for the first 3 weeks (December 3 through December 23) and 30 percent for the remaining eight weeks (December 24 through February 17). However, because of the current timeframe, this action establishes weekly percentages for 6 weeks of the second 11-week period at 30 percent (January 7 through February 17, 2002. This rule supplies enough small-sized red seedless grapefruit to meet market demand, without saturating all markets with these small sizes. This action will help stabilize the market and improve grower returns. This action is

similar to those taken during the first 11 weeks of the 1997–98, 1998–99, 1999–2000, 2000–01, and 2001–02 seasons.

For the 1998–99, 1999–2000, and 2000–01 seasons there has been a substantial increase in the volume of small sizes available later in the season. The percentage of the crop represented by small sizes in February averaged 51 percent for these three seasons, compared to a 26 percent average for the same month for the three prior seasons (1995–98). Small sizes available for shipment in December, January, and February for the 1998–99, 1999–2000, and 2000–01 seasons equal or exceed volumes available during October, November, and December for the 1995–96, 1996–97, and 1997–98 seasons.

Following the 1995–96 season the Committee began discussing the need to control the volume of small-sized red seedless grapefruit entering the fresh market. Small sizes were a problem for the months of October through December for the 1995–96, 1996–97, and 1997–98 seasons. Having equal or greater volumes available during midseason represents a comparable problem. Initial estimates by the Florida Agricultural Statistics Service show that small sizes represent a large percentage of the 2001–02 crop, accounting for over 83 percent of the fruit per September measurements.

The Committee believes excessive shipments of small-sized red seedless grapefruit during the second 11 weeks of the season is contributing to the market's poor condition. For the months of December through February shipments of small sizes exceed those shipped during September through November by nearly 91,000 cartons a week on average. There is a market for small red seedless grapefruit. However, shipping large quantities in a short period oversupplies the market for these small sizes and negatively impacts the market for all sizes. As previously stated, the midseason crop has had a greater percentage of small sizes the past few seasons, creating a glut of smaller, lower-priced fruit on the market, driving down the price for all sizes.

On-tree returns have been below production costs for seven of the last eight seasons. Growers benefited from several years of increased returns, due to the 11-week percentage of size regulations used during the first part of the seasons. However, for the first time since the 1997–98 season, on-tree returns have again decreased. On-tree returns dropped from $3.36 during the 1999–2000 season to $2.10 for the 2000–01 season. On-tree returns for fresh red grapefruit also declined by 22 percent. In addition, on-tree returns declined an average of $.60 from November to February for the seasons 1997–98, 1998–99, and 1999–2000. By combining this $.60 reduction with an average volume of 4.7 million boxes shipped during this period the loss in grower returns tops nearly $2.8 million.

In the past three seasons, 1998–99, 1999–2000, and 2000–01, prices of red seedless grapefruit fell from an average f.o.b. price of $7.72 per carton in November to an average f.o.b. price of $7.02 in February. Also, as with grower returns, after two years of increased average season f.o.b. prices, the 2000–01 season marked a $.50 per carton decrease from the prior season.

The Committee believes the overshipment of small sizes is contributing to the decreasing returns. To address similar problems with an oversupply of small sizes and decreasing returns during the first part of the season, the Committee successfully used the provisions of § 905.153, and recommended weekly regulation of small sizes during the first 11 weeks of the 1997–98, 1998–99, 1999–2000, 2000–01, and 2001–02 seasons. Under the 11-week regulations, prices increased and movement stabilized as compared to seasons without 11-week regulation.

In making the recommendation to establish weekly percentages for the second 11 weeks, Committee members considered the success of the 11-week regulations during the early season and their experiences from past seasons. Members reviewed shipment data covering the second 11-week period for the last three seasons. The information contained the amounts and percentages of sizes 48 and 56 shipped during each week.

Committee members agreed that limiting the volume of small sizes available for the fresh market has been successful when used during the early part of a season. The Committee believes that the volume of small sizes will be a problem during the middle of the season, and that limiting the volume available for shipment will be beneficial.

Based on available statistical information, Committee members concluded once shipments of sizes 48 and 56 reached levels above 250,000 cartons a week, prices declined on those and most other sizes of red seedless grapefruit. The Committee believed if shipments of small sizes could be maintained at or below 250,000 cartons a week, prices should stabilize and demand for larger, more profitable sizes should increase.

The last three seasons during the second 11-week period, shipments of sizes 48 and 56 red seedless grapefruit exceeded 250,000 cartons an average of 5 of the 11 weeks. During the 1998–99, 1999–2000, and 2000–01 seasons, shipments of sizes 48 and 56 red seedless grapefruit from the second 11 weeks exceeded shipments of small sizes from the first 11 weeks by an average of nearly one million cartons. This may have contributed to the problems facing the industry.

Setting the weekly percentages at 30 percent for the remaining 6 weeks provides a total available weekly allotment of approximately 244,000 cartons (30 percent of the total industry base of 813,191 cartons). Setting the weekly percentages at this level allows total shipments of small red seedless grapefruit to approach the 250,000-carton mark during the regulated period without exceeding it.

The Committee believes that the problems associated with an uncontrolled volume of small sizes entering the market in the middle of the season will continue without regulation. Therefore, this action establishes weekly percentages at 30 percent for the remaining 6 weeks (January 7 through February 17).

The Committee believes it is best to set regulation at these levels, and then relax the percentages later in the season if conditions warrant. The Committee recognized they could meet again in December and in the months following and use the most current information to consider adjustments in the weekly percentage rates. Any changes to the weekly percentages established by this rule would require additional rulemaking and the approval of the USDA.

The provisions governing the operation of percentage of size regulation remain the same. The Committee still cannot set restrictions tighter than 25 percent. The method for calculating base and allotment also remains the same. The only changes to § 905.153 are the number of available regulation weeks and the cut off period for overshipments.

Under § 905.153, the quantity of sizes 48 and 56 red seedless grapefruit a handler may ship during a regulated week is calculated using the recommended percentage. By taking the weekly percentage times the average weekly volume of red seedless grapefruit handled by such handler in the previous five seasons, handlers can calculate the total volume of sizes 48 and 56 they may ship in a regulated week.

The Committee calculates an average week for each handler. To calculate an average week, the total red seedless

grapefruit shipments by a handler during the 33 week period beginning the third Monday in September and ending the first Sunday in May from the previous five seasons are added together, then divided by five to establish an average season. This average season is divided by the 33 weeks to derive the average week. This average week is the base for each handler for each of the 11 weeks of the regulatory period.

The weekly percentage is multiplied by a handler's average week. The product is that handler's total allotment of sizes 48 and 56 red seedless grapefruit for the given week. Handlers can fill their allotment with sizes 48 or 56, or a combination of both sizes such that total shipments are within established limits. The Committee staff performs the specified calculations and provides them to each handler.

The average week for handlers with less than five seasons of shipments is calculated by averaging the total shipments for the seasons they did ship red seedless grapefruit during the previous five years and dividing that average by 33. New handlers have no prior shipments on which to base their average week. Therefore, a new handler can ship small sizes such that their volume of small sizes as a percent of their total shipments during their first week shipping are equal to the weekly percentage set for that week. Once a new handler has established shipments, their average week is calculated as an average of the weeks they have shipped during the current season.

The regulatory period begins the third Monday in September, and runs for 22 weeks. Each regulation week begins Monday at 12:00 a.m. and ends at 11:59 p.m. the following Sunday, since most handlers keep records based on Monday as the beginning of the workweek.

The rules and regulations governing percentage size regulation contain a variety of provisions designed to provide handlers with some marketing flexibility. Section 905.153(d) provides allowances for overshipments, loans, and transfers of allotment. These provisions should allow handlers the opportunity to supply their markets while limiting the impact of small sizes.

This rule makes one slight change to the provisions governing overshipments. During a week of percentage of size regulation, any person who has received an allotment can handle an amount of sizes 48 and 56 red seedless grapefruit equal to their weekly allotment, plus an additional overshipment amount not to exceed 10 percent of that week's allotment. The quantity of overshipments is deducted from the handler's allotment for the following week. Section 905.153 did state that overshipments were not allowed during week 11 because there were no allotments the following week from which to deduct the overshipments. This rule changes this to read that no overshipments are allowed during week 22 to reflect the longer regulated period.

The Committee can act on behalf of handlers wanting to arrange allotment loans or participate in the transfer of allotment. Repayment of an allotment loan is at the discretion of the handlers' party to the loan. The Committee informs each handler of the quantity of sizes 48 and 56 red seedless grapefruit they can handle during a particular week, making the necessary adjustments for overshipments and loan repayments.

This rule does not affect the provision that handlers may ship up to 15 standard packed cartons (12 bushels) of fruit per day exempt from regulatory requirements. Fruit shipped in gift packages that are individually addressed and not for resale, and fruit shipped for animal feed are also exempt from handling requirements under specific conditions. Also, fruit shipped to commercial processors for conversion into canned or frozen products or into a beverage base are not subject to the handling requirements under the order.

Section 8e of the Act requires that whenever grade, size, quality, or maturity requirements are in effect for certain commodities under a domestic marketing order, including grapefruit, imports of that commodity must meet the same or comparable requirements. This rule does not change the minimum grade or size requirements under the order, only the percentages of sizes 48 and 56 red grapefruit that may be handled. Therefore, no change is necessary in the grapefruit import regulation as a result of this action.

Initial Regulatory Flexibility Analysis

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

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 75 grapefruit handlers subject to regulation under the order and approximately 11,000 growers of citrus in the regulated area. Small agricultural service firms, which includes handlers, are defined by the Small Business Administration (SBA) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $750,000 (13 CFR 121.201).

Based on industry and Committee data, the average annual f.o.b. price for fresh Florida red seedless grapefruit during the 2000–01 season was approximately $7.20 per 4/5 bushel carton, and total fresh shipments for the 2000–01 season are estimated at 24.7 million cartons of red grapefruit. Approximately 25 percent of all handlers handled 70 percent of Florida grapefruit shipments. In addition, many of these handlers ship other citrus fruit and products which are not included in Committee data but would contribute further to handler receipts. Using the average f.o.b. price, about 69 percent of grapefruit handlers could be considered small businesses under SBA's definition. Therefore, the majority of Florida grapefruit handlers may be classified as small entities. The majority of Florida grapefruit producers may also be classified as small entities.

The overshipment of small-sized red seedless grapefruit has contributed to poor returns for growers and lower on-tree values. This rule increases the current number of regulated weeks available under weekly percentage of size regulation from 11 weeks to 22 weeks. With additional volumes of small size now available later in the season, it will be beneficial to have the additional weeks available, when necessary, to help stabilize the market and improve grower returns. This rule also institutes weekly percentages for an additional 6 weeks during 2001–02 season. Authority for this action is provided in § 905.52 of the order. This rule also uses the provisions of § 905.153. The rule is based on unanimous recommendations of the Committee at meetings on May 22, and August 29, 2001.

The first change this rule makes only provides additional weeks for percentage of size regulation. The goal of this change is to provide an additional tool, if needed, to help stabilize the price of red seedless grapefruit.

The second action establishes weekly percentages for an additional 6 weeks of the 2001–02 season. The Committee

recommended that weekly percentages be set at 40 percent for the first three weeks (December 3 through December 23) and 30 percent for the eight remaining weeks (December 24 through February 17) of the second 11-week period. However, because of the current timeframe, this action establishes weekly percentages for the remaining 6 weeks of the second 11-period regulatory period at 30 percent (January 7, 2002, through February 17, 2002).

This action is intended to supply enough small red seedless grapefruit, without saturating all markets with small sizes. The quantity of sizes 48 and 56 red seedless grapefruit that may be shipped by a handler during a particular week is calculated using the recommended percentage. This action will help stabilize the market and improve grower returns. This action is similar to the actions taken during the first 11 weeks of the 1997–98, 1998–99, 1999–2000, 2000–01, and 2001–02 seasons.

During the past three seasons for the months of December through February available supplies of small sizes have been at levels previously only seen during the months of September to early December. For these three seasons, the percentage of the crop represented by small sizes in the month of February has averaged 51 percent. This compares to an average of 26 percent for the same month for the three prior seasons (1995–98). In the past three seasons, during the second 11 weeks of the season, prices of red seedless grapefruit have fallen. On-tree prices for fresh red seedless grapefruit have also declined. In many cases, prices have provided returns less than production costs. This is making it difficult for some small producers to remain in business.

The Committee believes having the ability to control the volume of small sized red seedless grapefruit has been an important tool during the first 11 weeks of the past four seasons. The Committee believes the benefits the industry derived under 11 weeks of volume regulation will continue if the period available for volume regulation is increased to 22 weeks. Recognizing the trend of having more small sizes available later in a season, the Committee believes having the ability to regulate volume during the middle of the season will be a valuable tool. The purpose of this change is not to eliminate small-sized red grapefruit. It is merely to provide a tool to prevent a surplus of small-sized red seedless grapefruit from damaging the overall grapefruit market during the middle part of the season. A tool that will help stabilize price and returns benefits both small and large producers and handlers.

The past three seasons, shipments of small sizes for December through February exceeded those shipped during September through November by nearly 91,000 cartons a week on average. For the first time since the 1997–98 season, on-tree returns have decreased. On-tree returns dropped from $3.36 during the 1999–2000 season to $2.10 for the 2000–01 season. On-tree returns for fresh red grapefruit also declined by 22 percent. In addition, on-tree returns declined an average of $.60 from November to February for the seasons 1997–98, 1998–99, and 1999–2000. By combining this $.60 reduction with an average volume of 4.7 million boxes shipped during this period the loss in grower returns tops nearly $2.8 million. The Committee attributes the decrease in returns to the volume of small sizes.

The Committee believes the volume of small sizes will continue to be a problem during the middle part of this season. Initial estimates by the Florida Agricultural Statistics Service show that small sizes represent a large percentage of the 2001–02 crop, accounting for over 83 percent of the fruit per September measurements. Therefore, the Committee recommended establishing volume regulation during the second 11 weeks of the 2001–2002 season. However, because of the current timeframe, this action establishes weekly percentages for the remaining 6 weeks of the second 11-week period.

While the establishment of volume regulation may necessitate additional spot picking, which could entail slightly higher harvesting costs, many producers are already using the practice. In addition, with spot picking, the persons harvesting the fruit are more selective and pick only the desired sizes and qualities. This reduces the amount of time and effort needed in sorting fruit, because undersize fruit is not harvested. These savings may result in reduced processing and packing costs. Also, regulation is only in effect for part of the season.

If a 25 percent restriction on small sizes had been applied during the second 11-week period for the three prior seasons, an average of 4.9 percent of the overall shipments during that period would have been subject to regulation. A large percentage of this volume most likely could have been replaced by larger sizes for which there are no volume restrictions. Under percentage of size regulation, larger sizes have been substituted for smaller sizes with a nominal effect on overall shipments.

In addition, handlers can transfer, borrow or loan allotment based on their needs in a given week. Handlers also have the option of overshipping their allotment by 10 percent in a week, provided any overshipments are deducted from the following week's shipments. Transfers and loans have been used very effectively during past seasons with percentage of size regulation. Therefore, the overall impact of this regulation on total shipments should not be substantial.

The Committee believes establishing volume regulation during the second 11 weeks of the season will have benefits similar to those realized under regulation of the first 11 weeks. Handlers and producers have received higher returns under the 11-week percentage of size regulations issued for the first 11 weeks of the last four seasons. In late October, during the four years with 11-week regulation, the average f.o.b. price for red seedless grapefruit was $7.99 per carton compared to $7.22 for the three years prior to regulation. F.o.b. prices also have remained higher, with an average price of $7.29 in mid-December during 11-week regulation compared to $6.02 for the three years prior to regulation. Season average prices have also been higher under 11-week regulation averaging $7.14 per carton compared to $5.83 for the prior three years. On-tree earnings per box for fresh red seedless grapefruit have also improved under regulation, providing better returns to growers. The on-tree price increased from $3.26 per box in 1996–97, to $3.42 for 1997–98, to $5.04 for 1998–99, to $5.62 for the 1999–2000 season.

If 11-week regulation applied at the start of a season has been successful in controlling the volume of small sizes and increasing returns, applying similar volume regulation during the second 11 weeks of the season should also be effective in addressing the problems with the overshipment of small sizes. Even if this action was only successful in raising returns by $.10 per carton, this increase in combination with the substantial number of shipments generally made during this second 11 week period, would represent an increased return of nearly $1 million. Consequently, any increased returns generated by this action should more than offset any additional costs associated with this regulation.

The purpose of this rule is to help stabilize the market and improve grower returns. This rule provides a supply of small-sized red seedless grapefruit sufficient to meet market demand, without saturating all markets with these small sizes. This action is not

expected to decrease the overall consumption of red seedless grapefruit. It is expected to benefit all red seedless grapefruit growers and handlers regardless of their size of operation. This rule will likely help small under-capitalized growers who need additional weekly revenues to meet operating costs.

The Committee discussed different alternatives to these changes. Several alternatives had to do with the number of weeks that would be available under percentage of size regulation. The alternatives considered included not increasing the number of weeks available, to increasing the regulation to include all 33 weeks of the season. Committee members agreed producers and handlers would benefit from smaller-sized fruit being controlled for a greater portion of the season. They also noted the majority of export shipments occur during the last 11 weeks of the season helping to alleviate problems with small sizes during that part of the season. Consequently, these alternatives were rejected.

Other alternatives considered had to do with the length of the holiday season and percentages set for that period. The holiday season is the weeks before Christmas when a large volume of small sizes are used for gift fruit shipments and fundraisers. One alternative was to add an additional week to those weeks considered as the holiday season, and set higher percentages for the first four weeks rather than the first three. Another alternative discussed was setting percentages higher than 40 percent for the weeks covered that were considered part of the holiday season. The Committee reviewed and discussed the suggestions and agreed that the weeks included and the percentages recommended were the best solutions based on the information available. The Committee further recognized that if marketing conditions indicated a change might be necessary the Committee could meet again later in the season and recommend that the percentages be relaxed. Therefore, these alternates also were rejected.

This action requires two new handler reports. These information collection requirements are discussed in the following section.

USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule. However, red seedless grapefruit must meet the requirements as specified in the U.S. Standards for Grades of Florida Grapefruit (7 CFR 51.760 through 51.784) issued under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 through 1627).

In addition, the Committee's meetings were widely publicized throughout the Florida citrus industry and all interested persons were invited to attend the meetings and participate in Committee deliberations on all issues. Like all Committee meetings, the May 22, and August 29, 2001, meetings were public meetings and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of these actions on small businesses.

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

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces that AMS has obtained emergency approval for a new information collection request for Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida, Marketing Order No. 905. The emergency request was necessary because insufficient time was available to follow normal clearance procedures.

Title: Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida, Marketing Order No. 905.

OMB Number: 0581–NEW.

Type of Request: New collection.

Abstract: The information collection requirements in this request are essential to carry out the intent of the Act, to provide the respondents the type of service they request, and to administer the Florida citrus marketing order program, which has been operating since 1939.

On May 22, and August 29, 2001, the Committee unanimously recommended revising the order's administrative rules and regulations to require handlers to report to the Committee information on small red seedless grapefruit during an additional 11-week volume regulation period. This information will be reported on two new Committee forms. *Form CAC 301A, Handler making/acquiring Loan and/or Transfer,* is used by handlers receiving base quantity loans, and by handlers receiving base quantity transfers during weeks 12 through 22 of the regulation period. *Form CAC 302A, Report of Red Grapefruit Shipments by Day and Regulation Week,* is used by handlers to inform the Committee of their daily shipments of sizes 48 and 56 red seedless grapefruit during weeks 12 through 22 of the regulation period.

The new reports are needed so the Committee can collect information on sizes 48 and 56 red seedless grapefruit during the second 11-week volume regulation period. The Committee will evaluate this information and determine whether a handler is in compliance with the regulation. These reports will ensure compliance with the volume regulation and assist the Committee and the USDA with oversight and planning.

The information collected is used only by authorized representatives of USDA, including AMS, Fruit and Vegetable Programs regional and headquarters staff, and authorized Committee employees. Authorized Committee employees will be the primary users of the information and AMS is the secondary user.

The request for approval of the new information collections under the order is as follows:

CAC 301A, Handler making/acquiring Loan and/or Transfer

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 5 minutes per response.

Respondents: Handlers who acquire a loan or transfer for sizes 48 and 56 small red seedless grapefruit during the additional 11-week regulation period.

Estimated Number of Respondents: 45.

Estimated Number of Responses per Respondent: 3.

Estimated Total Annual Burden on Respondents: 11.21 hours.

CAC 302A, Report of Red Grapefruit Shipments by Day and Regulation Week

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 3 minutes per response.

Respondents: Handlers who handle size 48 and/or 56 small red seedless grapefruit during the second 11-week regulation period.

Estimated Number of Respondents: 45.

Estimated Number of Responses per Respondent: 55.

Estimated Total Annual Burden on Respondents: 123.75 hours.

Comments: Comments are invited on: (1) 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) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments should reference OMB No. 0581–NEW and the Florida citrus marketing order, and be sent to USDA in care of the Docket Clerk at the previously mentioned address. All comments received will be available for public inspection during regular business hours at the same address.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

As mentioned before, because there was insufficient time for a normal clearance procedure and prompt implementation is needed, AMS has obtained emergency approval from OMB for the use of the two new forms for the second 11-week volume regulation period. The forms will be added to the forms currently approved for use under OMB No. 0581–0189. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

In addition to the information collection burden, this rule also invites comments on the modification to the procedures used to limit the volume of sizes 48 and 56 red seedless grapefruit entering the fresh market under the order. This rule increases the number of weeks available under weekly percentage of size regulation from 11 weeks to 22 weeks and institutes weekly percentages for 6 additional weeks of the 2001–02 season. Any comments received will be considered prior to finalization of this rule.

After consideration of all relevant material presented, including the Committee's recommendation, and other information, it is found that this interim final rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register**. This rule needs to be in place when the during the second 11-week regulatory period. Also, handlers need to know what their allotments of small sizes are to make their marketing plans. This issue has been widely discussed at various industry meetings, and the Committee has kept the industry well informed. Further, handlers are aware of this rule, which was recommended at public meetings. Also, a 15-day comment period is provided in this rule on increasing the number of weeks in the regulatory period from 11 to 22, and on the percentages established for the remaining 6 weeks of the second 11-week regulatory period. A 15-day comment period is deemed appropriate because this action should be finalized by the end of the regulatory period (February 17, 2002).

List of Subjects in 7 CFR Part 905

Grapefruit, Marketing agreements, Oranges, Reporting and recordkeeping requirements, Tangelos, Tangerines.

For the reasons set forth in the preamble, 7 CFR part 905 is amended as follows:

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

1. The authority citation for 7 CFR part 905 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. In § 905.153, paragraph (a), the last sentence is revised, and in paragraph (d), the third sentence is revised to read as follows:

§ 905.153 Procedure for determining handlers' permitted quantities of red seedless grapefruit when a portion of sizes 48 and 56 of such variety is restricted.

(a) * * * The term *regulation period* means the 22-week period beginning the third Monday in September of the current season.

* * * * *

(d) * * * Overshipments will not be allowed during week 22. * * *

* * * * *

3. Section 905.350 is revised to read as follows:

§ 905.350 Red seedless grapefruit regulation.

This section establishes the weekly percentages to be used to calculate each handler's weekly allotment of small sizes. Handlers can fill their allotment with size 56, size 48, or a combination of the two sizes such that the total of these shipments are within the established weekly limits. The weekly percentages for size 48 ($3\frac{9}{16}$inches minimum diameter) and size 56 ($3\frac{5}{16}$ inches minimum diameter) red seedless grapefruit grown in Florida, which may be handled during the specified weeks are as follows:

Week	Weekly percentage
(a) 9/17/01 through 9/23/01	45
(b) 9/24/01 through 9/30/01	45
(c) 10/1/01 through 10/7/01	35
(d) 10/8/01 through 10/14/01	30
(e) 10/15/01 through 10/21/01	30
(f) 10/22/01 through 10/28/01	30
(g) 10/29/01 through 11/4/01	30
(h) 11/5/01 through 11/11/01	30
(i) 11/12/01 through 11/18/01	30
(j) 11/19/01 through 11/25/01	30
(k) 11/26/01 through 12/2/01	40
(l) 1/7/02 through 1/13/02	30
(m) 1/14/02 through 1/20/02	30
(n) 1/21/02 through 1/27/02	30
(o) 1/28/02 through 2/3/02	30
(p) 2/4/02 through 2/10/02	30
(q) 2/11/02 through 2/17/02	30

Dated: January 3, 2002.

Barry L. Carpenter,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 02–450 Filed 1–4–02; 10:39 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–CE–48–AD; Amendment 39–12591; AD 2001–26–25]

RIN 2120–AA64

Airworthiness Directives; Grob-Werke Gmbh & Co KG Models G102 Club Astir III, G102 Club Astir IIIb, and G102 Standard Astir III Sailplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to all Grob-Werke Gmbh & Co KG (Grob) Models G102 Club Astir III, G102 Club Astir IIIb, and G102 Standard Astir III sailplanes. This AD requires you to apply a red mark and install a placard on the airspeed indicator to restrict the Vne airspeed. This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany. The actions specified by this AD are intended to prevent elevator flutter, which could cause structural damage. Such damage could result in loss of control of the sailplane.

DATES: This AD becomes effective on January 31, 2002.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulation as of January 31, 2002.

The Federal Aviation Administration (FAA) must receive any comments on this rule on or before February 11, 2002.

ADDRESSES: Submit comments to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–CE–48–AD, 901 Locust, Room 506, Kansas City, Missouri 64106.

You may get the service information referenced in this AD from GROB Luft- und Raumfahrt, Lettenbachstrasse 9, D86874 Tussenhausen-Mattsies, Federal Republic of Germany; telephone: 49 8268 998139; facsimile: 49 8268 998200. You may view this information at FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–CE–48–AD, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4144; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Discussion

What events have caused this AD? The LBA, which is the airworthiness authority for Germany, recently notified FAA that an unsafe condition may exist on all Grob Models G102 Club Astir III, G102 Club Astir IIIb, and G102 Standard Astir III sailplanes. The LBA reports two occurrences of elevator flutter on Model G102 Club Astir III sailplanes. The exact cause of this condition is unknown at this time; however, both airplanes were operating in the upper flight speed range.

What are the consequences if the condition is not corrected? Elevator flutter could cause structural damage to the sailplane. Such damage could result in loss of control of the sailplane.

Is there service information that applies to this subject? Grob has issued Service Bulletin No. MSB306–36/2, dated November 22, 2001.

The service bulletin includes procedures for:

—Applying a red mark on the airspeed indicator at 165 kilometers/hour (km/h), 89.1 knots (kts), or 102.5 miles per hour (mph) (according to the airspeed indicator calibration); and

—Installing a red placard to the airspeed indicator restricting the Vne airspeed to 165 km/h, 89.1 kts, or 102.5 mph (according to the airspeed indicator calibration).

What action did the LBA take? The LBA classified this service bulletin as mandatory and issued German AD Number 2001–317/2, dated November 30, 2001, in order to ensure the continued airworthiness of these sailplanes in Germany.

Was this in accordance with the bilateral airworthiness agreement? These sailplane models are manufactured in Germany and are type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement.

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

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

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

—The unsafe condition (elevator flutter while operating in the upper flight speed range) referenced in this document could develop on other Grob Models G102 Club Astir III, G102 Club Astir IIIb, and G102 Standard Astir III sailplanes of the same type design;

—The actions specified in the previously-referenced service information (as specified in this AD) should be accomplished on the affected sailplanes; and

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

What does this AD require? This AD requires you to incorporate the actions in the previously-referenced service bulletin.

In preparation of this rule, we contacted type clubs and aircraft operators to obtain technical information and information on operational and economic impacts. We have included, in the rulemaking docket, a discussion of information that may have influenced this action.

Is there a modification I can incorporate instead of restricting the Vne airspeed? The FAA has determined that long-term continued operational safety would be better assured by design changes that correct the source of the problem rather than by restricting the Vne airspeed. With this in mind, FAA will continue to work with Grob in collecting information and in performing analysis to determine whether a future design change is feasible.

Will I have the opportunity to comment prior to the issuance of the rule? Because the unsafe condition described in this document could result in loss of control of the sailplane, we find that notice and opportunity for public prior comment are impracticable. Therefore, good cause exists for making this amendment effective in less than 30 days.

Comments Invited

How do I comment on this AD? Although this action is in the form of a final rule and was not preceded by notice and opportunity for public comment, FAA invites your comments on the rule. You may submit whatever written data, views, or arguments you choose. You need to include the rule's docket number and submit your comments to the address specified under the caption **ADDRESSES**. We will consider all comments received on or before the closing date specified above. We may amend this rule in light of comments received. Factual information that supports your ideas and suggestions is extremely helpful in evaluating the effectiveness of this AD action and determining whether we need to take additional rulemaking action.

Are there any specific portions of this AD I should pay attention to? We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. You may view all comments we receive before and after the closing date of the rule in the Rules Docket. We will file a report in the Rules Docket that summarizes each FAA contact with the public that concerns the substantive parts of this AD.

How can I be sure FAA receives my comment? If you want us to acknowledge the receipt of your comments, you must include a self-addressed, stamped postcard. On the postcard, write ''Comments to Docket No. 2001–CE–48–AD.'' We will date stamp and mail the postcard back to you.

Compliance Time of This AD

What is the compliance time of this AD? The compliance time of this AD is ''within the next 10 calendar days after the effective date of this AD.''

Why is the compliance time presented in calendar time instead of hours time-in-service (TIS)? Although the elevator would only flutter during flight, this unsafe condition is not a result of the number of times the sailplane is operated. The chance of this situation

occurring is the same for a sailplane with 10 hours time-in-service (TIS) as it would be for a sailplane with 500 hours TIS. For this reason, the FAA has determined that a compliance based on calendar time should be utilized in this AD in order to ensure that the unsafe condition is addressed on all sailplanes in a reasonable time period.

Regulatory Impact

Does this AD impact various entities? These regulations 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, FAA has determined that this final rule does not have federalism implications under Executive Order 13132.

Does this AD involve a significant rule or regulatory action? We have determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a significant regulatory action under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2001–26–25 Grob-Werke Gmbh & Co KG: Amendment 39–12591; Docket No. 2001–CE–48–AD

(a) *What sailplanes are affected by this AD?* This AD affects the following Models G102 Club Astir III, G102 Club Astir IIIb, and G102 Standard Astir III sailplanes, all serial numbers, that are certificated in any category.

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

(c) *What problem does this AD address?* The actions specified by this AD are intended to prevent elevator flutter, which could cause structural damage. Such damage could result in loss of control of the sailplane.

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

Actions	Compliance	Procedures
(1) Apply a red mark on the airspeed indicator at 165 kilometers/hour (km/h), 89.1 knots (kts), or 102.5 miles per hour (mph) (according to the airspeed indicator calibration).	Within the next 10 calendar days after January 31, 2002 (the effective date of this AD).	In accordance with Grob Service Bulletin No. MSB306–36/2, dated November 22, 2001.
(2) Install a placard on the airspeed indicator at restricting the Vne airspeed as indicated in paragraph (d)(1) of this AD. The owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7) may perform the installation of the placard. You must make an entry into the aircraft records that shows compliance with this portion of the AD, in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).	Within the next 10 calendar days after January 31, 2002 (the effective date of this AD).	In accordance with Grob Service Bulletin No. MSB306–36/2, dated November 22, 2001.

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

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

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

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

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4144; facsimile: (816) 329–4090.

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

(h) *Are any service bulletins incorporated into this AD by reference?* Actions required by this AD must be done in accordance with Grob Service Bulletin No. MSB306–36/2, dated November 22, 2001. The Director of the Federal Register approved this incorporation by reference under 5 U.S.C. 552(a) and 1 CFR part 51. You can get copies from GROB Luft- und Raumfahrt, Lettenbachstrasse 9, D86874 Tussenhausen-Mattsies, Federal Republic of Germany; telephone: 49 8268 998139; facsimile: 49 8268 998200. You may view copies at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

(i) *When does this amendment become effective?* This amendment becomes effective on January 31, 2002.

Note 2: The subject of this AD is addressed in German AD 2001–317/2, dated November 30, 2001.

Issued in Kansas City, Missouri, on December 27, 2001.

Michael K. Dahl,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–89 Filed 1–7–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–383–AD; Amendment 39–12577; AD 2001–26–51]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model CL–600–2B19 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) 2001–26–51 that was sent previously to all known U.S. owners and operators of certain Bombardier Model CL–600–2B19 series airplanes by individual notices. This AD requires deactivation of the center tank fuel transfer shutoff valves by opening circuit breakers and installing a circuit breaker lock ring and disconnecting and stowing the electrical wiring, replacing certain valves with valves having a different part number, reconnecting certain circuit breaker wires, removing lock rings, and resetting the associated circuit breakers. For certain airplanes, this AD requires an AFM revision to prohibit operation with more than 200 pounds of fuel in the center fuel tank. This AD also has a provision for operating other airplanes with the center fuel tank full and with both fuel transfer shutoff valves inoperative. This action is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent ignition of fuel vapor in the center wing tank and consequent fire and explosion.

DATES: Effective January 14, 2002, to all persons except those persons to whom it was made immediately effective by emergency AD 2001–26–51, issued December 14, 2001, which contained the requirements of this amendment.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 14, 2002.

Comments for inclusion in the Rules Docket must be received on or before February 7, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–383–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–383–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 applicable service information may be obtained from Bombardier, Inc., Canadair, Aerospace Group, PO Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Luciano L. Castracane, Aerospace Engineer, Systems and Flight Test Branch, ANE–172, FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7535; fax (516) 568–2716.

SUPPLEMENTARY INFORMATION: On December 14, 2001, the FAA issued emergency AD 2001–26–51, which is applicable to certain Bombardier Model CL–600–2B19 series airplanes. That action was prompted by the manufacturer's discovery of an unsafe condition while conducting the safety review of the fuel tank system required by Special Federal Aviation Regulation Number 88 (SFAR 88), Fuel Tank System Fault Tolerance Requirements. In addition to other requirements, SFAR 88 requires that certain type certificate and supplemental type certificate holders conduct a safety review of the airplane fuel tank system to determine that the design meets the latest fuel tank ignition prevention requirements.

The center tank fuel transfer shutoff valve is operated by a solenoid. The solenoid closes the valve and maintains it in the closed position when electrical power is applied to the solenoid. Certain valves have two solenoids. As a result of the safety review, the valve was tested with one solenoid failed. During this bench testing, the manufacturer found that a failed valve could overheat to a temperature that exceeds the fuel hot surface ignition point. This condition, if not corrected, could result in ignition of fuel vapor in the center wing tank and consequent fire and explosion.

Explanation of Relevant Service Information

Bombardier has issued Alert Service Bulletin A601R–28–045, Revision ''A,'' dated December 7, 2001, which describes procedures for deactivation of the center tank fuel transfer shutoff valves by opening circuit breakers and installing a circuit breaker lock ring, and disconnecting and stowing the circuit breaker electrical wire. Transport Canada Civil Aviation (TCCA) classified this alert service bulletin as mandatory and issued Canadian airworthiness directive CF–2001–47, dated December 11, 2001, in order to ensure the continued airworthiness of these airplanes in Canada.

In addition to the actions specified in the alert service bulletin, the Canadian airworthiness directive also requires replacing certain valves with valves having a different part number, reconnecting certain circuit breaker wires, removing lock rings, and resetting the associated circuit breakers. For airplanes on which a certain fuel tank vent modification has not been accomplished, the Canadian airworthiness directive also requires an airplane flight manual (AFM) revision to prohibit operation with more than 200 pounds of fuel in the center fuel tank. The Canadian airworthiness directive also has a provision for operating airplanes on which that modification has been accomplished with the center fuel tank full and with both fuel transfer shutoff valves inoperative.

FAA's Conclusions

This airplane model is manufactured in Canada and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement,

TCCA has kept the FAA informed of the situation described above. The FAA has examined the findings of TCCA, 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 the Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of this same type design registered in the United States, this airworthiness directive is issued to prevent ignition of fuel vapor in the center wing tank and consequent fire and explosion. The AD requires deactivation of the center tank fuel transfer shutoff valves by opening circuit breakers and installing a circuit breaker lock ring and disconnecting and stowing the electrical wiring. Those actions are required to be accomplished in accordance with the alert service bulletin described previously.

This AD also requires replacing certain valves with valves having a different part number, reconnecting certain circuit breaker wires, removing lock rings, and resetting the associated circuit breakers. For certain airplanes, this AD requires an AFM revision to prohibit operation with more than 200 pounds of fuel in the center fuel tank. This AD also has a provision for operating other airplanes with the center fuel tank full and with both fuel transfer shutoff valves inoperative.

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 December 14, 2001, to all known U.S. owners and operators of certain Bombardier Model CL–600–2B19 series airplanes. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to § 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 2001–NM–383–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:

2001–26–51 Bombardier, Inc. (Formerly Canadair): Amendment 39–12577. Docket 2001–NM–383–AD.

Applicability: Model CL–600–2B19 series airplanes, serial numbers 7003 and subsequent, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent ignition of fuel vapor in the center wing tank and consequent fire and explosion, accomplish the following:

Lock Ring Installation

(a) For all airplanes: Within 24 hours after the effective date of this AD, open circuit breakers identified in paragraph 2.B. of the Accomplishment Instructions of Bombardier Alert Service Bulletin A601R–28–045, Revision ''A,'' dated December 7, 2001, and install a lock ring on the circuit breakers, in accordance with PART A of the Accomplishment Instructions of the alert service bulletin.

Note 2: Accomplishment of the requirements of paragraphs (a) and (c) in accordance with Bombardier Alert Service Bulletin A601R–28–045, dated December 6, 2001, prior to the effective date of this AD is acceptable for compliance with the requirements of those paragraphs.

AFM Revision for Certain Airplanes

(b) For airplanes having serial numbers 7003 through 7109 inclusive: Concurrently with the accomplishment of the requirements of paragraph (a) of this AD, determine whether the fuel vent system has been modified in accordance with Bombardier Service Bulletin 601R–28–024, Revision ''A,'' dated November 11, 1998.

(1) For airplanes on which the fuel vent system HAS been modified in accordance with the service bulletin: No further action is required by paragraph (b) of this AD.

(2) For airplanes on which the fuel vent system HAS NOT been modified in accordance with the service bulletin: Prior to further flight, revise the Limitations section of the Airplane Flight Manual (AFM) to include the following (this may be accomplished by inserting a copy of this AD into the AFM):

''THE AIRPLANE MUST NOT BE OPERATED WITH MORE THAN 200 POUNDS OF FUEL IN THE CENTER FUEL TANK.''

Following accomplishment of the requirements of paragraph (d), the AFM revision shall be removed from the AFM. Where the provisions of this AD and the Master Minimum Equipment List (MMEL) differ, this AD prevails.

Disconnection and Stowage of Electrical Wiring

(c) For all airplanes: Within 4 days after the effective date of this AD, disconnect and stow the electrical wires from the circuit breakers opened as required by paragraph (a) of this AD, in accordance with Accomplishment Instructions of Bombardier Alert Service Bulletin A601R–28–045, Revision ''A,'' dated December 7, 2001.

Identification of Valve Part Number

(d) For all airplanes: Within 45 days after the effective date of this AD, determine the part number (P/N) of the fuel transfer shutoff valves installed in the center fuel tank, and accomplish the following, as applicable.

(1) If any valve has P/N 601R62256–5, remove the valve in accordance with Maintenance Manual task number 28–13–43–000–801, and replace it with a valve having P/N 601R62256–3 in accordance with Maintenance Manual task number 28–13–43–400–801; and reactivate the fuel transfer shutoff valve by accomplishing the requirements of paragraph (d)(1)(i) or (d)(1)(ii) of this AD, as applicable.

(i) For airplanes that have NOT been modified in accordance with Bombardier Service Bulletin 601R–28–022: Open the CBP–1; remove protective tubing, if applicable; release ''Unstow'' the wire and reconnect it to its respective breaker CB1–N9, in accordance with Wiring Manual 28–20–50; close the CBP–1; remove the ''INOP'' label and the lock ring from breaker CB1-N9; carry out AMM Task 28–13–43–710–801, ''Operational Test of Fuel Transfer SOV''; and remove the AFM limitation required by paragraphs (b)(2) and (f) of this AD.

(ii) For airplanes that HAVE been modified in accordance with Bombardier Service Bulletin 601R–28–022: Open the CBP–1 and CBP–2; remove protective tubing, if applicable; release ''Unstow'' the wires and reconnect them to their respective breaker CB1–N9 or CB2–P9, in accordance with Wiring Manual 28–20–50; close the CBP–1 and CBP–2; remove the ''INOP'' labels and lock rings from breakers CB1–N9 and CB2–P9; carry out AMM Task 28–13–43–710–801, ''Operational Test of Fuel Transfer SOV''; and remove the AFM limitation required by paragraph (f) of this AD.

(2) If all valves have P/N 601R62256–3, reactivate the fuel transfer shutoff valve by accomplishing the requirements of paragraph (d)(2)(i) or (d)(2)(ii) of this AD, as applicable.

(i) For airplanes that have NOT been modified in accordance with Bombardier Service Bulletin 601R–28–022: Open the CBP–1; remove protective tubing, if applicable; release ''Unstow'' the wire and reconnect it to its respective breaker CB1–N9, in accordance with Wiring Manual 28–20–50; close the CBP–1; remove the ''INOP'' label and the lock ring from breaker CB1–N9; carry out AMM Task 28–13–43–710–801, ''Operational Test of Fuel Transfer SOV''; and remove the AFM limitation required by paragraphs (b)(2) and (f) of this AD.

(ii) For airplanes that HAVE been modified in accordance with Bombardier Service Bulletin 601R–28–022: Open the CBP–1 and CBP–2; remove protective tubing, if applicable; release ''Unstow'' the wires and reconnect them to their respective breaker CB1–N9 or CB2–P9, in accordance with Wiring Manual 28–20–50; close the CBP–1 and CBP–2; remove the ''INOP'' labels and lock rings from breakers CB1–N9 and CB2–P9; carry out AMM Task 28–13–43–710–801, ''Operational Test of Fuel Transfer SOV''; and remove the AFM limitation required by paragraph (f) of this AD.

Dispatch of Airplane With Inoperative Valves

(e) Except as required by paragraph (b) of this AD: The airplane may be operated with the center fuel tank full and with both fuel transfer shutoff valves inoperative (applicable circuit breakers opened as specified by paragraph (a) of this AD), until accomplishment of paragraph (d) of this AD. Where the provisions of this AD and the MMEL differ, this AD prevails.

AFM Revision

(f) Concurrently with accomplishing the actions required by paragraph (a) of this AD, revise the Limitations section of the AFM to include the following (this may be accomplished by inserting a copy of this AD into the AFM):

''Note: When the applicable circuit breakers are opened, power is removed from the fuel transfer shutoff valves (SOVs). The fuel transfer SOVs remain open and will continuously allow the transfer of the fuel from the center tank to the wings. The fuel in the center tank is usable. The wing tanks will indicate FULL until the center tank is empty, and an EICAS LR X–FER SOV message will either indicate ON GROUND, or the message may disappear during climb but will remain on during the remainder of the flight.''

Following accomplishment of the requirements of paragraph (d), the AFM revision shall be removed from the AFM. Where the provisions of this AD and the MMEL differ, this AD prevails.

Spares

(g) As of the effective date of this AD, no person may install a fuel transfer shutoff valve having P/N 601R62256–5 on any airplane.

Alternative Methods of Compliance

(h) 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, New York 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, New York ACO.

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

Special Flight Permits

(i) Special flight permits may be issued in accordance with §§ 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

(j) The actions required by paragraphs (a) and (c) of this AD shall be done in accordance with Bombardier Alert Service Bulletin A601R–28–045, Revision ''A,'' dated December 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 Bombardier, Inc., Canadair, Aerospace Group, PO Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; 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 Canadian airworthiness directive CF–2001–47, dated December 11, 2001.

Effective Date

(k) This amendment becomes effective on January 14, 2002, to all persons except those persons to whom it was made immediately effective by emergency AD 2001–26–51, issued December 14, 2001, which contained the requirements of this amendment.

Issued in Renton, Washington, on December 20, 2001.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–88 Filed 1–7–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NE–61–AD; Amendment 39–12594; AD 2002–01–03]

RIN 2120–AA64

Airworthiness Directives; GE Aircraft Engines CT7 Series Turboprop Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), that is applicable to GE Aircraft Engines (GE) CT7 series turboprop engines. This amendment requires removal of stage 2 turbine aft cooling plates of a certain part number (P/N) and installation of cooling plates of a new design. This amendment is prompted by a report of a stage 2 turbine aft cooling plate cracking, resulting in an uncontained engine failure. The actions specified by this AD are intended to prevent stage 2 turbine aft cooling plate cracking, which could result in uncontained engine failure, and damage to the airplane.

DATES: Effective date February 12, 2002.

FOR FURTHER INFORMATION CONTACT: Barbara Caufield, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone: (781) 238–7146; fax: (781) 238–7199.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that is applicable to GE Aircraft Engines (GE) CT7 series turboprop engines was published in the **Federal Register** on May 2, 2001 (66 FR 21898). That action proposed to require removal of stage 2 turbine aft cooling plates of a certain part number (P/N) and installation of cooling plates of a new design.

Comments

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

One commenter suggests that the Economic Analysis paragraph be changed to reflect that not all cooling plates may be installed in engines, and, therefore, while there may be 564 cooling plates available worldwide, there are not 564 engines that will be affected by the AD. The FAA agrees. Not all cooling plates of the affected design are assembled into engines. GE estimates that only 288 affected cooling plates have been assembled into engines. Therefore, the Economic Analysis statement is changed to reflect that only 288 engines worldwide will be affected. The FAA's estimate for engines of the number of engines installed on airplanes of US registry, however, remains the same.

The manufacturer asks that paragraph (a) and (b) of the Compliance Section be changed by adding serial number prefix GFF to Stage 2 aft cooling plate P/N 6064T07P02. The FAA agrees, because only cooling plates with serial number prefix GFF are affected. The FAA has limited the applicabilty of this AD to just those cooling plates, P/N 6064T07P02 with serial numbers that begin with the letters ''GFF.'' In addition, paragraphs (a) and (b) have been changed accordingly.

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

Economic Analysis

There are approximately 288 engines of the affected design in the worldwide fleet. The FAA estimates that 180 engines installed on airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 0.5 work hour per engine to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required aft cooling plates would cost approximately $15,282 per engine. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $2,756,160. The manufacturer has stated that it may provide the new design aft cooling plate at no cost to operators, and that if the aft cooling plate is replaced at the next engine or hot section module overhaul shop visit, no additional labor costs will be incurred.

Regulatory Analysis

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

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 adding a new airworthiness directive to read as follows:

2002–01–03 GE Aircraft Engines: Amendment 39–12594. Docket 2000–NE–61–AD.

Applicability: This airworthiness directive (AD) is applicable to GE Aircraft Engines (GE) CT7 Models CT7–5A2, –5A3, –7A, and –7A1 turboprop engines with part number (P/N) 6064T07P02 stage 2 aft cooling plates with serial numbers beginning with the letters GFF, installed on but not limited to Construcciones Aeronauticas, SA CN–235 series and SAAB Aircraft AB SF340 series airplanes.

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

repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Compliance is required at the next overhaul of the engine or hot section module, or within 8,000 cycles after the effective date of this AD, whichever occurs first, unless already done.

To prevent stage 2 turbine aft cooling plate cracking, which could result in uncontained engine failure, and damage to the airplane, do the following:

(a) Replace stage 2 aft cooling plates P/N 6064T07P02 with serial numbers that begin with the letters GFF with stage 2 aft cooling plate P/N 6064T07P05.

(b) After the effective date of this AD, do not install any stage 2 aft cooling plates P/N 6064T07P02 with serial numbers that begin with the letters GFF.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Effective Date

(e) This amendment becomes effective on February 12, 2002.

Issued in Burlington, Massachusetts, on December 31, 2001.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 02–302 Filed 1–7–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–AGL–23]

Modification of Class E Airspace; Cleveland, OH; Modification of Class E Airspace; Medina, OH; and Revocation of Class E Airspace; Elyria, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at Cleveland, OH; modify Class E airspace at Medina, OH; and removes Class E airspace at Elyria, OH. An Instrument Landing System (ILS) Standard Instrument Approach Procedure (SIAP) to Runway (Rwy) 28 has been developed for Cleveland-Hopkins International Airport. Controlled airspace extending upward from 700 feet above the surface is needed to contain aircraft executing this approach. This action would increase the existing Class E airspace for Cleveland-Hopkins International Airport and at the same time simplify the extremely complicated existing Class E airspace legal description. Redefining the Class E airspace for Cleveland, OH, would then include the Class E airspace for Elyria, OH. This action would remove the existing Class E airspace for Elyria, OH. Finally, this action would modify the Class E airspace legal description for Medina, OH.

EFFECTIVE DATE: 0901 UTC, February 21, 2002.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Friday, October 6, 2000, the FAA proposed to amend 14 CFR part 71 to modify Class E airspace at Cleveland, OH (65 FR 59765). The proposal was to modify controlled airspace extending upward from the surface to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operations and while transiting between the enroute and terminal environments. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005, of FAA Order 7400.9J dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies Class E airspace at Cleveland and Medina, OH, and removes Class E airspace at Elyria, OH to accommodate aircraft executing instrument flight procedures into and out of Cleveland-Hopkins International Airport, Medina Municipal Airport and Elyria, OH. The area will be depicted on appropriate aeronautical charts.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 95665, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

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

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL OH E5 Cleveland, OH [Revised]

That airspace extending upward from 700 feet above the surface bounded by a line beginning at lat. 41°25′00″ N., long. 82°23′00″ W., to lat. 41°56′00″ N., long. 81°22′00″ W., to lat. 41°48′00″ N., long. 81°02′00″ W., to lat. 41°32′00″ N., long. 81°03′00″ W., to lat. 41°11′00″ N., long. 81°48′00″ W., to lat. 41°11′00″ N., long. 82°21′00″ W., thence to the point of beginning.

* * * * *

AGL OH E5 Medina, OH [Revised]

Medina Municipal Airort
(lat. 41°07′53″ N, long. 81°45′54″ W)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of the Medina Municipal Airport, excluding that airspace within the Cleveland, OH, Class E airspace area.

* * * * *

AGL OH E5 Elyria, OH [Removed]

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Issued in Des Plaines, Illinois on December 7, 2001.

Nancy B. Shelton,

Manager, Air Traffic Division, Great Lakes Region.

[FR Doc. 02–254 Filed 1–7–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 8972]

RIN 1545–AW05

Averaging of Farm Income

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the election to average farm income in computing tax liability. The regulations reflect changes to the law made by the Taxpayer Relief Act of 1997, as amended by the Tax and Trade Relief Extension Act of 1998, and provide guidance to individuals engaged in a farming business.

DATES: *Effective Date:* These regulations are effective January 8, 2002.

Applicability Date: These regulations apply to taxable years beginning after December 31, 2001. However, taxpayers may rely on the rules in these final regulations in computing tax liability for taxable years beginning on or before December 31, 2001.

FOR FURTHER INFORMATION CONTACT: John M. Moran, (202) 622–4940 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in these final regulations has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) under control number 1545–1662. Taxpayers provide the information on Schedule J, ''Farm Income Averaging,'' which is attached to Form 1040, ''U.S. Individual Income Tax Return,'' for the taxable year in which income averaging is elected.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

The burden for this requirement is reflected in the burden estimate for Schedule J. The estimated burden for the 2000 Schedule J is 2 hours per respondent.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be sent to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, W:CAR:MP:FP:S:O, Washington, DC 20224, and to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

Section 1301 was added to the Internal Revenue Code (the Code) by section 933(a) of the Taxpayer Relief Act of 1997 (Public Law 105–34; (111 Stat. 788, 881–82)), as amended by section 2011 of the Tax and Trade Relief Extension Act of 1998 (Division J of H.R. 4328, Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999) (Public Law 105–277 (112 Stat. 2681, 2681–886, 2681–902)). On October 8, 1999, a notice of proposed rulemaking (REG–121063–97) containing proposed regulations under section 1301 was published in the **Federal Register** (64 FR 54836). A number of comments responding to the notice were received and a public hearing was held on February 15, 2000. After consideration of the comments, the proposed regulations are adopted as revised by this Treasury decision.

Explanation of Provisions

Treatment of Wages

The income averaging election is available only to individuals engaged in a farming business and only with respect to income from that business. The proposed regulations provide that farm income does not include wages but the notice of proposed rulemaking invited public comment on whether a different rule should apply to wages paid to a shareholder of an S corporation. Several comments on this issue supported a rule that would permit wages paid by an S corporation to a shareholder to qualify as income from a farming business, and the final regulations adopt this rule.

This change results in comparable treatment for S corporation shareholders, partners, and sole proprietors. A sole proprietor's Schedule F income, whether attributable to capital or labor, is treated as income from the business conducted through the proprietorship. In the case of a partnership engaged in a farming business, income earned by the partners that is attributable to the farming business is similarly treated as farm income for purposes of the income averaging rules whether the income takes the form of a distributive share or a guaranteed payment.

S corporations, like partnerships, are passthrough entities for Federal income tax purposes. In an S corporation, amounts paid to shareholders as wages would, if retained by the corporation, increase the shareholders' income qualifying for the income averaging election. There is no indication in the legislative history of section 1301 that Congress intended disparate treatment of S corporation shareholders depending on whether amounts are paid to the shareholders as wages or allocated to shareholders as a pro rata share of the corporation's income. Accordingly, the final regulations provide consistent treatment for shareholders in S corporations and partners in partnerships. Thus, a shareholder's income that is attributable to the S corporation's farming business qualifies as farm income for purposes of the income averaging rules whether paid to the shareholder as wages or allocated to the shareholder as a pro rata share.

In contrast, a C corporation is not a passthrough entity for Federal income tax purposes. Accordingly, the final regulations do not treat any amounts

paid by a C corporation to its shareholder-employees as farm income.

Treatment of Rental Income

The proposed regulations contain no provision for treating rental income as income from a farming business. This is consistent with the general principle that lessors of farmland are not ordinarily treated as engaged in a farming business with respect to the leased land. Commentators were divided over whether rental income based on a tenant's production (*e.g.*, a crop share) should be treated as income from a farming business for purposes of section 1301. The final regulations provide that income from such arrangements is treated, subject to an anti-abuse rule, as income from a farming business. This rule is consistent with the policy underlying section 1301 of limiting the adverse effects of a progressive rate structure on farmers whose income varies significantly from year to year in response to fluctuations in the farm economy. A landlord's income from a crop-share lease or similar arrangement is affected by fluctuations in the farm economy to the same extent as that of any other farmer. Moreover, regulations under other Code sections provide precedent for the rule in the final regulations. For example, a similar rule in the regulations under section 175 (relating to the deduction for certain soil and water conservation expenditures) treats a landlord who receives rent (either cash or in kind) based on farm production as engaged in the business of farming.

Under the final regulations, a landlord's crop share income reported on Form 4835, ''Farm Rental Income and Expenses,'' Schedule F, ''Profit or Loss From Farming,'' or Part II of Schedule E, ''Supplemental Income or Loss,'' is eligible for income averaging if the landlord's share of a tenant's production is set in a written rental agreement before the tenant begins significant activities on the land. If a landlord receives a fixed rent or a share of a tenant's production that is set after the tenant begins significant activities, the landlord is not considered to be engaged in a farming business with respect to the leased land, and the rental income is not eligible for income averaging, even if the landlord materially participates in the tenant's farming business.

Treatment of Income From Partnerships

A commentator asked whether income attributable to a farming business carried on by a partnership is farm income without regard to the size of a partner's interest in the partnership or the activities of the partner. The commentator also asked how the farm income of a partnership may be allocated. Farm income is allocated under the partnership rules in Subchapter K of the Code, and these regulations do not modify those rules. The final regulations, like the proposed regulations, permit income attributable to a farming business carried on by a partnership to be averaged without regard to the partner's level of participation in the partnership or size of ownership interest.

Effect of Adjustments

A commentator requested that the final regulations expressly require an amended return if there is a change to a base year return as a result of either an IRS or taxpayer initiated adjustment. The IRS and Treasury do not believe that a special rule in the final regulations is necessary to address this point, as the situation is not unique to section 1301. If the election year tax liability is changed as a result of an adjustment to a base year, then, as with any correction, an amended return should be made for the election year if the statute of limitations is open.

Making, Changing, or Revoking an Election

Under the proposed regulations an individual may not make a late election, change an election, or revoke an election unless there has been an adjustment to taxable income or tax liability or the Commissioner has consented. One comment suggested that these limitations on a taxpayer's ability to make, change, or revoke an election should be eliminated. This suggestion has been adopted. Under the final regulations, a taxpayer may make a late election, change an election, or revoke an election subject only to the generally applicable rules on the period of limitations on filing a claim for credit or refund.

Negative Taxable Income

A number of commentators criticized the computational rules contained in Schedule J, Farm Income Averaging, for 1999 and earlier years. These rules prohibited the use of a negative amount for a base year's taxable income. The commentators suggested that taxpayers should be permitted to use a negative amount if appropriate adjustments are made for amounts, such as net operating losses, that may provide a tax benefit in another taxable year.

The final regulations adopt this suggestion. Thus, a base year's taxable income may be negative but amounts, such as a net operating loss or certain capital losses, that may be deducted in one or more other taxable years in the form of a carryover or carryback must be added back in computing negative taxable income. The Schedule J for years after 1999 includes worksheets and instructions for determining negative taxable income for purposes of the income averaging computation.

Calculation of Section 1 Tax

The proposed regulations provide that the tax is computed by reducing the election year taxable income by the applicable amount and increasing taxable income for the base years by one-third of that amount. One commentator suggested that taxable income for the election year should be computed by excluding the elected amount from the taxpayer's gross income. This would reduce adjusted gross income, which in turn might reduce the effect of limitations and phase-outs based on adjusted gross income. The statutory language unambiguously provides, however, that any election-year decrease (or base-year increase) must be made to taxable income. Moreover, consistent application of the rule suggested in the comment would require recomputation of adjusted gross income and all related limitations and phase-outs in base years. This would substantially increase the complexity of the income averaging computation. Accordingly, the final regulations do not adopt this suggestion.

Farm Income

A commentator suggested that the final regulations list specific items of income and deductions to clarify which items are attributable to a farming business under section 1301. The regulations are not a suitable format for providing the comprehensive guidance requested because of the difficulty in identifying the myriad items of income and expense that may be attributable to a farming business and because, in each case, a determination based on specific facts and circumstances is necessary. Taxpayers are encouraged to raise questions they may have concerning any specific types of income so that guidance can be given by revenue ruling, instructions, or other appropriate means.

The proposed regulations treat gain from the sale or other disposition of property (other than land) as attributable to a farming business if, taking into account all the facts and circumstances, the property was regularly used in the farming business for a substantial period of time. A commentator asked that the final regulations provide more specific

guidance on what constitutes a substantial period of time. The final regulations provide that property that has always been used solely in the farming business by the individual is deemed to meet both the regularly used and substantial period tests. For property not used solely in the farming business, what constitutes regular use or a substantial period of time is likely to vary significantly, depending upon the facts of the taxpayer's business. Accordingly, the final regulations retain the facts-and-circumstances test for such property.

The proposed regulations establish a presumption that sales or dispositions of property used in a farming business are attributable to that business if they occur within one year of its cessation. One comment expressed concern that this presumption may be construed as establishing a contrary presumption for sales or dispositions occurring after that one-year period. The comment suggested extending the period to two years, arguing that it is not uncommon for sales or dispositions of farm property to continue for more than one year after the cessation of the farming business, particularly in economically depressed areas.

The final regulations do not adopt this suggestion. The regulatory presumption is, however, only a safe harbor for sales or dispositions of property occurring within the one-year period; no contrary presumption is stated or implied for sales or dispositions occurring after that period. Rather, the determination of whether those sales or dispositions are attributable to a farming business appropriately depends upon all the facts and circumstances.

One commentator proposed an example to illustrate that elected farm income may not exceed taxable income, using a gross farm income amount reduced by farming deductions and the standard deduction. The regulations illustrate, as simply as possible, that elected farm income cannot exceed taxable income. These computations are illustrated in greater detail in Pub. 225, ''Farmer's Tax Guide,'' which provides a sample tax return including a Schedule J.

Similarly, one commentator requested examples demonstrating calculations involving capital gains. Although no such examples are provided in the final regulations, Pub. 225 does provide an example, and the IRS will consider including other examples in future guidance.

Married Taxpayers

Several comments were received regarding the application of the rules to married taxpayers. Two commentators asked how farm income reported on a joint return is associated with the proper spouse in a noncommunity property state. Two other commentators asked about the application of community property laws.

The final regulations do not provide specific guidance on these issues. As a general matter, however, an individual's filing status does not affect determinations regarding whether the individual is engaged in a farming business or the amount of profit or loss from that business reported on the individual's Schedule F, Profit or Loss From Farming, or Schedule K–1, Partner's (Shareholder's) Share of Income, Credits, Deductions, etc. Thus, if only one spouse engages in farming in the election year, only that spouse may have elected farm income, and if both spouses engage in farming, each spouse may have elected farm income from the business in which that spouse is engaged. Similarly, as a general matter, community property laws determine income and property ownership for Federal income tax purposes. Although the Code may provide otherwise in specific instances, there are no such exceptions in either section 1301 or the final regulations.

Alternative Minimum Tax

One commentator requested that the final regulations provide an example showing that the alternative minimum tax limits the benefits of an income averaging election. Although the final regulations do not provide an example of the application of the alternative minimum tax, they continue to note that the income averaging election does not apply for purposes of determining the alternative minimum tax in the election year or any base year, except to the extent the election is taken into account in determining the regular tax offset to the tentative minimum tax. There is no exception in the Code provisions relating to the alternative minimum tax that would permit the minimum tax to be computed without regard to the effect of farm income averaging on the regular tax.

Special Analyses

It has been determined that these final regulations are not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. It is hereby certified that the collection of information in these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that the collection of information imposed by these regulations is not significant as reflected in the estimated burden of information collection for Schedule J, which is 2 hours per respondent. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Code, the IRS submitted the notice of proposed rulemaking to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is John M. Moran of the Office of Associate Chief Counsel, Procedure and Administration (Administrative Provisions and Judicial Practice Division). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 602 are amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding an entry in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * * Section 1.1301–1 also issued under 26 U.S.C. 1301(c). * * *

Par. 2. An undesignated center heading and § 1.1301–1 are added immediately following the center heading ''Readjustment of Tax Between Years and Special Limitations'' to read as follows:

Income Averaging

§ 1.1301–1 Averaging of farm income.

(a) *Overview.* An individual engaged in a farming business may elect to compute current year (election year) income tax liability under section 1 by averaging, over the prior three-year period (base years), all or a portion of

the individual's current year electible farm income as defined in paragraph (e) of this section. To average farm income, the individual—

(1) Designates all or a portion of his or her electible farm income for the election year as elected farm income; and

(2) Determines the election year section 1 tax by determining the sum of—

(i) The section 1 tax that would be imposed for the election year if taxable income for the year were reduced by elected farm income; plus

(ii) For each base year, the amount by which the section 1 tax would be increased if taxable income for the year were increased by one-third of elected farm income.

(b) *Individual engaged in a farming business*—(1) *In general. Farming business* has the same meaning as provided in section 263A(e)(4) and the regulations thereunder. An individual engaged in a farming business includes a sole proprietor of a farming business, a partner in a partnership engaged in a farming business, and a shareholder of an S corporation engaged in a farming business. Services performed as an employee are disregarded in determining whether an individual is engaged in a farming business for purposes of section 1301. An individual is not required to have been engaged in a farming business in any of the base years in order to make a farm income averaging election.

(2) *Certain landlords.* A landlord is engaged in a farming business for purposes of section 1301 with respect to rental income that is based on a share of production from a tenant's farming business and, with respect to amounts received on or after January 1, 2003, is determined under a written agreement entered into before the tenant begins significant activities on the land. A landlord is not engaged in a farming business for purposes of section 1301 with respect to either fixed rent or, with respect to amounts received on or after January 1, 2003, rental income based on a share of a tenant's production determined under an unwritten agreement or a written agreement entered into after the tenant begins significant activities on the land. Whether the landlord materially participates in the tenant's farming business is irrelevant for purposes of section 1301.

(c) *Making, changing, or revoking an election*—(1) *In general.* A farm income averaging election is made by filing Schedule J, ''Farm Income Averaging,'' with an individual's Federal income tax return for the election year (including a late or amended return if the period of limitations on filing a claim for credit or refund has not expired).

(2) *Changing or revoking an election.* An individual may change the amount of the elected farm income in a previous election or revoke a previous election if the period of limitations on filing a claim for credit or refund has not expired for the election year.

(d) *Guidelines for calculation of section 1 tax*—(1) *Actual taxable income not affected.* Under paragraph (a)(2) of this section, a determination of the section 1 tax for the election year involves a computation of the section 1 tax that would be imposed if taxable income for the election year were reduced by elected farm income and taxable income for each of the base years were increased by one-third of elected farm income. The reduction and increases required for purposes of this computation do not affect the actual taxable income for either the election year or the base years. Thus, for each of those years, the actual taxable income is taxable income determined without regard to any hypothetical reduction or increase required for purposes of the computation under paragraph (a)(2) of this section. The following illustrates this principle:

(i) Any reduction or increase in taxable income required for purposes of the computation under paragraph (a)(2) of this section is disregarded in determining the taxable year in which a net operating loss carryover or net capital loss carryover is applied.

(ii) The net section 1231 gain or loss and the character of any section 1231 items for the election year is determined without regard to any reduction in taxable income required for purposes of the computation under paragraph (a)(2) of this section.

(iii) The section 68 overall limitation on itemized deductions for the election year is determined without regard to any reduction in taxable income required for purposes of the computation under paragraph (a)(2) of this section. Similarly, the section 68 limitation for a base year is not recomputed to take into account any allocation of elected farm income to the base year for such purposes.

(iv) If a base year had a partially used capital loss, the remaining capital loss may not be applied to reduce the elected farm income allocated to the year for purposes of the computation under paragraph (a)(2) of this section.

(v) If a base year had a partially used credit, the remaining credit may not be applied to reduce the section 1 tax attributable to the elected farm income allocated to the year for purposes of the computation under paragraph (a)(2) of this section.

(2) *Computation in base years*—(i) *In general.* As provided in paragraph (a)(2)(ii) of this section, the election year section 1 tax includes the amounts by which the section 1 tax for each base year would be increased if taxable income for the year were increased by one-third of elected farm income. For this purpose, all allowable deductions (including the full amount of any net operating loss carryover) are taken into account in determining the taxable income for the base year even if the deductions exceed gross income and the result is negative. If the result is negative, however, any amount that may provide a benefit in another taxable year is added back in determining base year taxable income. Amounts that may provide a benefit in another year include—

(A) The net operating loss (as defined in section 172(c)) for the base year;

(B) The net operating loss for any other year to the extent carried forward from the base year under section 172(b)(2); and

(C) The capital loss deduction allowed for the base year under section 1211(b)(1) or (2) to the extent such deduction does not reduce the capital loss carryover from the base year because it exceeds adjusted taxable income (as defined in section 1212(b)(2)(B)).

(ii) *Example.* The rules of this paragraph (d)(2) are illustrated by the following example:

Example. In 2001, F and F's spouse on their joint return elect to average $24,000 of income attributable to a farming business. One-third of the elected farm income, $8,000, is added to the 1999 base year income. In 1999, F and F's spouse reported adjusted gross income of $7,300 and claimed a standard deduction of $7,200 and a deduction for personal exemptions of $8,250. Therefore, their 1999 base year taxable income is −$8,150 [$7,300 − ($7,200+$8,250)]. After adding the elected farm income to the negative taxable income, their 1999 base year taxable income would be zero [$8,000+(−$8,150)=−$150]. If F and F's spouse elected to income average in 2002, and made the adjustments described in paragraph (d)(3) of this section to account for the 2001 election, their 1999 base year taxable income for the 2002 election would be −$150.

(3) *Effect on subsequent elections*—(i) *In general.* The reduction and increases in taxable income assumed in computing the election year section 1 tax (within the meaning of paragraph (a)(2) of this section) for an election year are treated as having actually occurred for purposes of computing the election year section 1 tax for any subsequent

election year. Thus, if a base year for a farm income averaging election is also an election year for another farm income averaging election, the increase in the section 1 tax for that base year is determined after reducing taxable income by the elected farm income from the earlier election year. Similarly, if a base year for a farm income averaging election is also a base year for another farm income averaging election, the increase in the section 1 tax for that base year is determined after increasing taxable income by elected farm income allocated to the year from the earlier election year.

(ii) *Example.* The rules of this paragraph (d)(3) are illustrated by the following example:

Example. (i) In each of years 1998, 1999, and 2000, T had taxable income of $20,000. In 2001, T had taxable income of $30,000 (prior to any farm income averaging election) and electible farm income of $10,000. T makes a farm income averaging election with respect to $9,000 of his electible farm income for 2001. Thus, for purposes of the computation under paragraph (a)(2) of this section, $3,000 of elected farm income is allocated to each of years 1998, 1999, and 2000. T's 2001 tax liability is the sum of—

(A) The section 1 tax on $21,000 (2001 taxable income minus elected farm income); plus

(B) For each of years 1998, 1999, and 2000, the section 1 tax on $23,000 minus the section 1 tax on $20,000 (the amount by which section 1 tax would be increased if one-third of elected farm income were allocated to such year).

(ii) In 2002, T has taxable income of $50,000 and electible farm income of $12,000. T makes a farm income averaging election with respect to all $12,000 of his electible farm income for 2002. Thus, for purposes of the computation under paragraph (a)(2) of this section, $4,000 of elected farm income is allocated to each of years 1990, 2000, and 2001. T's 2002 tax liability is the sum of—

(A) The section 1 tax on $38,000 (2002 taxable income minus elected farm income); plus

(B) For each of years 1999 and 2000, the section 1 tax on $27,000 minus the section 1 tax on $23,000 (the amount by which section 1 tax would be increased if one-third of elected farm income were allocated to such years after increasing taxable income for such years by the elected income allocated to such years from the 2001 election year); plus

(C) For year 2001, the section 1 tax on $25,000 minus the section 1 tax on $21,000 (the amount by which section 1 tax would be increased if one-third of elected farm income were allocated to such year after reducing taxable income for such year by the 2001 elected farm income).

(e) *Electible farm income*—(1) *Identification of items attributable to a farming business*—(i) *In general.* Farm income includes items of income, deduction, gain, and loss attributable to the individual's farming business. Farm losses include a net operating loss carryover or carryback, or a net capital loss carryover, to an election year that is attributable to a farming business. Income, gain, or loss from the sale of development rights, grazing rights, and other similar rights is not treated as attributable to a farming business. In general, farm income does not include compensation received by an employee. However, a shareholder of an S corporation engaged in a farming business may treat compensation received from the corporation that is attributable to the farming business as farm income.

(ii) *Gain or loss on sale or other disposition of property*—(A) *In general.* Gain or loss from the sale or other disposition of property that was regularly used in the individual's farming business for a substantial period of time is treated as attributable to a farming business. For this purpose, the term *property* does not include land, but does include structures affixed to land. Property that has always been used solely in the farming business by the individual is deemed to meet both the regularly used and substantial period tests. Whether property not used solely in the farming business was regularly used in the farming business for a substantial period of time depends on all of the facts and circumstances.

(B) *Cessation of a farming business.* If gain or loss described in paragraph (e)(1)(ii)(A) of this section is realized after cessation of a farming business, such gain or loss is treated as attributable to a farming business only if the property is sold within a reasonable time after cessation of the farming business. A sale or other disposition within one year of cessation of the farming business is presumed to be within a reasonable time. Whether a sale or other disposition that occurs more than one year after cessation of the farming business is within a reasonable time depends on all of the facts and circumstances.

(2) *Determination of amount that may be elected farm income*—(i) *Electible farm income.* The maximum amount of income that an individual may elect to average (electible farm income) is the sum of any farm income and gains minus any farm deductions or losses (including loss carryovers and carrybacks) that are allowed as a deduction in computing the individual's taxable income. However, electible farm income may not exceed taxable income. In addition, electible farm income from net capital gain attributable to a farming business cannot exceed total net capital gain. Subject to these limitations, an individual who has both ordinary and net capital gain farm income may elect to average any combination of such ordinary and net capital gain farm income.

(ii) *Examples.* The rules of paragraph (e)(2)(i) of this section are illustrated by the following examples:

Example 1. A has farm gross receipts of $200,000 and farm ordinary deductions of $50,000. A's taxable income is $150,000 ($200,000 − $50,000). A's electible farm income is $150,000, all of which is ordinary income.

Example 2. B has ordinary farm income of $200,000 and ordinary nonfarm losses of $50,000. B's taxable income is $150,000 ($200,000 − $50,000). B's electible farm income is $150,000, all of which is ordinary income.

Example 3. C has a farm capital gain of $50,000 and a nonfarm capital loss of $40,000. C also has ordinary farm income of $60,000. C has taxable income of $70,000 ($50,000 − $40,000+$60,000). C's electible farm income is $70,000. C can elect to average up to $10,000 of farm capital gain and up to $60,000 of farm ordinary income.

Example 4. D has a nonfarm capital gain of $40,000 and a farm capital loss of $30,000. D also has ordinary farm income of $100,000. D has taxable income of $110,000 ($40,000 − $30,000+$100,000). D's electible farm income is $70,000 ($100,000 ordinary farm income minus $30,000 farm capital loss), all of which is ordinary income.

Example 5. E has a nonfarm capital gain of $20,000 and a farm capital loss of $30,000. E also has ordinary farm income of $100,000. E has taxable income of $97,000 ($20,000 − $23,000 ($30,000 loss limited by section 1211(b))+$100,000). E has a farm capital loss carryover of $7,000 ($30,000 − $23,000 allowed as a deduction). E's electible farm income is $77,000 ($100,000 ordinary farm income minus $23,000 farm capital loss), all of which is ordinary income.

(f) *Miscellaneous rules*—(1) *Short taxable year*—(i) *In general.* If a base year or an election year is a short taxable year, the rules of section 443 and the regulations thereunder apply for purposes of calculating the section 1 tax.

(ii) *Base year is a short taxable year.* If a base year is a short taxable year, elected farm income is allocated to such year for purposes of paragraph (a)(2) of this section after the taxable income for such year has been annualized.

(iii) *Election year is a short taxable year.* In applying paragraph (a)(2) of this section for purposes of determining tax computed on the annual basis (within the meaning of section 443(b)(1)) for an election year that is a short taxable year—

(A) The taxable income and the electible farm income for the year are annualized; and

(B) The taxpayer may designate all or any part of the annualized electible farm income as elected farm income.

(2) *Changes in filing status.* An individual is not prohibited from making a farm income averaging election solely because the individual's filing status is not the same in an election year and the base years. For example, an individual who files married filing jointly in the election year, but filed as single in one or more of the base years, may still elect to average farm income using the single filing status used in the base year.

(3) *Employment tax.* A farm income averaging election has no effect in determining the amount of wages for purposes of the Federal Insurance Contributions Act (FICA), the Federal Unemployment Tax Act (FUTA), and the Collection of Income Tax at Source on Wages (Federal income tax withholding), or the amount of net earnings from self-employment for purposes of the Self-Employment Contributions Act (SECA).

(4) *Alternative minimum tax.* A farm income averaging election does not apply in determining the section 55 alternative minimum tax for any base year or the section 55(b) tentative minimum tax for the election year or any base year. The election does, however, apply in determining the regular tax under sections 53(c) and 55(c) for the election year.

(5) *Unearned income of minor child.* In an election year, if a minor child's investment income is taxable under section 1(g) and a parent makes a farm income averaging election, the tax rate used for purposes of applying section 1(g) is the rate determined after application of the election. In a base year, however, the tax on a minor child's investment income is not affected by a farm income averaging election.

(g) *Effective date.* The rules of this section apply to taxable years beginning after December 31, 2001, except with respect to the written agreement requirement of paragraph (b)(2) of this section.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 3. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 4. In § 602.101, paragraph (b) is amended by adding an entry in numerical order to the table to read as follows:

§ 602.101 OMB control numbers.

* * * * *

(b) * * *

CFR part or section where identified and described	Current OMB control No.
* * * * *	
1.1301–1	1545–1662
* * * * *	

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

Approved: December 12, 2001.

Mark Weinberger,

Assistant Secretary of the Treasury.

[FR Doc. 02–183 Filed 1–7–02; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AK–21–1709–a; FRL–7123–2]

Approval and Promulgation of State Implementation Plans; Inspection and Maintenance Program and Fuel Requirements: Alaska

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) approves two revisions to the carbon monoxide (CO) Alaska State Implementation Plan (SIP) in the Alaska Administrative Code (AAC). These two revisions to the SIP were submitted on February 24, 2000 and February 2, 2001. EPA is also granting final approval of Alaska's revised Inspection and Maintenance (I/M) Program SIP credit claim to 100% of credit applied to centralized I/M programs under Section 348 of the National Highway System Designation Act. This claim was resubmitted on November 7, 2001.

DATES: This direct final rule is effective on March 11, 2002 without further notice, unless EPA receives adverse comment by February 7, 2002. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be addressed to: Mr. Wayne Elson, Office of Air Quality (OAQ–107), EPA, 1200 Sixth Avenue, Seattle, Washington 98101.

Copies of the State's submittals and other information supporting this action are available for inspection during normal business hours at the following locations: EPA, Region 10, Office of Air Quality, 1200 Sixth Avenue (OAQ–107), Seattle, Washington 98101, and the Alaska Department of Environmental Conservation, 410 Willoughby Avenue, Suite 105, Juneau, Alaska 99801–1795.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne Elson, Office of Air Quality (OAQ–107), EPA, Seattle, Washington 98101, (206) 553–1463.

SUPPLEMENTARY INFORMATION: The information in this section is organized as follows:

A. What SIP amendments is EPA approving?
B. What are I/M programs?
C. What are the changes that have been made to Alaska's I/M program that EPA is approving?
D. What is the new ''sticker program''?
E. What changes are being made to oxygenated fuel requirements?
F. What is I/M program credit?
G. What is the basis for EPA's final approval of Alaska's I/M program credit claim of 100%?
H. How do these approvals effect on-going air quality planning in Alaska?

A. What SIP Amendments Is EPA Approving?

The following table outlines the submittals EPA received and is approving in this action:

Date of submittal to EPA	Items revised
2–24–2000	—Alaska State Air Quality Control Plan: Volume II, Sections II, III.A., III.B., and III.C. —Emissions Inspection and Maintenance Requirements for Motor Vehicles 18 AAC 52. —Alaska Inspection and Maintenance Program Manual Amendments 18 AAC 50.
2–2–2001	—Alaska State Air Quality Control Plan: Volume II, Sections II, III.A., III.B., and III.C. 18 AAC 50. —Emissions Inspection and Maintenance Requirements for Motor Vehicles 18 AAC 52. —Fuel Requirements for Motor Vehicles, and Air Quality Control Plan 18 AAC 53.

Date of submittal to EPA	Items revised
11–7–2001	—Alaska ECOS/STAPPA/EPA I/M Credit Evaluation Data resubmittal under the National Highway System Designation Act.

The SIP revisions cover amendments to I/M requirements for Motor Vehicles (18 AAC 52), the State Air Quality Control Plan (18 AAC 50), and Fuel Requirements for Motor Vehicles (18 AAC 53). The most salient aspects of these rule changes include: requiring new I/M equipment specifications and amending the Alaska I/M Program Manual; delaying the start date for On-Board Diagnostic (OBD II) I/M test requirements; making vehicle stickers mandatory; removing the ''fast fail'' option and begin to require that all inspections be full and complete; and streamlining and updating several portions of the Alaska Air Quality Control Plan for more efficient reading and organization. This final approval of Alaska's I/M program credit claim to 100% removes the interim status of EPA's interim approvals of October 10, 1996 (61 FR 53163) and May 19, 1997 (62 FR 27199) for 85% of credit applied to centralized I/M programs.

B. What Are I/M Programs?

In local areas I/M programs are designed to reduce motor vehicle emissions by requiring that vehicles periodically pass a tailpipe emissions test or, depending on the model year, a check of the OBD II system. Vehicles emissions are reduced when vehicles are repaired in order to pass these tests.

C. What Are the Changes That Have Been Made To Alaska's I/M Program That EPA Is Approving?

The changes being made update the I/M regulations and program manual to include new equipment specifications scheduled for early in the year 2000. These are called the ''Alaska 2000 Emissions Inspection System''. The new specifications are necessary to replace any obsolete hardware and software with up-to-date versions; to avoid possible Y2K malfunctions; and to incorporate federal requirements for OBD II I/M emissions testing on new vehicles. Other changes include: implementing a vehicle sticker requirement to help visually identify vehicles in compliance with the program; removing of the ''fast fail'' option and requiring that all inspections be full and complete; increasing the state's flexibility in establishing motorist response time when they are issued a violation; expanding equipment manufacturer enforcement and certification criteria; and expanding the definition of ''motorist'' to include any operator of a motor vehicle within a nonattainment area. Also the start date for OBD II I/M test requirements will be delayed from January, 1, 2001 to July 1, 2001. The Air Quality Control Plan will be updated for equipment references, make ''plain English'' clarifications, remove redundancies, and update program information.

D. What Is the New ''Sticker Program''?

EPA first approved the use of a sticker program in Alaska for the I/M program in a previous SIP revision (64 FR 72940, December 29, 1999). The new provision requires that the highly visible ''sticker'' program be implemented. This is to help visually identify vehicles in compliance with the I/M program.

E. What Changes Are Being Made To Oxygenated Fuel Requirements?

Gasoline fuel distributors, also referred to as Control Area Responsible parties (CAR), pay fees to ADEC to operate the oxygenated fuel program. These fees are being reduced to better match the costs of implementing the requirements of the oxygenated fuels program. This will reduce the initial costs by the CAR and reduce the unused fees refunded by ADEC at the end of the year.

F. What Is I/M Program Credit?

The National Highway System Designation Act of 1995 allowed states implementing a decentralized I/M programs, such as Alaska, to submit a SIP amendment that would allow more emissions credit than allowed under the automatic discount of 50% programmed in EPA's mobile emissions model (currently MOBILE5).

G. What Is the Basis for EPA's Final Approval of Alaska's I/M Credit Claim of 100%?

EPA is approving the I/M program credit claim of 100% under Section 348 of the National Highway System Designation Act of 1995 and Section 110 of the Clean Air Act. EPA proposed interim approvals on October 10, 1996 (61 FR 53163) and May 19, 1997 (62 FR 27199) for 85% of credit applied to centralized I/M programs. No comments were received by EPA on these interim approvals. The state subsequently submitted a qualitative program evaluation to document the credit claim on November 18, 1998. However, the state recognized that this credit request was probably conservative and that, based on new information and program changes, the Anchorage and Fairbanks I/M programs could justifiably request 100% credit. The state resubmitted the qualitative program on November 7, 2001, claiming 100% of centralized I/M program credit. This was done with the provision that Anchorage or Fairbanks I/M programs could select a lower level of credit (such as 85%). This would be viewed as taking a more conservative approach in air quality planning rather than a less stringent I/M program.

The qualitative program evaluation which was already submitted (Alaska ECOS/STAPPA/EPA I/M Program Evaluation Data Submittal, November 1998) demonstrates that Alaska's decentralized I/M program is similar to that of Oregon's centralized I/M program. Other improvements in Alaska's I/M program between 1995 and 2001 help reinforce this claim. Among these improvements include new test equipment, test procedures and quality control/quality assurance procedures that increase test accuracy and reduce fraud.

H. How Do These Approvals Effect On-Going Air Quality Planning in Alaska?

The Municipality of Anchorage and Fairbanks North Star Borough are currently preparing and submitting SIP revisions to demonstrate attainment of the national ambient air quality standard for carbon monoxide. The I/M program is an important and integral part of the ongoing local control measures for both communities. EPA's approval of these submittals, which include improvements and updates to the I/M programs in each community will support and strengthen these programs.

I. Summary of Action

The SIP revisions include amendments to I/M requirements for Motor Vehicles (18 AAC 52), the State Air Quality Control Plan (18 AAC 50), and Fuel Requirements for Motor Vehicles (18 AAC 53). EPA approves streamlining and updating of several portions of the Alaska Air Quality Control Plan for more efficient reading and organization. This action also promulgates final approval of Alaska's I/M program credit claim to 100% and removes the interim status of EPA's interim approvals of October 10, 1996

(61 FR 53163) and May 19, 1997 (62 FR 27199) for 85% of credit applied to centralized I/M programs.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective March 11, 2002 without further notice unless the Agency receives adverse comments by February 7, 2002.

If the EPA receives such comments, then EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this action. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on March 11, 2002 and no further action will be taken on the proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

II. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

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

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

Under Section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 11, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* Section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Reporting and record keeping requirements.

Dated: December 12, 2001.

L. John Iani,

Regional Administrator, Region 10.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart C—Alaska

2. Section 52.70 is amended by adding paragraph (c) (31) to read as follows:

§ 52.70 Identification of plan.

* * * * *

(c) * * *

(31) The Environmental Protection Agency (EPA) approves various amendments to the Alaska State Air Quality Control Plan which are contained in two separate submittals to EPA, dated February 24, 2000 and February 2, 2001, and which include the inspection and maintenance and fuels program.

(i) Incorporation by reference.

(A) Air Quality Control Regulations, 18 AAC 50. Effective December 30, 2000: Section 030.

(B) Emissions Inspection and Maintenance Requirements for Motor Vehicles 18 AAC 52.

(*1*) Effective January 1, 2000: Sections 005; 015; 020; 025; 035; 037; 055; 060;

065; 070; 085; 100; 105; 410; 415; 420; 440; 500; 510; 515; 520; 525; 527; 530; 535; and 540.

(*2*) Effective December 30, 2000: Sections 050 and 990.

(C) Fuel Requirements for Motor Vehicles 18 AAC 53. Effective December 30, 2000: Section 080.

[FR Doc. 02–218 Filed 1–7–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[VA001–1000; FRL–7126–8]

Approval of Section 112(l) Authority for Hazardous Air Pollutants; State of Virginia; Department of Environmental Quality

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule and delegation.

SUMMARY: EPA is taking direct final action to approve the Virginia Department of Environmental Quality's (VADEQ's) request for delegation of authority to implement and enforce Virginia's hazardous air pollutant regulations for perchloroethylene drycleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning, secondary lead smelting, hazardous waste combustors, portland cement manufacturing, and secondary aluminum smelting which have been adopted by reference from the Federal requirements set forth in the Code of Federal Regulations (CFR). This approval will automatically delegate future amendments to these regulations once VADEQ incorporates those amendments into its regulations. In addition, EPA is taking direct final action to approve of VADEQ's mechanism for receiving delegation of future hazardous air pollutant regulations. This mechanism entails VADEQ's incorporation by reference of the Federal standards, unchanged, into its hazardous air pollutant regulations and VADEQ's notification to EPA of such incorporations. EPA is not waiving its notification and reporting requirements under this approval; therefore, sources will need to send notifications and reports to both VADEQ and EPA. This action pertains only to affected sources, as defined by the Clean Air Act's (CAA's or the Act's) hazardous air pollutant program, which are not located at major sources, as defined by the CAA's operating permit program. The VADEQ's request for delegation of authority to implement and enforce its hazardous air pollutant regulations at affected sources which are located at major sources, as defined by the CAA's operating permit program, was initially approved on April 20, 1998. EPA is taking this action in accordance with the CAA.

DATES: This direct final rule will be effective March 11, 2002 unless EPA receives adverse or critical comments by February 7, 2002. If adverse comment is received, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments on this action should be sent concurrently to: Makeba A. Morris, Chief, Permits and Technical Assessment Branch, Mail Code 3AP11, Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103–2029, and Dennis H. Treacy, Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103 and the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: Dianne J. McNally, U.S. Environmental Protection Agency, Region 3, 1650 Arch Street (3AP11), Philadelphia, PA 19103–2029, *mcnally.dianne@epa.gov* (telephone 215–814–3297). Please note that any formal comments must be submitted, in writing, as provided in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION:

I. Background

Section 112(l) of the Act and Title 40 Code of Federal Regulations (40 CFR) part 63, subpart E authorize EPA to approve of State rules and programs to be implemented and enforced in place of certain CAA requirements, including the National Emission Standards for Hazardous Air Pollutants (NESHAPs) set forth at 40 CFR part 63. EPA promulgated the program approval regulations on November 26, 1993 (58 FR 62262) and subsequently amended these regulations on September 14, 2000 (65 FR 55810). An approvable State program must contain, among other criteria, the following elements:

(a) a demonstration of the state's authority and resources to implement and enforce regulations that are at least as stringent as the NESHAP requirements;

(b) a schedule demonstrating expeditious implementation of the regulation; and

(c) a plan that assures expeditious compliance by all sources subject to the regulation.

On April 20, 1998, the VADEQ received delegation of authority to implement all emission standards promulgated in 40 CFR part 63, as they apply to major sources, as defined by 40 CFR part 70. On May 25, 2001, VADEQ submitted to EPA a request to receive delegation of authority to implement and enforce the hazardous air pollutant regulations for the remaining affected sources defined in 40 CFR part 63. At the present time, this request includes the regulations for perchloroethylene drycleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning, secondary lead smelting, hazardous waste combustors, portland cement manufacturing, and secondary aluminum smelting which have been adopted, by reference, from the Federal requirements set forth in 40 CFR part 63, subparts M, N, O, T, X, EEE, LLL and RRR, respectively. The VADEQ also requested that EPA automatically delegate future amendments to these regulations and approve VADEQ's mechanism for receiving delegation of future hazardous air pollutant regulations which it adopts, unchanged, from the Federal requirements. This mechanism entails VADEQ's incorporation, by reference, of the Federal standard, unchanged, into its regulation for hazardous air pollutant sources found at 9 VAC 5–60–100, and notification to EPA of each such incorporation.

II. EPA's Analysis of VADEQ's Submittal

Based on VADEQ's program approval request and its pertinent laws and regulations, EPA has determined that such an approval is appropriate in that VADEQ has satisfied the criteria of 40 CFR 63.91. In accordance with 40 CFR 63.91(d)(3)(i), VADEQ submitted a written finding by the Commonwealth's Attorney General which demonstrates that the State has the necessary legal authority to implement and enforce its regulations, including the enforcement authorities which meet 40 CFR 70.11, the authority to request information from regulated sources and the authority to inspect sources and records to determine compliance status. In accordance with 40 CFR 63.91(d)(3)(ii),

VADEQ submitted copies of its statutes, regulations and requirements that grant authority to VADEQ to implement and enforce the regulations. In accordance with 40 CFR 63.91(d)(3)(iii)–(v), VADEQ submitted documentation of adequate resources and a schedule and plan to assure expeditious implementation by the Commonwealth and compliance by all sources. Therefore, the VADEQ program has adequate and effective authorities, resources, and procedures in place for implementation and enforcement of sources subject to the requirements of 40 CFR part 63, subparts M, N, O, T, X, EEE,[1] LLL and RRR, as well as any future emission standards, should VADEQ seek delegation for these standards. The VADEQ adopts the emission standards promulgated in 40 CFR part 63 into its regulation for hazardous air pollutant sources at 9 VAC 5–60–100. The VADEQ has the primary authority and responsibility to carry out all elements of these programs for all sources covered in Virginia, including on-site inspections, record keeping reviews, and enforcement.

III. Terms of Program Approval and Delegation of Authority

In order for VADEQ to receive automatic delegation of future amendments to the perchloroethylene drycleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning, secondary lead smelting, hazardous waste combustors,[2] portland cement manufacturing, and secondary aluminum smelting regulations, as they apply to facilities that are not located at major sources, as defined by 40 CFR part 70, each amendment must be legally adopted by the State of Virginia. As stated earlier, these amendments are adopted into VADEQ's regulation for hazardous air pollutant sources at 9 VAC 5–60–100. The delegation of amendments to these rules will be finalized on the effective date of the legal adoption. The VADEQ will notify EPA of its adoption of the Federal regulation amendments.

EPA has also determined that VADEQ's mechanism for receiving delegation of future hazardous air pollutant regulations which it adopts unchanged from the Federal requirements, as they apply to facilities that are not located at major sources, as defined by 40 CFR part 70, can be approved. This mechanism requires VADEQ to legally adopt the Federal regulation into its regulation for hazardous air pollutant sources at 9 VAC 5–60–100. The delegation will be finalized on the effective date of the legal adoption. The VADEQ will notify EPA of its adoption of the Federal regulation. The official notice of delegation of additional emission standards will be published in the **Federal Register**. As noted earlier, VADEQ's program to implement and enforce all emission standards promulgated under 40 CFR part 63, as they apply to major sources, as defined by 40 CFR part 70, was previously approved on April 20, 1998.

The notification and reporting provisions in 40 CFR part 63 requiring the owners or operators of affected sources to make submissions to the Administrator shall be met by sending such submissions to VADEQ and EPA Region III.

If at any time there is a conflict between a VADEQ regulation and a Federal regulation, the Federal regulation must be applied if it is more stringent than that of VADEQ. EPA is responsible for determining stringency between conflicting regulations. If VADEQ does not have the authority to enforce the more stringent Federal regulation, it shall notify EPA Region III in writing as soon as possible, so that this portion of the delegation may be revoked.

If EPA determines that VADEQ's procedure for enforcing or implementing the 40 CFR part 63 requirements is inadequate, or is not being effectively carried out, this delegation may be revoked in whole or in part in accordance with the procedures set out in 40 CFR 63.96(b).

Certain provisions of 40 CFR part 63 allow only the Administrator of EPA to take further standard setting actions. In addition to the specific authorities retained by the Administrator in 40 CFR 63.90(d) and the ''Delegation of Authorities'' section for specific standards, EPA Region III is retaining the following authorities, in accordance with 40 CFR 63.91(g)(2)(ii):

(1) approval of alternative non-opacity emission standards, *e.g.*, 40 CFR 63.6(g) and applicable sections of relevant standards;

(2) approval of alternative opacity standards, *e.g.*, 40 CFR 63.9(h)(9) and applicable sections of relevant standards;

(3) approval of major alternatives to test methods, as defined in 40 CFR 63.90(a), *e.g.*, 40 CFR 63.7(e)(2)(ii) and (f) and applicable sections of relevant standards;

(4) approval of major alternatives to monitoring, as defined in 40 CFR 63.90(a), *e.g.*, 40 CFR 63.8(f) and applicable sections of relevant standards; and

(5) approval of major alternatives to recordkeeping and reporting, as defined in 40 CFR 63.90(a), *e.g.*, 40 CFR 63.10(f) and applicable sections of relevant standards.

The following provisions are included in this delegation, in accordance with 40 CFR 63.91(g)(1)(i), and can only be exercised on a case-by-case basis. When any of these authorities are exercised, VADEQ must notify EPA Region III in writing:

(1) applicability determinations for sources during the title V permitting process and as sought by an owner/operator of an affected source through a formal, written request, *e.g.*, 40 CFR 63.1 and applicable sections of relevant standards;[3]

(2) responsibility for determining compliance with operation and maintenance requirements, *e.g.*, 40 CFR 63.6(e) and applicable sections of relevant standards;

(3) responsibility for determining compliance with non-opacity standards, *e.g.*, 40 CFR 63.6(f) and applicable sections of relevant standards;

(4) responsibility for determining compliance with opacity and visible emission standards, *e.g.*, 40 CFR 63.6(h) and applicable sections of relevant standards;

(5) approval of site-specific test plans,[4] *e.g.*, 40 CFR 63.7(c)(2)(i) and (d) and applicable sections of relevant standards;

(6) approval of minor alternatives to test methods, as defined in 40 CFR 63.90(a), *e.g.*, 40 CFR 63.7(e)(2)(i) and

[1] Delegation of the National Emission Standard for Hazardous Air Pollutants from Hazardous Waste Combustors (40 CFR part 63, subpart EEE) could be affected by the July 24, 2001 ruling by the United States Court of Appeals for the District of Columbia Circuit which vacated the rule.

[2] See Footnote 1.

[3] Applicabililty determinations are considered to be nationally significant when they:

(i) are unusually complex or controversial;

(ii) have bearing on more than one state or are multi–Regional;

(iii) appear to create a conflict with previous policy or determinations;

(iv) are a legal issue which has not been previously considered; or

(v) raise new policy questions and shall be forwarded to EPA Region III prior to finalization.

Detailed information on the applicability determination process may be found in EPA document 305–B–99–004 *How to Review and Issue Clean Air Act Applicability Determinations and Alternative Monitoring,* dated February 1999. The VADEQ may also refer to the Compendium of Applicability Determinations issued by the EPA and may contact EPA Region III for guidance.

[4] The VADEQ will notify EPA of these approvals on a quarterly basis by submitting a copy of the test plan approval letter. Any plans which propose major alternative test methods or major alternative monitoring methods shall be referred to EPA for approval.

applicable sections of relevant standards;

(7) approval of intermediate alternatives to test methods, as defined in 40 CFR 63.90(a), *e.g.*, 40 CFR 63.7(e)(2)(ii) and (f) and applicable sections of relevant standards;

(8) approval of shorter sampling times/volumes when necessitated by process variables and other factors, *e.g.*, 40 CFR 63.7(e)(2)(iii) and applicable sections of relevant standards;

(9) waiver of performance testing, *e.g.*, 40 CFR 63.7 (e)(2)(iv), (h)(2), and (h)(3) and applicable sections of relevant standards;

(10) approval of site-specific performance evaluation (monitoring) plans,[5] *e.g.*, 40 CFR 63.8(c)(1) and (e)(1) and applicable sections of relevant standards;

(11) approval of minor alternatives to monitoring methods, as defined in 40 CFR 63.90(a), *e.g.*, 40 CFR 63.8(f) and applicable sections of relevant standards;

(12) approval of intermediate alternatives to monitoring methods, as defined in 40 CFR 63.90(a), *e.g.*, 40 CFR 63.8(f) and applicable sections of relevant standards;

(13) approval of adjustments to time periods for submitting reports, e.g., 40 CFR 63.9 and 63.10 and applicable sections of relevant standards; and

(14) approval of minor alternatives to recordkeeping and reporting, as defined in 40 CFR 63.90(a), *e.g.,* 40 CFR 63.10(f) and applicable sections of relevant standards.

As required, VADEQ and EPA Region III will provide the necessary written, verbal and/or electronic notification to ensure that each agency is fully informed regarding the interpretation of applicable regulations in 40 CFR part 63. In instances where there is a conflict between a VADEQ interpretation and a Federal interpretation of applicable regulations in 40 CFR part 63, the Federal interpretation must be applied if it is more stringent than that of VADEQ. Written, verbal and/or electronic notification will also be used to ensure that each agency is informed of the compliance status of affected sources in Virginia. The VADEQ will comply with all of the requirements of 40 CFR 63.91(g)(1)(ii).

Quarterly reports will be submitted to EPA by VADEQ to identify sources determined to be applicable during that quarter.

[5] The VADEQ will notify EPA of these approvals on a quarterly basis by submitting a copy of the performance evaluation plan approval letter. Any plans which propose major alternative test methods or major alternative monitoring methods shall be referred to EPA for approval.

Although VADEQ has primary authority and responsibility to implement and enforce the hazardous air pollutant general provisions and hazardous air pollutant emission standards for perchloroethylene drycleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning, secondary lead smelting, hazardous waste combustors,[6] portland cement manufacturing, and secondary aluminum smelting, nothing shall preclude, limit, or interfere with the authority of EPA to exercise its enforcement, investigatory, and information gathering authorities concerning this part of the Act.

IV. Final Action

EPA is approving VADEQ's request for delegation of authority to implement and enforce its hazardous air pollutant regulations for perchloroethylene drycleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning secondary lead smelting, hazardous waste combustors,[7] portland cement manufacturing, and secondary aluminum smelting which have been adopted by reference from 40 CFR part 63, subparts M, N, O, T, X, EEE, LLL, and RRR, respectively. This approval will automatically delegate future amendments to these regulations. In addition, EPA is approving of VADEQ's mechanism for receiving delegation of future hazardous air pollutant regulations which it adopts unchanged from the Federal requirements. This mechanism entails legal adoption by the Commonwealth of Virginia of the amendments or rules into its regulation for hazardous air pollutant sources at 9 VAC 5–60–100 and notification to EPA of such adoption. This action pertains only to affected sources, as defined by 40 CFR part 63, which are not located at major sources, as defined by 40 CFR part 70. The delegation of authority shall be administered in accordance with the terms outlined in this document. This delegation of authority is codified in 40 CFR 63.99. In addition, VADEQ's delegation of authority to implement and enforce 40 CFR part 63 emission standards at major sources, as defined by 40 CFR part 70, approved by EPA Region III on April 20, 1998, is codified in 40 CFR 63.99.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial rule and anticipates no adverse comment because VADEQ's request for delegation of the hazardous air pollutant regulations pertaining to perchloroethylene drycleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning, secondary lead smelting, hazardous waste combustors,[8] portland cement manufacturing, and secondary aluminum smelting and its request for automatic delegation of future amendments to these rules and future standards, when specifically identified, does not alter the stringency of these regulations and is in accordance with all program approval regulations. However, in the ''Proposed Rules'' section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve of VADEQ's request for delegation if adverse comments are filed. This rule will be effective on March 11, 2002 without further notice unless EPA receives adverse comment by February 7, 2002. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

V. Administrative Requirements

A. General Requirements

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

[6] See Footnote 1.

[7] See Footnote 1.

[8] See Footnote 1.

will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant. In reviewing requests for rule approval under CAA section 112, 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 requests for rule approval under CAA section 112 for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a request for rule approval under CAA section 112, to use VCS in place of a request for rule approval under CAA section 112 that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 11, 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, pertaining to the approval of VADEQ's request for delegation of authority for the hazardous air pollutant emission standards for perchloroethylene dry cleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilizers, halogenated solvent cleaning, secondary lead smelting, hazardous waste combustors, portland cement manufacturing, and secondary aluminum smelting (CAA section 112), may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations.

Dated: December 26, 2001.

Judith M. Katz,

Director, Air Protection Division, Region III.

40 CFR part 63 is amended as follows:

PART 63—[AMENDED]

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

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

Subpart E—Approval of State Programs and Delegation of Federal Authorities

2. Section 63.99 is amended by adding paragraph (a)(46) to read as follows:

§ 63.99 Delegated Federal authorities.

(a) * * *

(46) Virginia.

(i) Virginia is delegated the authority to implement and enforce all existing and future unchanged 40 CFR part 63 standards at major sources, as defined in 40 CFR part 70, in accordance with the delegation agreement between EPA Region III and the Virginia Department of Environmental Quality, dated April 20, 1998, and any mutually acceptable amendments to that agreement.

(ii) Virginia is delegated the authority to implement and enforce all existing 40 CFR part 63 standards and all future unchanged 40 CFR part 63 standards, if delegation is sought by the Virginia Department of Environmental Quality and approved by EPA Region III, at affected sources which are not located at major sources, as defined in 40 CFR part 70, in accordance with the final rule, dated January 8, 2002, effective March 11, 2002, and any mutually acceptable amendments to the terms described in the direct final rule.

[FR Doc. 02–407 Filed 1–7–02; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 01–235 and 96–197; DA 01–2918]

RIN 4207

Cross-Ownership of Broadcast Stations and Newspapers

AGENCY: Federal Communications Commission.

ACTION: Final rule; extension of reply comment.

SUMMARY: This document extends the pleading cycle in an ongoing regulatory proceeding. The Commission takes this action at the request of a participant in the proceeding, and to ensure that the public has sufficient time to prepare comprehensive filings to help the Commission resolve the complex and significant public policy issues raised in the proceeding.

DATES: Reply comments are due February 15, 2002.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Eric J. Bash, Mass Media Bureau, Policy and Rules Division, (202) 418–2130 or *ebash@fcc.gov.*

SUPPLEMENTARY INFORMATION:

1. This is a summary of the *Order* in MM Docket No. 01–235; DA 01–2918, adopted December, 14, 2001, and released December 14, 2001. The complete text of this *Order* is available for inspection and copying during normal business hours in the FCC Reference Center, Room CY–A257, 445 12th Street, SW., Washington, DC and may also be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street SW, Room CY–B–402, Washington, DC 20554, telephone (202) 863–2893, facsimile (202) 863–2898, or via e-mail *qualexint@aol.com.*

2. On December 12, 2001, the AFL–CIO, Center for Digital Democracy, Civil Rights Forum on Communications Policy, Consumer Federation of America, Consumers Union, Leadership Conference on Civil Rights, Media Alliance, National Organization for Women, and Office of Communication of United Church of Christ (hereafter, ''petitioners'') filed a ''Request for Extension of Time to File Reply Comments'' in this proceeding. The current deadline to file reply comments is January 7, 2002; petitioners request the Commission to extend the deadline until February 15, 2002. Among other things, petitioners cite the volume and complexity of the record in this proceeding, and the pendency of various other proceedings in which they intend to participate, as reasons for their request. The petitioners claim that granting their requested extension will not prejudice this proceeding, and suggest that denying it could disadvantage them in particular.

3. On December 14, 2001, the Newspaper Association of America (hereafter, ''NAA'') filed an ''Opposition to Request for Extension of Time.'' NAA contends that review of the newspaper/broadcast cross-ownership rule is long overdue, and that the petitioners' requested extension is excessive and will unnecessarily delay this proceeding.

4. While we appreciate NAA's concerns, we believe that the public interest would be best served by granting petitioners' request. To date, nearly 1500 commenters have filed in this proceeding. Some of these comments are extensive, with detailed factual allegations, legal arguments, policy proposals, and supporting studies. NAA has not explained how or why a delay of approximately one month would harm its members. Given these circumstances, we believe that additional time would assist petitioners and other members of the public alike in preparing comprehensive responses, which in turn will help the Commission in its decision-making and resolving the complex and significant public policy issues raised in this proceeding.

5. Accordingly, the petitioners' Request for Extension of Time to File Reply Comments is *granted.*

6. The reply comment deadline in this proceeding is *extended* to February 15, 2002.

Federal Communications Commission.

William, F. Caton,

Deputy Secretary.

[FR Doc. 02–372 Filed 1–7–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2909; MM Docket No. 98–188, RM–9346, RM–9656, RM–9657

Radio Broadcasting Services; Paonia and Olathe, CO

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In response to a *Notice of Proposed Rule Making,* 63 FR 57637 (October 28, 1998), this document compared mutually exclusive proposals for Channel 293C at Olathe, Colorado, and Channel 293C1 at Paonia, Colorado, under the FM Allotment Priorities and allotted Channel 293C at Olathe because this would result in a first local service. The reference coordinates for Channel 293C at Olathe are 38–37–03 NL and 107–58–33 WL.

DATES: Effective January 28, 2002.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order in MM Docket No. 98–188, adopted November 28, 2001, and released December 14, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Colorado, is amended by adding Olathe, Channel 293C.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 02–375 Filed 1–7–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2987; MM Docket No. 00–53; RM–9823, RM–9950]

Radio Broadcasting Services; Detroit Lakes, and Barnesville, MN, and Enderlin, ND

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: At the request of T&J Broadcasting, Inc. this document reallots Channel 236C1 from Detroit Lakes, Minnesota, to Barnesville, Minnesota, and modifies the Station KRVI license to specify Barnesville as the community of license. This document also dismisses a Counterproposal filed by Enderlin Broadcasting Company for a Channel 233C1 allotment at Enderlin, North Dakota. *See* 65 FR 17618, published April 4, 2000. The reference coordinates for Channel 236C1 allotment at Barnesville, North Dakota, are 46–49–10 and 96–45–56.

DATES: Effective February 6, 2002.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau (202) 418–2177.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report*

and Order in MM Docket No. 00–53, adopted December 19, 2000, and released December 21, 2000. The full text of this decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street, SW, Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractor, Qualex International Portals II, 445 12th Street, SW, Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail: *qualexint@aol.com*.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Minnesota, is amended by removing Channel 236C1 at Detroit Lakes and adding Barnesville, Channel 236C1.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 02–374 Filed 1–7–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2988; MM Docket No. 01–110; RM–9927, RM–10336]

Radio Broadcasting Services; Newberry and Simpsonville, SC

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Georgia-Carolina Radiocasting Company, LLC, reallots Channel 292C3 from Newberry to Simpsonville, South Carolina, and modifies Station WGVC(FM)'s construction permit accordingly (RM–10336). We also dismiss petitioner's original proposal to downgrade Channel 292C3 to Channel 292A at Newberry, reallot Channel 292A to Simpsonville, and modify Station WGVC(FM)'s construction permit accordingly (RM–9927). *See* 66 FR 29747, June 1, 2001. Channel 292C3 can be reallotted to Simpsonville in compliance with the Commission's minimum distance separation requirements with a site restriction of 15.8 kilometers (9.8 miles) southeast at petitioner's requested site. The coordinates for Channel 292C3 at Simpsonville are 34–39–04 North Latitude and 82–07–12 West Longitude.

DATES: Effective February 4, 2002.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 01–110, adopted December 12, 2002, and released December 21, 2002. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under South Carolina, is amended by adding Simpsonville, Channel 292C3; and by removing Newberry, Channel 292C3.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 02–373 Filed 1–7–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2908; MM Docket No. 99–233; RM–9662 & RM–9828]

Radio Broadcasting Services; Bridgeport, Bonham, Graham, Palestine, Price, Ranger, Stephenville, TX and Ardmore, Lawton, Tecumseh, Fort Towson, OK

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition for reconsideration, withdrawal.

SUMMARY: This document dismisses a Petition for Reconsideration filed by North Texas Radio Group, L.P. (''North Texas'') in this proceeding. *See* 66 FR 12920, March 1, 2001. In response to the Notice of Proposed Rule Making in this proceeding, North Texas filed a counterproposal requesting the substitution of Channel 252C for Channel 252A at Bridgeport, TX and modification of the license for Station KBOC accordingly. To accommodate the upgrade at Bridgeport, North Texas requested changes at Bonham, Graham, Palestine, Price, Ranger & Stephenville, TX and Ardmore, Lawton, Tecumseh & Fort Towson, OK. Stowell, Texas. On December 3, 2001, North Texas withdrew its Petition for Reconsideration in compliance with Section 1.420(j) of the Commission's Rules. As requested, we shall dismiss the Petition for Reconsideration. With this action, this proceeding is terminated.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion and Order, MM Docket No. 99–233, adopted December 5, 2001, and released December 14, 2001. The full text of this Commission decision is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 02–371 Filed 1–7–02; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 195

[Docket No. RSPA–01–8663; Amdt. 195–75]

RIN 2137–AD56

Pipeline Safety: Hazardous Liquid Pipeline Accident Reporting Revisions

AGENCY: Office of Pipeline Safety, Research and Special Programs Administration, Department of Transportation.

ACTION: Final rule.

SUMMARY: This final rule makes changes to the reporting requirements for hazardous liquid pipeline accidents. The rule lowers the current release reporting threshold of 50 barrels to a new threshold of 5 gallons, and makes changes to the accident report form. The changes are necessary because the existing reporting threshold and report form do not yield sufficient information for effective safety analysis. This final rule also changes the ''bodily harm'' criteria for accident reporting to conform to the gas pipeline reporting requirements. This change is necessary to harmonize reporting by hazardous liquid and gas pipeline operators.

DATES: This rule is effective January 1, 2002.

FOR FURTHER INFORMATION CONTACT: Roger Little by phone at (202) 366–4569, by e-mail at *roger.little@rspa.dot.gov,* or by mail at the U.S. Department of Transportation (DOT), Research and Special Programs Administration (RSPA), Office of Pipeline Safety (OPS), Room 7128, 400 7th Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Background

The mission of RSPA's OPS is to ensure the safe, reliable, and environmentally sound operation of the nation's approximately 154 thousand miles of hazardous liquid pipelines. OPS shares responsibility for inspecting and overseeing the nation's pipelines with State pipeline safety offices. Both Federal and State regulators depend on accident reports submitted by pipeline companies to manage inspection programs and to identify trends in hazardous liquid pipeline safety. In recent years, Congress, the National Transportation Safety Board (NTSB) and DOT's Office of the Inspector General (OIG) have urged OPS to improve the quality of accident data required to be submitted by hazardous liquid pipeline operators.

Release Threshold

RSPA published a Notice of Proposed Rulemaking (NPRM) on March 20, 2001 (66 FR 15681). The NPRM proposed changing the hazardous liquid accident reporting requirement from a threshold release of 50 barrels to 5 gallons; and adding to the report form (RSPA F7000–1), more specific questions on accident location, causes, and consequences.

The NPRM also proposed that a spill under 5 barrels meeting all of the following criteria, need not be reported to RSPA:

(1) The other circumstances enumerated in § 195.50 did not apply to the spill;

(2) The spill did not result in water pollution;

(3) The spill was attributable to a pipeline maintenance activity;

(4) The spill was confined to company property or pipeline right-of-way; and

(5) The spill was cleaned up promptly.

After consideration of all comments, this final rule amends the pipeline safety regulations to lower the reporting threshold for hazardous liquid pipeline releases from 50 barrels to 5 gallons, with an exception for spills under 5 barrels resulting from pipeline maintenance activities. This rule makes corresponding changes to the hazardous liquid accident report form to make it more useful for safety analysis.

The old report form consisted of two pages. The new report form consists of four pages. Completion of the first page only, is required for small releases (between 5 gallons and under 5 barrels) that are not reportable under the other § 195.50 criteria, nor result in water pollution (water pollution is as described in § 195.52(a)(4)). Completion of all four pages will be required for releases of: 5 barrels or more that are reportable under the other criteria in 49 CFR 195.50; or 5 gallons or more that result in water pollution.

Change in ''Bodily Harm'' Criteria for Accident Reporting

In another NPRM (Docket No. RSPA–99–6106; 65 FR 15290; March 22, 2000), RSPA proposed changing the ''bodily harm'' criteria in 49 CFR 195.50(e). RSPA proposed changing the language in 49 CFR 195.50(e) to require reporting only if an injury associated with a hazardous liquid pipeline accident requires hospitalization of the injured person.

The current language at § 195.50(e) which triggers a reporting requirement reads as follows:

Bodily harm to any person resulting in one or more of the following:

(1) Loss of consciousness.

(2) Necessity to carry the person from the scene.

(3) Necessity for medical treatment.

(4) Disability which prevents the discharge of normal duties or the pursuit of normal activities beyond the day of the accident.

These criteria require reporting of even the most minor injury. The lack of a definition of medical treatment in the regulations means, if a bandage is applied at the scene the accident is reportable, even if it does not meet any of the other reportability criteria.

The comparable language in the gas pipeline safety rules requires gas operators to report releases of gas that involve a ''personal injury necessitating in-patient hospitalization.'' (49 CFR 191.3, 191.5, 191.9, and 191.15). As explained in the NPRM, this wording better describes the information that RSPA is seeking. Accordingly, RSPA proposed to update the hazardous liquid pipeline accident reporting requirements at § 195.50(e) to eliminate the discrepancy between the accident reporting criteria for gas and hazardous liquid pipelines.

This final rule removes the language currently in § 195.50(e) and replaces it with ''a personal injury necessitating in-patient hospitalization.''

Comments

Comments on Proposed Change in ''Bodily Harm'' Criteria

On May 3, 2000, the proposed changes in the injury criteria for reportability of hazardous liquid pipeline accidents were discussed at a joint meeting of the Technical Hazardous Liquid Pipeline Safety Standards Committee and the Technical Pipeline Safety Standards Committee. These statutorily mandated committees, which are made up of representatives from the government, industry, and the general public, review pipeline safety regulations. Some committee members expressed concern that the change would weaken the reporting requirements for hazardous liquid pipeline accidents. The concern was that some accidents that are reportable under the current language, would no longer be reportable under the proposed language.

We noted the proposed change would not cause any otherwise reportable hazardous liquid pipeline accident to

become non-reportable. For example, under the proposed change, the 1994 San Jacinto River accident in Harris County, Texas, would still need to be reported based on product loss and property damage criteria. We also noted, most accidents causing serious injury are also reportable under one of the other criteria. The ''bodily harm'' category was included as a reporting criterion in the unlikely event that an accident resulting in such injury would not fall into one of the other reporting criteria. Additionally, we noted that the reporting language in Part 192, which embodies our original intent relative to the injury criteria for reportability of pipeline accidents, was adopted before the ''bodily harm'' language in part 195.

In response to the NPRM in Docket No. RSPA–99–6106, RSPA received comments from the American Petroleum Institute (API) and the Cascade Columbia Alliance.

API supported the proposed accident reporting criteria change in § 195.50 to make the injury criteria consistent with that used for natural gas pipelines. It noted that the clarification makes reporting of accidents consistent across gas and hazardous liquid pipelines, and ''grew out of discussions among RSPA, the pipeline industry, and State regulators.'' In contrast, the Cascade Columbia Alliance asserted that the proposed injury language weakened reporting requirements for hazardous liquid pipelines and would ''encourage pipeline operators to avoid hospitalization for their workers so as to avoid filing an accident report.''

RSPA's intention for the change is to ensure that reporting of accidents is consistent for both gas and hazardous liquid pipelines. The regulation is not aimed at tracking worker injuries.

Comments on Lower Reporting Threshold

RSPA received comments from eleven sources in response to the NPRM in this docket (66 FR 15681; March 20, 2001). Virtually all commenters were supportive of the need for improved information about hazardous liquid pipeline accidents. The American Society of Safety Engineers supported the data improvement initiative and believed the benefits of the improved information would outweigh the small increased costs. The American Petroleum Institute (API) and the Association of Oil Pipe Lines (AOPL), trade associations that represent many companies involved in all aspects of the oil and gas industry, filed joint comments prepared in coordination with both API and AOPL's members.

Several commenters suggested that the $50,000 property damage threshold for an accident report was redundant and should be eliminated in light of the lowering of the volumetric release threshold for reporting from 50 barrels to 5 gallons. For the same reason, one commenter suggested that the $50,000 property damage threshold for telephonic notice of a release of hazardous material be eliminated.

The NPRM did not propose any change in the property damage threshold for filing accident report Form F7000–1. Although many ''over-$50,000-property-damage'' accidents may also be reportable under the 5 gallon threshold criterion, retaining the ''over-$50,000-property-damage'' criterion will continue to provide more complete data, than if eliminated. Changes to the telephonic reporting requirement are beyond the scope of the NPRM.

Several commenters believed we underestimated the time and cost of reporting the expanded information required by the revisions to Form F7000–1.

In response, we point the commenters to the analysis of costs in the ''Paperwork Reduction Act'' section of this Final Rule for more information on the basis of our estimates.

A group of students from Miami International University submitted four recommendations—

''(1) Given the twofold environmental effect of hazardous liquid or carbon dioxide spills to not only the immediate ground but also the atmosphere (air), and therefore, consequences realistic on any property, the reporting requirement should be lowered from 5 barrels to 10 gallons (38 liters) for spills on any property whether from accident or maintenance.

(2) Aggregate spills of hazardous liquid or carbon dioxide of a minimum of 10 gallons (38 liters) will pose sufficient damage to warrant immediate clean-up, and therefore, it should be mandated.

(3) Lowering the reporting requirement for spills from 5 barrels to 5 gallons (19 liters) only when it is not readily cleaned up on any property.

(4) Tools for Reporting Accidents (§ 195.50): Since technology has evolved and continues to do so, accident reporting should be done in an efficient, cost-effective, time-constrained manner in tune with the technology available to us today. Furthermore, electronic accident reporting is effective and productive for meaningful incident information. The DOT, Office of Public [sic] Safety, should establish a web site where different accident report-hazardous liquid pipeline forms could be electronically filled out in case of an accident. Some of the benefits of electronic filing are: (i) instant information available, (ii) immediate dangers readily visible, and, (iii) reduced cost to companies. * * *''

In addition, API and Colonial Pipeline Company suggested that access to information both by RSPA, the public, and pipeline operators can be significantly improved by providing for electronic reporting of accidents. They urged us to move expeditiously to provide operators with the ability to file accident reports electronically.

We believe the bulk of hazardous liquid releases remain liquid at ambient temperatures, and therefore have little impact on the atmosphere. The exception is highly volatile liquid spills, which are gaseous at ambient temperatures. We have chosen to exclude from the reporting requirement hazardous liquid releases under 5 barrels that result from maintenance operations. Our information is that such spills occur regularly upon the opening of pipelines for insertion of spheres, smart pigs, or for routine inspections. The spills are usually caught in a berm or other containment device; are cleaned up immediately; and have little or no impact on the environment. We believe information on such releases would not be helpful in accident trending analysis. Maintenance spills must be promptly cleaned up to avoid the reporting requirement. Any non-maintenance spill of 5 gallons or more must be reported.

With regard to electronic reporting, we agree that electronic reporting is efficient and economical. Electronic reporting for hazardous liquid pipeline accidents will be available via the OPS Internet homepage at *http://ops.dot.gov* beginning January 1, 2002.

API and AOPL suggested reorganizing the sections in the accident report to simplify it. API suggested that [the] first page of [the] accident reporting form should be reorganized to clearly differentiate the information that must be provided for all spills from that which is required for those spills greater than 5 barrels.'' API also suggested that latitude and longitude should be collected for all spills, not just those greater than 5 barrels as proposed in the NPRM. API suggested that the causal categories for small accidents should ''use identical language to that for large spills (i.e., 'Excavation' should be 'Excavation damage or other outside force', 'Material and Welds' should be 'Material and/or weld failures,' 'Operation should be 'Incorrect Operation.' This will allow the longer

form to provide insight for defining causes consistently across both types of releases.'' In addition, API suggested that instead of collecting spill quantity in two separate places on the form, that spill size be collected on page one for all spills.

We agreed with these comments and reorganized and changed the form as suggested.

API further noted that ''The instructions for the accident reporting form change the definition of 'injury' for the purpose of accident reporting. The regulations must also be changed in § 195.50 (reporting accidents) and § 195.52 (telephonic notification). The changes in the definition for 'injury' under the instructions will make hazardous liquid pipeline reporting requirements comparable to those for natural gas pipelines. These changes must be implemented in the regulations themselves under § 195.50 and § 195.52. The changes cannot be implemented through the reporting form or instructions alone.''

We agree with the suggested change to § 195.50(e) and adopted it. However, Section 195.52 was not the subject of the NPRM, and a change to that section would be beyond the scope of this rulemaking.

API suggested that categories for property damage should be modified to more accurately define the categories that are applicable and that make sense to pipeline operators. ''For accuracy, this section of the reporting form should be titled 'Compensated losses.' Losses that accrue to the operator should be separated from losses that accrue to affected individuals or the public. Property damage or loss is really a misnomer. Although losses do occur, on this reporting form we are really accounting for damages for which an operator has provided reimbursement to the community, the public, or affected individuals. It is actually a measure of those losses that can in some way be reimbursed or losses that accrue to the operating company itself. API recommends that this portion of the accident form be redrafted as follows:

Compensated Losses (Estimated)

* Public/Community Losses:
- —Estimated Public/private property damage reimbursed by operator. $
- —Cost of emergency response undertaken by or reimbursed by operator. $
- —Cost of longer term environmental remediation undertaken by or reimbursed by operator. $
- —Other ..... $

Operator losses:
- —Value of product lost .... $
- —Value of operator property damage. $
- —Other ..... $''

We adopted the API suggestions with some changes.

API also suggested that:

''Form Part F (environmental impacts), item 6 should be changed from 'wildlife mortality' to 'wildlife impact.' Mortality is too high a threshold for measuring the impact of accidents on wildlife. As an example, any bird that is oiled during an accident and survives is clearly impacted. We believe that a reasonable person would judge such oiling as an impact and expect that the industry be held to such a reasonable standard.''

We agree and changed the form accordingly.

Colonial Pipeline Company (Colonial) recommended that additional information be added to Part G (Leak Detection Information) of the proposed accident form. Specifically, Colonial recommended that line items be added for ''estimated leak rate'' and ''estimated percentage of flow.'' Colonial believes this would provide valuable information to RSPA and the regulated community.

We may consider obtaining this additional information through a separate rulemaking.

Gregg Zimmerman, Administrator, Planning/Building/Public Works Department, with City of Renton, Washington, suggested that a ''requirement for immediate notification of the local public safety/emergency management agencies is critical. These are the first line responders, and our experience shows us that often they are not contacted in the event of a leak for hours or even days. However, this requirement clearly should be part of the federal law, or at least the agency rules.''

We determined this recommendation to be beyond the scope of this rulemaking.

Enron Transportation Services (ETS) commented that ''[t]he availability of more detailed pipeline accident information is of value not only to OPS for regulatory purposes, but is also highly valued by the pipeline industry in identifying potential risks to pipeline safety and integrity. Most pipeline operators utilize this accident information to immediately evaluate their systems for the potential of similar risk factors and take steps to mitigate those factors on a timely basis whenever possible. ETS therefore strongly agrees that improving the method of accident data collection provides a benefit to the industry in being able to more reliably identify the cause of these accidents. Reducing the reporting limits to those proposed may indeed be counterproductive, however, in that the database will be flooded with information relating to minor pipeline problems as opposed to obtaining better information about potentially serious pipeline safety related issues. One of the reasons that the cost level limit for reportable accidents was raised in 1984 was to eliminate the reporting of non-significant pipeline accidents, and this proposed rulemaking will completely reverse that intent.''

We noted that the cost threshold for reporting accidents was raised in 1994 from $5,000.00 to $50,000.00 to achieve parity between reporting of hazardous liquid and natural gas pipeline accidents, not ''to eliminate reporting of non-significant pipeline accidents.'' Regarding ''flooding the database with information relating to minor problems,'' we believe the only way to determine that small spills are ''minor problems'' is to collect information on such spills.

ETS commented that ''the decision process for the determination of any pipeline remedial action should be the responsibility of the pipeline operator based upon that operator's assessment of the known risks and economic issues that only the operator must bear. Without first hand knowledge of all of the numerous factors that must be considered in making the repair versus replacement decision, this pipeline safety data may lead to hasty decisions that are not in the overall best interests of public safety. One of the consequences may be outside pressure to apply significant financial resources to a pipeline facility that presents a much lower risk to public safety than another less publicly visible facility.''

We recognize that it is industry's responsibility to determine when rehabilitation and replacement of any pipeline facility may be needed. We believe that better overall accident information will provide industry with a useful tool to help make better decisions about rehabilitation and replacement.

ETS noted that ''[t]he reduction in the spill reporting limit is noted in this section as being included in proposed bills now before Congress.'' ETS estimates that the low reporting limit is going to have a major impact on both the pipeline operators and DOT. Therefore, it believes the reporting limit should be established by Congress.

Based on outreach with the hazardous liquid pipeline industry and comments by that industry to the NPRM, we do not believe that a reduced spill reporting limit will have a major impact on pipeline operators because the additional burden to the pipeline

industry to provide the data does not require significant effort. The additional data will improve the information available upon which to make safety decisions. Based on action thus far in Congress, we have no reason to believe that Congress would object to this final rule.

ETS also commented that ''* * * flooding the DOT accident database with numerous minor leaks or spills will ultimately bias the accident cause data and thereby mask the causes of more serious pipeline accidents that need to be addressed by DOT and the industry. This reporting requirement is also redundant in that data concerning leaks impacting bodies of water are already being documented under the applicable environmental regulations.''

We believe the accident database will not be flooded with minor releases because the proposed changes eliminate the need for reporting releases that occur during normal maintenance activities as described in the NPRM. We are focused on obtaining sufficient information about small releases to adequately categorize the risks posed by such accidents. At the same time we will obtain more precise information on spills of 5 or more barrels—information that is needed to further address safety issues. Although information on spills is being reported to environmental agencies under other regulations, we need to obtain this information to properly manage our pipeline safety responsibilities.

Tosco Corporation (Tosco) participated in an industry effort to accumulate information about releases that are now less than the current 50 barrel or more criteria. Tosco noted that ''information has been collected by a majority of the liquid industry on releases down to 5 gallons for the past few years. We believe it is critical information that can be used in the future for risk and integrity management efforts.'' Tosco also suggested that ''[t]he proposed * * * criteria for the non-reporting of releases of 5 gallons or more but less than 5 barrels may need to be better defined in the preamble to the final rule. Would a release occurring during the hydrostatic testing of a pipeline during maintenance activities that has a petroleum liquid as the test medium fall under this criteria?'' Tosco also commented that the revisions to the accident reporting form are ''well thought out'' and that the information that ''will be generated by this new form will indeed help to precisely detect trends in the causes of reportable pipeline accidents.''

We pointed out that releases meeting the requirements of the normal maintenance operations exception in the final rule need not be reported.

The Citizens Advisory Committee on Pipeline Safety (Washington State) ''disagreed with our proposal to reduce the threshold for reportable spills from the current level of 50 barrels to 5 gallons. The Committee stated that sufficient information can be acquired from pipeline operators by requiring reporting of incidents that are 1 (one) barrel or larger. The requirement of reporting all spills of 5 gallons or more appears to be more stringent than is required by good practice and necessary record keeping.'' OPS worked with a joint data team composed of State, Federal, and industry representatives to determine a reasonable accident reporting threshold. Higher reporting thresholds were considered, but we chose 5 gallons because we believe the benefit of reporting releases at the 5 gallon level outweighs the burden of collecting it. The benefit is in increased awareness of pipeline releases, especially the frequency of small spills. The data team believed that a higher threshold than 5 gallons would still leave concerns about the lack of information about such spills, especially if they impacted water.

The Minerals Management Service (MMS) of the U.S. Department of the Interior supported RSPA's efforts to improve pipeline accident data collection and analyses. MMS suggested that 49 CFR 195.1(b)(5) should be deleted since it includes jurisdictional criteria used prior to the 1996 Memorandum of Understanding (MOU) between MMS and OPS, which clarified each agency's jurisdiction over offshore pipeline facilities. MMS also questions whether the same reporting requirements and accident form would apply for a cumulative 5 gallons leaked from a pipeline slowly or intermittently over a period of weeks or months.

The NPRM did not address the jurisdictional issues raised by MMS. We are addressing those issues in a separate rulemaking. As for the intermittent leak scenario, 49 CFR 195.401(b) requires a hazardous liquid pipeline operator to correct within a reasonable time any condition that could adversely affect the safe operation of the pipeline system. We consider a release of hazardous material (a leak) from a pipeline to be a condition that must be promptly corrected.

Regulatory Analyses and Notices

Executive Order 12866 and DOT Polices and Procedures

RSPA does not consider this rulemaking to be significant under Section 3(f) of Executive Order 12866 (85 FR 51735; October 4, 1993). RSPA also does not consider this rulemaking to be significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 20, 1979).

Benefits

The additional data that OPS will receive by lowering of the accident reporting threshold from 50 barrels to 5 gallons and the more detailed causation reporting, will enable RSPA and the hazardous liquid pipeline industry to better identify safety issues and trends in pipeline safety. Operators can then make informed decisions about changing their procedures to improve pipeline safety.

Costs

RSPA's revised form is composed of a ''short'' form (page one of the four page form for spills of less than 5 barrels as described above) and a ''long'' form of 4 pages for spills of 5 barrels or more, or spills to water as described above. We estimate that it will take each operator about 1 hour to complete the short form (2 minutes per field x 37 fields on short form) and that the long form will take about 7 hours to complete (2 minutes per fields x 224 fields). We recognize that some fields will take only a few seconds to complete and that some will take more than 2 minutes, but we estimate that the type of information requested on the long and the short forms will require 1 and 7 hours to complete, respectively. We also recognize that more time may be needed to collect the basic information required for completing the form, but we believe that companies already maintain this information as part of routine recordkeeping.

We estimate that the number of accidents reported annually will be 1,839. OPS extrapolated from data in the American Petroleum Institute (API) Pipeline Performance Tracking Initiative (PPTI), an anonymous reporting system that collects information on spills down to 5 gallons. Of the 1,839 annual reports, we estimate that 427 will require the long form and 1,412 will require the short form. Below is RSPA's estimates of the aggregate time required to complete the revised forms:

427 long forms × 7 hours = 2,989 hours.
1,412 short forms × 1 hour =1,422 hours.
Total: 1,839 forms; 4,411 hours

We estimated the hourly cost of the person completing the form would be $40. This was based on the U.S. Department of Labor's National Occupational Employment and Wage Earnings for 1999. The hourly wage for

a Transportation, Storage, and Distribution Manager (the closest category to a pipeline manager) was $26.03 per hour. This was multiplied by 1.35 to account for fringe benefits ($26.03 × 1.35 = $35.14). We added an inflation factor of 14% to account for inflation from 1999 to 2002 ($35.14 × 1.14 = $40.05). If the average cost per hour is $40, the total annual industry cost is $176,440 annually (4,411 × $40 = $176,440).

The hazardous liquid pipeline industry historically files an average of 166 reports annually. Completion of each of these reports was estimated to take 6 hours, based on the time needed to research the information, or 996 hours annually (166 reports × 6 hours). At $40 per hour, the total industry cost averages $39,840 annually (996 × $40 = $39,840).

The net annual increase to the hazardous liquid pipeline industry resulting from the revisions to the reporting criteria and to the form is $136,600 ($176,440 − $39,840 = $136,600). Dividing the incremental cost increase of $136,600 by approximately 200 hazardous liquid pipeline operators, the average incremental cost increase of this proposal is $683 per operator.

Comments

Two commenters, a pipeline operator and the Chief Counsel for Advocacy of the Small Business Administration (SBA), questioned RSPA's estimate of 7 hours to complete the long form. The SBA Chief Counsel for Advocacy wanted to know the basis for the 7 hour estimate.

We worked with a government/industry pipeline data team over the last several years to determine the extent of information that needed to be collected. RSPA is asking for only the most important information so as not to unduly burden pipeline operators. Moreover, the information requested on the revised form is not available from other sources.

We estimate that it will take each operator about 1 hour to complete the short form (2 minutes per field x 37 fields on short form) and that the long form will take about 7 hours to complete (2 minutes per fields x 224 fields). Electronic reporting of accidents, which will begin on January 1, 2002, should further reduce the time needed to complete the form. We believe this estimate is accurate based on these considerations.

Conclusion

RSPA believes that the additional cost of $136,600 annually is a minimal economic impact on the hazardous liquid pipeline industry. The benefits accruing to OPS and the pipeline industry; through the improvements in the quality of the information collected, should easily outweigh the cost.

Regulatory Flexibility Act

We sought input from the public on the impact of the proposed rule on small entities in the Notice of Proposed Rulemaking in this docket (66 FR 15681; March 20, 2001). No one responded to this request. The SBA Chief Counsel for Advocacy, however, made a few comments on behalf of small businesses. SBA asked the basis for using the short versus the long form. We described the usage of the short versus long form above. SBA also posed a question regarding how many operators RSPA would consider small. For several years, RSPA has sought public comment from small hazardous liquid operators. RSPA solicited public comment from small operators in its recent rulemakings on pipeline integrity management. No comments from small hazardous liquid operators were forthcoming.

The hazardous liquid pipeline industry is a highly competitive, capital intensive industry that has experienced many mergers and buyouts in recent years. SBA's criteria for defining a small entity in the hazardous liquid pipeline industry is 1,500 employees, as specified in the North American Industry Classification System codes (486110—Pipeline Transportation of Crude Oil and 486910—Pipeline Transportation of Refined Petroleum Products). We do not collect information on number of employees or revenues for pipeline operators. Such a collection would require OMB approval. However, we have discussed with SBA the characterization of hazardous liquid pipelines for purposes of this rulemaking. We intend to continue our dialog with SBA on its efforts to ascertain the number of small business operators in the hazardous liquid pipeline industry.

We made the following observations in assessing the effect of this rule on small businesses:

(1) Whether you characterize a hazardous liquid pipeline company as small or large, the cost is small in absolute terms. The average cost for all companies based on an estimated total impact of $136,600 annually is $683.00 per operator. We believe the benefits of this rule far outweigh the company cost.

(2) Assuming equal operating conditions across all pipeline mileage, the probability of having a reportable accident on a per mile basis is 1,839 expected reportable accidents per year over 154,000 miles of hazardous liquid pipeline, or about 1 reportable accident per hundred miles of pipeline. Companies with thousands of miles of pipe will typically have more reportable accidents than companies with hundreds of miles of pipe or less. Companies with less mileage will have a proportionately lower share of the estimated $136,600 annual cost posed by this rulemaking, for an average total per company cost of less than $683;

(3) We estimate that the nation's 80 largest hazardous liquid pipeline companies (based on pipeline mileage reported to RSPA by operators annually) operate more than 91% of the nation's total hazardous liquid pipeline mileage. About 120 companies operate the remaining 9% of mileage. Assuming this 9% of mileage were operated by ''small operators,'' these operators would experience no more than 9% of the reportable accidents and incur 9% or less of the $136,600 annual cost. This amounts to $12,294 total annual costs, or about $102 per company. Many of these 120 operators are, however, owned by or parts of nationally recognized large corporations, so the burden would actually be less than $102 per small business annually.

Based on the increase in costs to the industry of this rulemaking, RSPA certifies, pursuant to section 605 of the Regulatory Flexibility Act (5 U.S.C. 605), that this rulemaking would not have a significant impact on a substantial number of small entities.

Paperwork Reduction Act

This final rule contains information collection requirements as required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507 (d)). RSPA has previously submitted a copy of the Paperwork Reduction Act analysis to OMB for its review. The name of the information collection is ''Transportation of Hazardous Liquids by Pipeline: Record Keeping and Accident Reporting.'' The purpose of this information collection is to improve the current hazardous liquid pipeline accident information collection.

According to the Paperwork Reduction Act, no persons are required to respond to a collection of information unless a valid OMB control number is displayed. OMB has approved the revised form RSPA F7000–1 and this information collection. The OMB control number for this information collection is 2137–0047. For more details, see the Paperwork Reduction Analysis available for copying and review in the public docket.

Executive Order 13175

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13175 (''Consultation and Coordination with Indian Tribal Governments''). Because this final rule does not significantly or uniquely affect the communities of the Indian tribal governments and does not impose substantial direct compliance costs, the funding and consultation requirements of Executive Order 13175 do not apply.

Executive Order 13132

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 (''Federalism''). This final rule does not adopt any regulation that (1) has substantial direct effects on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government; (2) imposes substantial direct compliance costs on States and local governments; or (3) preempts State law. Therefore, the consultation and funding requirements of Executive Order 13132 (64 FR 43255; August 10, 1999) do not apply.

Executive Order 13211

This rulemaking is not a ''significant energy action'' within the meaning of Executive Order 13211 (''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.'') It is not a significant regulatory action under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Further, this rulemaking has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action.

Unfunded Mandates

This rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of $100 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objective of the rule.

National Environmental Policy Act

RSPA has analyzed the final rule in accordance with section 102(2)(c) of the National Environmental Policy Act (42 U.S.C. 4332), the Council on Environmental Quality regulations (40 CFR 1500–1508), and DOT Order 5610.1D, and has determined that this action would not significantly affect the quality of the human environment, because information collection does not impact the environment.

List of Subjects in 49 CFR Part 195

Anhydrous Ammonia, Carbon dioxide, Incorporation by reference, Petroleum, Pipeline safety, Reporting and recordkeeping requirements.

For all the reasons described in this final rule, RSPA is amending Title 49, Part 195, Code of Federal Regulations, as follows:

PART 195—TRANSPORTATION OF HAZARDOUS LIQUIDS BY PIPELINE

1. The authority citation for part 195 continues to read as follows:

Authority: 49 U.S.C. 5103, 60102, 60104, 60108, 60109, 60118; and 49 CFR 1.53.

2. Amend § 195.50 to revise paragraph (b), to remove paragraph (c), to redesignate paragraphs (d) through (f) as paragraphs (c) through (e) and revising the newly designated paragraphs, to read as follows:

§ 195.50 Reporting accidents.

* * * * *

(b) Release of 5 gallons (19 liters) or more of hazardous liquid or carbon dioxide, except that no report is required for a release of less than 5 barrels (0.8 cubic meters) resulting from a pipeline maintenance activity if the release is:

(1) Not otherwise reportable under this section;

(2) Not one described in § 195.52(a)(4);

(3) Confined to company property or pipeline right-of-way; and

(4) Cleaned up promptly;

(c) Death of any person;

(d) Personal injury necessitating hospitalization;

(e) Estimated property damage, including cost of clean-up and recovery, value of lost product, and damage to the property of the operator or others, or both, exceeding $50,000.

Issued in Washington, DC, on December 21, 2001.

Ellen G. Engleman,

Administrator.

BILLING CODE 4910–60–P

NOTICE: This report is required by 49 CFR Part 195. Failure to report can result in a civil penalty not to exceed $25,000 for each violation for each day that such violation persists except that the maximum civil penalty shall not exceed $500,000 as provided in 49 USC 60122

Form Approved
OMB No. 2137-0047

U.S. Department of Transportation
Research and Special Programs
Administration

ACCIDENT REPORT – HAZARDOUS LIQUID PIPELINE SYSTEMS

Report Date _____

No. _____
(DOT Use Only)

INSTRUCTIONS

Important: *Please read the separate instructions for completing this form before you begin. They clarify the information requested and provide specific examples. If you do not have a copy of the instructions, you can obtain one from the Office Of Pipeline Safety Web Page at http://ops.dot.gov.*

PART A – GENERAL REPORT INFORMATION Check: ☐ **Original Report** ☐ **Supplemental Report** ☐ **Final Report**

1. a. Operator's OPS 5-digit Identification Number (if known) /___/___/___/___/___/
2. b. If Operator does not own the pipeline, enter Owner's OPS 5-digit Identification Number (if known) /___/___/___/___/___/
   c. Name of Operator _____
   d. Operator street address _____
   e. Operator address _____
   City, County, State and Zip Code

IMPORTANT: IF THE SPILL IS SMALL, THAT IS, THE AMOUNT IS AT LEAST 5 GALLONS BUT IS LESS THAN 5 BARRELS, COMPLETE THIS PAGE ONLY, UNLESS THE SPILL IS TO WATER AS DESCRIBED IN 49 CFR §195.52(A)(4) OR IS OTHERWISE REPORTABLE UNDER §195.50 AS REVISED IN CY 2001.

2. Time and date of the accident
   /___/___/___/___/ hr. /___/___/ month /___/___/ day /___/___/ year
3. Location of accident
   (If offshore, do not complete a through d. See Part C.1)
   a. Latitude: _____ Longitude: _____
   (if not available, see instructions for how to provide specific location)
   b. _____
   City, and County or Parish
   c. _____
   State and Zip Code
   d. Mile post/valve station ○ or survey station no. ○
   (whichever gives more accurate location)
   _____
4. Telephone report
   /___/___/___/___/___/___/___/ NRC Report Number /___/___/ month /___/___/ day /___/___/ year

5. Losses *(Estimated)*

Public/Community Losses reimbursed by operator:

Public/private property damage	$_____
Cost of emergency response phase	$_____
Cost of environmental remediation	$_____
Other Costs	$_____
(describe) _____	

Operator Losses:

Value of product lost	$_____
Value of operator property damage	$_____
Other Costs	$_____
(describe) _____	
Total Costs	$_____

6. Commodity Spilled ○Yes ○ No
(If Yes, complete Parts a through c where applicable)
   a. Name of commodity spilled _____
   b. Classification of commodity spilled:
      ○ HVLs /other flammable or toxic fluid which is a gas at ambient conditions
      ○ CO_2/ N_2 or other non-flammable, non-toxic fluid which is a gas at ambient conditions
      ○ Gasoline, diesel, fuel oil or other petroleum product which is a liquid at ambient conditions
      ○ Crude oil

c. Estimated amount of commodity involved :
○ **Barrels**
○ **Gallons (check only if spill is less than one barrel)**

Amounts:
Spilled : _____
Recovered: _____

CAUSES FOR SMALL SPILLS ONLY (5 gallons to under 5 barrels) : ***(For large spills [5 barrels or greater] see Part H)***

○ **Corrosion** ○ **Natural Forces** ○ **Excavation Damage** ○ **Other Outside Force Damage**
○ **Material and/or Weld Failures** ○ **Equipment** ○ **Incorrect Operation** ○ **Other**

PART B – PREPARER AND AUTHORIZED SIGNATURE

_____ (type or print) Preparer's Name and Title
_____ Area Code and Telephone Number
_____ Preparer's E-mail Address
_____ Area Code and Facsimile Number
_____ Authorized Signature
_____ (type or print) Name and Title
_____ Date
_____ Area Code and Telephone Number

Form RSPA F 7000-1 (01-2001) *Page 1 of 4*

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PART C – ORIGIN OF THE ACCIDENT (Check all that apply)

1. Additional location information
   a. Line segment name or ID _____
   b. Accident on Federal land other than Outer Continental Shelf O Yes O No
   c. Is pipeline interstate? O Yes O No

Offshore: O Yes O No *(complete d if offshore)*
d. Area _____ Block # _____
State /___/___/ or Outer Continental Shelf ☐

2. Location of system involved (*check all that apply*)
   ☐ Operator's Property
   ☐ Pipeline Right of Way
   ☐ High Consequence Area (HCA)?
   Describe HCA_____

3. Part of system involved in accident
   O Above Ground Storage Tank
   O Cavern or other below ground storage facility
   O Pump/meter station; terminal/tank farm piping and equipment, including sumps
   O Other *Specify:* _____
   O Onshore **pipeline**, including valve sites
   O Offshore **pipeline**, including platforms

4. Failure occurred on
   O Body of Pipe O Pipe Seam O Scraper Trap
   O Pump O Sump O Joint
   O Component O Valve O Metering Facility
   O Repair Sleeve O Welded Fitting O Bolted Fitting
   O Girth Weld
   Other *(specify)* _____

Year the component that failed was installed: /___/___/___/___/___/

5. Maximum operating pressure *(MOP)*
   a. Estimated pressure at point and time of accident: _____ *PSIG*
   b. MOP at time of accident: _____ *PSIG*
   c. Did an overpressurization occur relating to the accident? O Yes O No

If failure occurred on Pipeline, complete items a -g:

a. Type of leak or rupture
   O Leak: O Pinhole O Connection Failure *(complete sec. H5)*
   O Puncture, diameter *(inches)* _____
   O Rupture: O Circumferential – Separation
   O Longitudinal – Tear/Crack, length *(inches)* _____
   Propagation Length, total, both sides *(feet)* _____
   O N/A
   O Other _____

b. Type of block valve used for isolation of immediate section:
   Upstream: ☐ Manual ☐ Automatic ☐ Remote Control ☐ Check Valve
   Downstream: ☐ Manual ☐ Automatic ☐ Remote Control ☐ Check Valve

c. Length of segment isolated _____ ft
d. Distance between valves _____ ft
e. Is segment configured for internal inspection tools? O Yes O No
f. Had there been an in-line inspection device run at the point of failure? O Yes O No O Don't Know
   O Not Possible due to physical constraints in the system
g. If *Yes*, type of device run (*check all that apply*)
   ☐ High Resolution Magnetic Flux tool Year run: _____
   ☐ Low Resolution Magnetic Flux tool Year run: _____
   ☐ UT tool Year run: _____
   ☐ Geometry tool Year run: _____
   ☐ Caliper tool Year run: _____
   ☐ Crack tool Year run: _____
   ☐ Hard Spot tool Year run: _____
   ☐ Other tool Year run: _____

PART D – MATERIAL SPECIFICATION

1. Nominal pipe size *(NPS)* /___/___/___/___/___/ in.
2. Wall thickness /___/___/___/___/___/ in.
3. Specification _____ SMYS /___/___/___/___/___/___/
4. Seam type _____
5. Valve type _____
6. Manufactured by _____ in year /___/___/___/___/

PART E – ENVIRONMENT

1. Area of accident
   O Under pavement O In open ditch
   O Underground O Above ground
   O Inside/under building O Under water
   O Other _____
2. Depth of cover: _____ inches

PART F – CONSEQUENCES

1. Consequences *(check and complete all that apply)*

a.

	Fatalities	Injuries
Number of operator employees:		_____
Contractor employees working for operator:		_____
General public:		_____
Totals:		_____

b. Was pipeline/segment shutdown due to leak? O Yes O No
If Yes, how long? _____ days _____ hours _____ minutes

c. Product ignited O Yes O No d. Explosion O Yes O No
e. ☐ Evacuation *(general public only)* /___/___/___/___/___/ people
Reason for Evacuation:
O Precautionary by company
O Evacuation required or initiated by public official

f. Elapsed time until area was made safe:
/___/___/ hr. /___/___/ min.

2. Environmental Impact

a. Wildlife Impact: Fish/aquatic O Yes O No
Birds O Yes O No
Terrestrial O Yes O No

b. Soil Contamination O Yes O No
If Yes, estimated number of cubic yards: _____

c. Long term impact assessment performed: O Yes O No
d. Anticipated remediation O Yes O No
If Yes, check all that apply: ☐ Surface water ☐ Groundwater ☐ Soil ☐ Vegetation ☐ Wildlife

e. Water Contamination: O Yes O No (*If Yes, provide the following*)
Amount in water _____ barrels
Ocean/Seawater O No O Yes
Surface O No O Yes
Groundwater O No O Yes
Drinking water O No O Yes (*If Yes, check below.*)
O Private well O Public water intake

PART G – LEAK DETECTION INFORMATION

1. Computer based leak detection capability in place? O Yes O No

2. Was the release initially detected by? (check one):
O CPM/SCADA-based system with leak detection
O Static shut-in test or other pressure or leak test
O Local operating personnel, procedures or equipment
O Remote operating personnel, including controllers
O Air patrol or ground surveillance
O A third party O Other (specify) _____

3. Estimated leak duration days ____ hours ____

PART H – APPARENT CAUSE

Important: *There are 25 numbered causes in this Part H. Check the box corresponding to the primary cause of the accident. Check one circle in each of the supplemental categories corresponding to the cause you indicate. See the instructions for guidance.*

H1 – CORROSION

1. ☐ External Corrosion

2. ☐ Internal Corrosion

(Complete items a – e where applicable.)

a. Pipe Coating
O Bare
O Coated

b. Visual Examination
O Localized Pitting
O General Corrosion
O Other _____

c. Cause of Corrosion
O Galvanic O Atmospheric
O Stray Current O Microbiological
O Cathodic Protection Disrupted
O Stress Corrosion Cracking
O Selective Seam Corrosion
O Other _____

d. Was corroded part of pipeline considered to be under cathodic protection prior to discovering accident?
O No O Yes, Year Protection Started: /___/___/___/___/

e. Was pipe previously damaged in the area of corrosion?
O No O Yes ⇒ Estimated time prior to accident: /___/___/ *years* /___/___/ *months* *Unknown* ☐

H2 – NATURAL FORCES

3. ☐ Earth Movement ⇒ O Earthquake O Subsidence O Landslide O Other _____
4. ☐ Lightning
5. ☐ Heavy Rains/Floods ⇒ O Washouts O Flotation O Mudslide O Scouring O Other _____
6. ☐ Temperature ⇒ O Thermal stress O Frost heave O Frozen components O Other _____
7. ☐ High Winds

H3 – EXCAVATION DAMAGE

8. ☐ Operator Excavation Damage (including their contractors/Not Third Party)
9. ☐ Third Party *(complete a-f)*

a. Excavator group
O General Public O Government O Excavator other than Operator/subcontractor

b. Type: O Road Work O Pipeline O Water O Electric O Sewer O Phone/Cable
O Landowner-not farming related O Farming O Railroad
O Other liquid or gas transmission pipeline operator or their contractor
O Nautical Operations O Other _____

c. Excavation was: O Open Trench O Sub-strata (boring, directional drilling, etc...)

d. Excavation was an ongoing activity (Month or longer) O Yes O No If Yes, Date of last contact /___/___/___/

e. Did operator get prior notification of excavation activity?
O Yes; Date received: /___/___/ mo. /___/___/ day /___/___/___/___/ yr. O No
Notification received from: O One Call System O Excavator O Contractor O Landowner

f. Was pipeline marked as result of location request for excavation? O No O Yes *(If Yes, check applicable items i - iv)*
i. Temporary markings: O Flags O Stakes O Paint
ii. Permanent markings: O
iii. Marks were (check one) : O Accurate O Not Accurate
iv. Were marks made within required time? O Yes O No

H4 – OTHER OUTSIDE FORCE DAMAGE

10. ☐ Fire/Explosion as primary cause of failure ⇒ Fire/Explosion cause: O Man made O Natural
11. ☐ Car, truck or other vehicle not relating to excavation activity damaging pipe
12. ☐ Rupture of Previously Damaged Pipe
13. ☐ Vandalism

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H5 – MATERIAL AND/OR WELD FAILURES

Material

14. ☐ Body of Pipe ⇒ O Dent O Gouge O Bend O Arc Burn O Other _____
15. ☐ Component ⇒ O Valve O Fitting O Vessel O Extruded Outlet O Other _____
16. ☐ Joint ⇒ O Gasket O O-Ring O Threads O Other _____

Weld

17. ☐ Butt ⇒ O Pipe O Fabrication O Other _____
18. ☐ Fillet ⇒ O Branch O Hot Tap O Fitting O Repair Sleeve O Other _____
19. ☐ Pipe Seam ⇒ O LF ERW O DSAW O Seamless O Flash Weld
O HF ERW O SAW O Spiral O Other _____

*Complete a-g if you indicate **any** cause in part H5.*

a. Type of failure:
O Construction Defect ⇒ O Poor Workmanship O Procedure not followed O Poor Construction Procedures
O Material Defect

b. Was failure due to pipe damage sustained in transportation to the construction or fabrication site? O Yes O No

c. Was part which leaked pressure tested before accident occurred? O Yes, *complete d-g* O No

d. Date of test: /___/___/___/___/ yr. /___/___/ mo. /___/___/ day

e. Test medium: O Water O Inert Gas O Other _____

f. Time held at test pressure: /___/___/ hr.

g. Estimated test pressure at point of accident: _____ *PSIG*

H6 – EQUIPMENT

20. ☐ Malfunction of Control/Relief Equipment ⇒ O Control valve O Instrumentation O SCADA O Communications
O Block valve O Relief valve O Power failure O Other _____
21. ☐ Threads Stripped, Broken Pipe Coupling ⇒ O Nipples O Valve Threads O Dresser Couplings O Other _____
22. ☐ Seal Failure ⇒ O Gasket O O-Ring O Seal/Pump Packing O Other _____

H7 – INCORRECT OPERATION

23. ☐ Incorrect Operation

a. Type: O Inadequate Procedures O Inadequate Safety Practices O Failure to Follow Procedures
O Other _____

b. Number of employees involved who failed a post-accident test: drug test: /___/___/___/ alcohol test /___/___/___/

H8 – OTHER

24. ☐ Miscellaneous, *describe:* _____
25. ☐ Unknown
O Investigation Complete O Still Under Investigation *(submit a supplemental report when investigation is complete)*

PART I – NARRATIVE DESCRIPTION OF FACTORS CONTRIBUTING TO THE EVENT *(Attach additional sheets as necessary)*

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INSTRUCTIONS FOR FORM RSPA F 7000-1 (1-2001)
ACCIDENT REPORT - HAZARDOUS LIQUID PIPE SYSTEMS

GENERAL INSTRUCTIONS

Each hazardous liquid pipeline operator shall file Form RSPA F 7000-1 for an accident that meets the criteria in 49 CFR §195.50 as soon as practicable but not more than 30 days after the accident. Hazardous liquid releases during maintenance activities need not be reported if the spill was less than 5 barrels, not otherwise reportable under 49 CFR §195.50, and did not result in water pollution as described by 49 CFR §195.52(a)(4). Any spill of 5 gallons or more to water shall be reported.

Consult 49 CFR §195.50 for reporting requirements. If you have questions about this report or these instructions or need copies of Form RSPA F 7000-1, please write to the Information Resources Manager, or call (202)366-4569. All forms and instructions are on the OPS home page, http://ops.dot.gov.

SPECIAL INSTRUCTIONS

1. An entry should be made in each space.
2. Please try to obtain the information necessary to accurately and completely answer each question.
3. If the data is unavailable, enter "unknown"
4. If possible, provide an estimate in lieu of answering a question with "Unknown".
5. For unknown or estimated data entries, the operator should file a supplemental report when additional information becomes available.
6. If the block is not applicable, please enter N/A.

In blocks requiring numbers, all blocks should be filled in using zeroes when appropriate. When decimal points are required, the decimal point should be placed in a separate block.

Examples: (Part D, item 1) Nominal Pipe Size /0/0/2/4/ inches
/1/./5/0/ inches

(Part D, item 1) Wall Thickness /./5/0/0/ inches
/1/./2/5/ inches

If OTHER is checked, include an explanation or description on the line next to the item checked.

SPECIFIC INSTRUCTIONS

PART A - GENERAL REPORT INFORMATION

Initial, Supplemental, Final Report Section

Check the appropriate box:
☐ Original Report ☐ Supplemental Report ☐ Final Report.

If this is the initial report filed for this accident, check the box for "Original Report". If all of the information requested is known and provided at the time the initial report is filed, including final property damages and failure cause information, check the box for Final Report as well as the box for Original Report, indicating that no further information will be forthcoming.

If this is an update or revision to an Original Report but all information requested is still not known, check "Supplemental Report".

If all requested relevant information has been provided, and there will be no further updates to reported property damages or accident cause information, check the box for "Final Report".

If you are filing a supplemental or final report, please check the Supplemental Report or Final Report box and complete Part A(1)and Part B. Please do not enter previously submitted information.

A 1. The Research and Special Programs Administration (RSPA) assigns the operator's five-digit identification number. If you do not know the operator identification number, please leave that item blank. The operator address entry in 1.d and 1.e is the office filing the accident report. If the operator does not own the pipeline, enter the Owner's five digit identification number in 1.b. You may contact us at (202)366-8075 during our business hours of 7:30 AM to 5:00 PM Easter time if you need assistance with an identification number for 1.a or 1.b.

SMALL SPILLS (5 GALLONS TO 5 BARRELS)

IMPORTANT: For small spills not otherwise reportable under CFR 195.50 nor resulting in water pollution as described by 49 CFR 195.52, complete only page one. If spill is less than one barrel, enter loss in gallons. Estimate amount spilled and recovered as closely as possible. Estimate the total property damage for sections under property damage reporting if exact amounts aren't known. Complete preparer's name and contact information section. Check the box for FINAL REPORT and submit the report.

ALL OTHER REPORTABLE SPILLS

For spills: of 5 or more gallons resulting in water pollution as described in 49 CFR §195.52(A)(4); of 5 or more barrels; or reportable by other criteria as per 49 CFR §195.50, complete as much of the form as possible within the 30 day filing period. If total property damage, cause information or other information is not known within 30 days, submit the original report and provide supplemental updates every 6 months until such time as a final report can be submitted. We plan to remind operators every six months about reports needing updates.

A 2. The time of the accident should be shown by 24-hour clock notation.

Examples:

1. (0000) = midnight = /0/0/0/0/
2. (0800) = 8:00 a.m. = /0/8/0/0/
3. (1200) = Noon = /1/2/0/0/
4. (1715) = 5:15 p.m. = /1/7/1/5/
5. (2200) = 10:00 p.m.= /2/2/0/0/

A 3. Accident location information should be as complete as possible, including the nearest City, Town, Township, County or Parish, Borough, Section, and Range. Offshore accident identification should be located by State or Outer Continental Shelf (OCS) identification and block identification. In addition to the general location information, provide latitude and longitude, if available, including projection and datum used in collecting the data.

Federal Land other than Outer Continental Shelf means all lands the United States owns, including military reservations, except lands in National Parks and lands held in trust for Native Americans. Accidents at Federal buildings, such as Federal Court Houses, Custom Houses, and other Federal office buildings and warehouses, are not to be reported as being on Federal Lands.

A 5. Estimate costs/losses for the items provided in this section. Do not report costs incurred for facility repair, replacement, or change that is not related to the accident done solely for convenience. An example of doing work solely for convenience is working on facilities unearthed because of the accident. Litigation and other legal expenses related to the accident are not reportable.

PART B - PREPARER AND AUTHORIZED SIGNATURE

Preparer is the name of the person who prepared the responses to the form and who is to be contacted for more information (preferably the person most knowledgeable about the information in the report).

Authorized Signature may be the preparer, an officer, or other person whom the operator has designated to review and sign reports. Please enter the preparer's e-mail address if the preparer has one.

PART C - ORIGIN OF Accident

C 2. Location of System Involved:

High consequence area means:

1. A commercially navigable waterway, which means a waterway where a substantial likelihood of commercial navigation exists;
2. A high population area, which means an urbanized area as defined and delineated by the Census Bureau that contains 50,000 or more people and has a population density of at least 1,000 people per square mile;
3. Any other populated area, which means a place as defined and

delineated by the Census Bureau that contains a concentrated population, such as an incorporated or unincorporated city, town, village, or other designated residential or commercial area;

4. An unusually sensitive area, as defined in 195.6

C 3. Part of System Involved in Accident

If the failure occurred on an item not provided in this section, check the "OTHER" box and specify in the space provided the part of the structure that failed. If failure occurred on **onshore or offshore pipeline**, complete C a through g.

Leak - an unintentional release of product from a pipeline requiring repair to the pipeline. The source of the leak may be holes, cracks (including propagating and non-propagating, longitudinal and circumferential cracks), separation or pull-out, and loose connections.

Rupture - a complete failure of a portion of the pipeline.

Propagation - the extension of the original opening in the pipeline in an area of nominal wall thickness resulting from the internal forces on the pipeline.

Tear - an extension of the original opening in the pipeline resulting from an externally applied force, such as a bulldozer, backhoe, or grader.

Note: for C 3 a - {Type of Leak or Rupture}, *Connection Failure* refers only to accidents where failure occurred on a connection that joined two segments of pipe.

"Year the pipe/component which failed was installed" means the year installed at the accident location.

PART D - MATERIAL SPECIFICATION

Complete section D (1 through 6), if pipe or valve failed.

ITEM 1. Nominal pipe size is the diameter in inches used to describe the pipe size; for example, 2-inch, 4-inch, 8-inch, 12-inch, 30-inch.

ITEM 2. Enter pipe wall thickness in inches. Use decimals as necessary.

ITEM 3. Specification is the specification to which the pipe or component was manufactured, such as API 5L or ASTM A106. When more than one item has failed, and the origin of the failure is not clear, complete Part C ITEM 2 to explain the additional item(s).

ITEM 4. *Common seam types: (Acronyms used in Part H5, item 19:*
LF ERW : low frequency electro-resistance weld
HF ERW : high frequency electro-resistance weld
DSAW : double-submerged arc weld
SAW : submerged arc weld

ITEM 5. Some valve types are: flange-welded, bell-plug, etc.

PART E - ENVIRONMENT

"Under pavement" includes under streets, sidewalks, paved roads, driveways and parking lots.

Provide depth of cover in inches where accident involved buried pipe or component.

PART F - CONSEQUENCES

F 1 a. - injuries are those that require in-patient hospitalization, meaning hospital admission and at least one overnight stay.

For F 2 a, because of the difficulty in estimating number of individual animals or species affected, we do not ask quantity, rather, we only provide a check box to indicate if any species were impacted.

If product ignited, but there was no explosion, check box F1c. If an explosion occurred, check box F1d.

For F 1 f, "Elapsed time until the area was made safe" means the amount of time starting from the accident occurrence until the time that the accident is brought under control and does not significantly threaten public safety. This does not necessarily mean that the flow of product has been stopped. If the time of occurrence is unknown, the time when the operator was first notified or made aware of the accident should be used to calculate elapsed time.

PART G - LEAK DETECTION INFORMATION

Enter the requested information about leak detection systems.

PART H - APPARENT CAUSE

There are 25 numbered causes in Part H. The 25 causes are divided into 8 categories in sections H1 through H8. Check the box indicating the general cause of the accident and check the circle indicating the specific cause.

PART H1 - CORROSION

Corrosion includes a leak or failure caused by galvanic, bacterial, chemical, stray current, or other corrosive action. Examples: A corrosion leak is not limited to a hole in the pipe. If the bonnet or packing gland on a valve or flange on piping becomes loose and leaks due to corrosion and failure of bolts, it is classified as Corrosion. If the bonnet, packing, or other gasket has deteriorated before the end of its expected life and caused a leak or failure and a new gasket is required, it is classified as a Material Defect. Leaks resulting from materials deteriorating after the expected life of the materials are classified as "Other". Leaks due to deterioration from corrosion, however, are classified as "Corrosion".

Complete H1 parts a - e where applicable.
If the cause was Stress Corrosion Cracking, check the block for Stress Corrosion Cracking under H1 (c).

Subpart a - Pipe Coating
Galvanized pipe with no dielectric coating is considered bare.

Subpart d - Cathodic Protection

"Under cathodic protection" means cathodic protection in accordance with Part 192, Appendix D. Recognizing that older pipelines may have had cathodic protection added over a number of years, provide an estimate if exact year cathodic protection started is unknown.

PART H2 - NATURAL FORCES

ITEMS 3 - 7: Natural Forces.

This includes all outside forces attributable to causes not involving humans. "Earth Movement" refers to failures caused by land shifts such as earthquakes, landslides, or subsidence.

"Heavy rains and floods" refer to all water related failure causes such as washouts, flotation, mudslides, or water scouring. While mudslides involve earth movement, report them here since typically they are an effect of heavy rains or floods.

"Temperature" refers to those causes that are related to temperature effects, or where temperature was the initial cause; for example, thermal stress, frost heave, or frozen component failures.

PART H3 - EXCAVATION DAMAGE

This section covers excavator damage by operator, operator's contractor, utilities, or others.

Complete subparts a - g if any cause was checked in Part H3(9).

ITEMS 8 - 9: Excavation.

Item 8: check this item if the operator or the operator's contractor or agent caused the failure, or if caused by another party working for the operator as a result of excavation.

Item 9: Third Party Damage- check this item if failure cause was from excavation damages resulting from action by a third party, that is, by a party other than the operator or the operator's agent.

Subpart 9e- "Prior notification" means that the operator had been notified that excavation or construction work was to be done near the pipeline before the accident occurred. If the operator was notified, but the operator believes the notice was inadequate, improper, or incomplete, check NO and explain in Part G, Narrative Description Of Factors Contributing to the Event, how the notice was inadequate, improper or incomplete.

Subpart 9f- "Was pipeline marked as a result of location request for excavation?": Indicate whether the pipeline was marked. If the pipeline was marked, complete all items i through iv that apply.

PART H4 - OTHER OUTSIDE FORCE DAMAGE

This section covers damages to pipelines or facilities caused by external forces other than excavation damage.

ITEMS 10- 13 Cover other failures caused by damages to pipelines by external

forces other than excavation or natural forces. Fire/explosion as primary cause of failure implies that fire/explosion occurred prior to failure and not as a result of failure. If a fire/explosion occurred as a result of the failure not as primary cause of the failure, do not check item 10, but check Part F item 1c or 1d. If the primary failure cause was damage by a vehicle other than a vehicle involved in excavation, check item 11. If a vehicle involved in excavation caused the damage, check the appropriate item under the Excavation Damage section (items 8 and 9).

PART H5 - MATERIAL AND/OR WELD FAILURES

"Fitting" means a device, usually metal, for joining lengths of pipe into various piping systems. It includes couplings, ells, tees, crosses, reducers, unions, caps and plugs.

ITEMS 14 - 16, Material.

This section includes leaks or failures from a defect within the material of the pipe, component or joint due to faulty manufacturing procedures. Leaks or failures resulting from material deterioration and not resulting from an original defect or corrosion are reported under "Other". Complete subparts a - g if any cause was checked in Part H5.

ITEMS 17 - 19, Welds.

Acronyms used in this section:
LF ERW : low frequency electro-resistance weld
HF ERW : high frequency electro-resistance weld
DSAW : double-submerged arc weld
SAW : submerged arc weld

"Weld-related material defects" includes leaks or failures from a defect within the material of the pipe, component or longitudinal weld or seam due to faulty welding or weld-related manufacturing procedures.

Sub-Elements a - g
"Construction defect" includes leaks in or failures of originally sound material due to force being applied during field construction that caused a dent, gouge, excessive stress, or some other defect that eventually resulted in failure. Included are leaks in or failures of wrinkle bends, field welds, and damage sustained in transportation to the construction or fabrication site.

PART H6 - EQUIPMENT

This section includes malfunctions of control and relief equipment (typically the result of failed and leaking valves), failures of threaded components and broken pipe couplings, including thread failures, and failures in seal/pump packings. Accidents resulting from incorrect operations or inadequate procedures are also included in this category. Report gasket or o-ring failures under Part H5, item 16, Joints, by checking the appropriate circle for gasket or o-ring.

Item 20- Malfunction of Control/Relief Equipment

Examples of this type of failure cause include: overpressurizations resulting from malfunction of control or alarm device; relief valve malfunction: and valves failing to open or close on command; or which opened or closed when not commanded to do so.

Item 21 - Threads stripped, broken pipe coupling

Examples of this type of failure include failures on compressors, meters, or regulator stations where the failure resulted from a crack in a component or threads of a component such as nipples, flanges, valve connections, line pipe collars, etc.

Item 22 - Ruptured or Leaking Seal/Pump Packing

Examples of this type of failure generally include failures of compressor pump packing or other pump seals.

PART H7 - INCORRECT OPERATION

Incorrect operation failures typically result from faulty or inadequate procedures. These types of failures most often occur during maintenance activities. Some examples of this type of failure are unintentional product ignition during a welding or maintenance activity; other reportable accidents causing a fire, or failures where human error, employee fatigue, and/or lack of experience may have played a role.

PART H8 - OTHER

This section is provided for failure causes that do not fit in any category in Sections H1 through H7. If the failure cause is unknown at time of filing this report, check item 25. If the failure cause is known but doesn't fit in any category in sections H1 through H7, check item 24 and describe the cause. Continue in Part I, narrative description, if more space is needed.

PART I - NARRATIVE DESCRIPTION OF FACTORS CONTRIBUTING TO THE ACCIDENT

Concisely describe the accident, including the facts, circumstances, and conditions that may have contributed directly or indirectly to causing the accident. You may explain any estimated data in the narrative. If you checked the OTHER block in Part H8 item 24 or 25, the narrative should describe the accident in detail, including the timeline, sequence of events, and all known or suspected causes. Use this section to clarify or explain unusual conditions.

[FR Doc. 02–266 Filed 1–7–02; 8:45 am]
BILLING CODE 4910–60–C

Proposed Rules

Federal Register
Vol. 67, No. 5
Tuesday, January 8, 2002

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1240

[Docket No. FV–01–709]

Honey Research, Promotion, and Consumer Information Order; Continuance Referendum

AGENCY: Agricultural Marketing Service, Agriculture.

ACTION: Referendum order.

SUMMARY: This document directs that a referendum be conducted among eligible producers of honey and importers of honey or honey products to determine whether they favor continuance of the Honey Research, Promotion, and Consumer Information Order (Order).

DATES: The referendum will be conducted from February 4 through March 1, 2002. To vote in this referendum, producers and importers must have been producing honey or importing honey or honey products during the period from October 1, 1999, through September 30, 2001.

ADDRESSES: Copies of the Order may be obtained from: Referendum Agent, Research and Promotion Branch (RP), Fruit and Vegetable Programs (FV), AMS, USDA, Stop 0244, Room 2535–S, 1400 Independence Avenue, S.W., Washington, D.C. 20250–0244.

FOR FURTHER INFORMATION CONTACT: Kathie Birdsell, RP, FV, AMS, USDA, Stop 0244, Room 2535–S, 1400 Independence Avenue, S.W., Washington, D.C. 20250–0244, telephone 888–720–9917 (toll free), fax 202–205–2800, e-mail *kathie.birdsell@usda.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to the Honey Research, Promotion, and Consumer Information Act, as amended (Act) [7 U.S.C. 4601–4613], it is hereby directed that a referendum be conducted to ascertain whether continuance of the Order is favored by producers of honey and importers of honey or honey products. The Order is authorized under the Act.

The representative period for establishing voter eligibility for the referendum shall be the period from October 1, 1999, through September 30, 2001. Persons who are producers of honey or importers of honey or honey products at the time of the referendum and during the representative period are eligible to vote. Persons who received an exemption from assessments for the entire representative period are ineligible to vote. The referendum shall be conducted by mail ballot from February 4 through March 1, 2002.

Section 13(c) of the Act provides that the Department of Agriculture (Department) shall conduct a referendum every five years to determine if persons subject to assessment under the Order approve continuation of the Order. Previous continuance referenda were conducted in 1991 and 1996.

Sections 12(b)(1)(A) and (B) of the Act provide that the Department shall continue the Order if continuance of the Order is approved by a majority of the producers and importers voting in the referendum and that the producers and importers comprising this majority produce or import not less than 50 percent of the quantity of the honey or honey products produced or imported during the representative period by those voting in the referendum.

In accordance with the Paperwork Reduction Act of 1995 [44 U.S.C. Chapter 35], the referendum ballot has been approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581–0093. It has been estimated that there are approximately 3,500 producers and 700 importers who will be eligible to vote in the referendum. It will take an average of 15 minutes for each voter to read the voting instructions and complete the referendum ballot.

Referendum Order

Kathie M. Birdsell, Margaret B. Irby, and Martha B. Ransom, RP, FV, AMS, USDA, Stop 0244, Room 2535–S, 1400 Independence Avenue, S.W. Washington, D.C. 20250–0244, are designated as the referendum agents to conduct this referendum. The referendum procedures [7 CFR 1240.200 through 1240.207], which were issued pursuant to the Act, shall be used to conduct the referendum.

The referendum agents will mail the ballots to be cast in the referendum and voting instructions to all known producers and importers prior to the first day of the voting period. Persons who are producers or importers at the time of the referendum and during the representative period are eligible to vote. Persons who received an exemption from assessments during the entire representative period are ineligible to vote. Any eligible producer or importer who does not receive a ballot should contact the referendum agents no later than one week before the end of the voting period. Ballots must be received by the referendum agents on or before March 1, 2002, in order to be counted.

List of Subjects in 7 CFR Part 1240

Advertising, Agricultural research, Honey, Imports, Reporting and recordkeeping requirements.

Authority: 7 U.S.C. 4601–4613 and 7 U.S.C. 7401.

Dated: January 3, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–449 Filed 1–4–02; 10:39 am]

BILLING CODE 3410–02–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AK–21–1709–b; FRL–7123–3]

Approval and Promulgation of State Implementation Plans; Inspection and Maintenance Program and Fuel Requirements: Alaska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes to approve two revisions to the carbon monoxide (CO) Alaska State Implementation Plan (SIP) in the Alaska Administrative Code (AAC). These two revisions to the SIP were submitted on February 24, 2000 and February 2, 2001. EPA is also proposing to grant final approval of Alaska's revised Inspection and Maintenance (I/M) Program SIP credit claim to 100% of credit applied to centralized I/M programs under Section

348 of the National Highway System Designation Act. This was resubmitted on November 7, 2001.

DATES: Written comments must be received in writing by February 7, 2002.

ADDRESSES: Written comments should be addressed to Wayne Elson, Environmental Protection Specialist (OAQ–107), Office of Air Quality, at the EPA Regional Office listed below. Copies of the state submittal are available at the following addresses for inspection during normal business hours. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Environmental Protection Agency, Region 10, Office of Air Quality, 1200 6th Avenue, Seattle, WA 98101. The Alaska Department of Environmental Conservation, 410 Willoughby Avenue, Suite 105, Juneau, AK 99801–1795.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne Elson, Office of Air Quality, (OAQ–107), EPA, 1200 6th Avenue, Seattle, WA 98101, (206) 553–1463.

SUPPLEMENTARY INFORMATION: The SIP revisions cover amendments to I/M requirements for Motor Vehicles (18 AAC 52), the State Air Quality Control Plan (18 AAC 50), and Fuel Requirements for Motor Vehicles (18 AAC 53). The most salient aspects of these rule changes include: new I/M equipment specifications and amending the Alaska I/M Program Manual; delayed start date for On-Board Diagnostic (OBD II) I/M test requirements; making vehicle stickers mandatory; removing the ''fast fail'' option and begin to require that all inspections be full and complete; and streamline and update several portions of the Alaska Air Quality Control Plan for more efficient reading and organization. This final approval of Alaska's I/M program credit claim to 100% removes the interim status of EPA's interim approvals of October 10, 1996 (61 FR 53163) and May 19, 1997 (62 FR 27199) for 85% of credit applied to centralized I/M programs.

In the Final Rules Section of this **Federal Register**, the EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If the EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

For additional information, see the Direct Final rule which is located in the Rules Section of this **Federal Register**.

Dated: December 12, 2001.

L. John Iani,

Regional Administrator, Region 10.

[FR Doc. 02–219 Filed 1–7–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[VA001–1000; FRL–7126–7]

Approval of Section 112(l) Authority for Hazardous Air Pollutants; State of Virginia; Department of Environmental Quality

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve Virginia Department of Environmental Quality's (VADEQ's) request for delegation of authority to implement and enforce its hazardous air pollutant regulations for perchloroethylene dry-cleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning, secondary lead smelting, hazardous waste combustors, Portland cement manufacturing, and secondary aluminum smelting which have been adopted by reference from the Federal requirements set forth in the Code of Federal Regulations. This proposed approval will automatically delegate future amendments to these regulations once VADEQ incorporates these amendments into its regulations. In addition, EPA is proposing to approve of VADEQ's mechanism for receiving delegation of future hazardous air pollutant regulations. This mechanism entails VADEQ's incorporation by reference of the unchanged Federal standard into its hazardous air pollutant regulation and VADEQ's notification to EPA of such incorporation. This action pertains only to affected sources, as defined by the Clean Air Act hazardous air pollutant program, which are not located at major sources, as defined by the Clean Air Act operating permit program. In the Final Rules section of this **Federal Register**, EPA is approving the State's request for delegation of authority as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Written comments must be received on or before February 7, 2002.

ADDRESSES: Written comments on this action should be sent concurrently to: Makeba A. Morris, Chief, Permits and Technical Assessment Branch, Mail Code 3AP11, Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103–2029, and Dennis H. Treacy, Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103 and the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: Dianne J. McNally, 215–814–3297, at the EPA Region III address above, or by e-mail at *mcnally.dianne@epa.gov.* Please note that any formal comments must be submitted, in writing, as provided in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION: For further information on this action, pertaining to approval of VADEQ's delegation of authority for the hazardous air pollutant emission standards for perchloroethylene dry-cleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning, secondary lead smelting, hazardous waste combustors,

portland cement manufacturing, and secondary aluminum smelting (Clean Air Act section 112), please see the information provided in the direct final action, with the same title, that is located in the ''Rules and Regulations'' section of this **Federal Register** publication.

Dated: December 26, 2001.

Judith M. Katz,

Director, Air Protection Division, Region III.

[FR Doc. 02–408 Filed 1–7–02; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2985; MM Docket No. 01–345; RM–10344]

Radio Broadcasting Services; Wickenburg and Salome, AZ

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Circle S Broadcasting Co., Inc., licensee of Station KWSG(FM), Wickenburg, Arizona, requesting the substitution of Channel 242C for Channel 242C3 and modification of its authorization to specify the higher class channel. Additionally, to accommodate the upgrade, petitioner also proposes the substitution of Channel 270A for vacant Channel 241A at Salome, Arizona. Channel 242C can be allotted to Wickenburg consistent with the technical requirements of the Commission's Rules at the petitioner's specified site located 24.6 kilometers (15.3 miles) west of the community at coordinates 33–54–15 NL and 112–59–02 WL. Channel 270A can be substituted for vacant Channel 241A at Salome, Arizona, at the current reference site for the existing channel at coordinates 33–46–54 NL and 113–36–42 NL. Additionally, as Wickenburg and Salome are each located within 320 kilometers (199 miles) of the U.S.-Mexico border, concurrence of the Mexican government to the proposals must be obtained.

DATES: Comments must be filed on or before February 11, 2002, and reply comments on or before February 26, 2002.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Lee Peltzman, Esq., Shainis and Peltzman, Chartered, 1850 M Street, NW., Suite 240, Washington, DC 20036.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 01–345, adopted December 12, 2001, and released December 21, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY–A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Qualtex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone (202) 863–2893.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, *see* 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR Part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Arizona, is amended by removing Channel 241A and adding Channel 270A at Salome; and removing Channel 242C3 and adding Channel 242C at Wickenburg.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 02–376 Filed 1–7–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2907; MM Docket Nos. 01–340, 01–341, 01–342, 01–343; RM–10345, RM–10346, RM–10347, RM–10348]

Radio Broadcasting Services; Pierce, NE; Coosada, AL; Pineview, GA; and Diamond Lake, OR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission seeks comment on proposals in four separate docketed proceedings in a multiple docket *Notice of Proposed Rule Making.* The first, filed by Pierce Radio, LLC, proposes to allot Channel 248C2 at Pierce, Nebraska as the community's first local aural transmission service. Channel 248C2 can be allotted at Pierce at a site 5 kilometers (3.1 miles) east of the community at coordinates 42–11–30 NL and 97–28–00 WL. The second, filed by Media Equities Corp., proposes to allot Channel 226A at Coosada, Alabama, as the community's first local aural transmission service. Channel 226A can be allotted at Coosada at a site 14 kilometers (8.7 miles) southeast of the community at coordinates 32–26–58 NL and 86–11–38 WL. The third, filed by Data+Corp., proposes the allotment of Channel 226A at Pineview, Georgia as the community's first local aural transmission service. Channel 226A can be allotted at Pineview at a site 8.4 kilometers (5.3 miles) southeast of the community at coordinates 32–00–44 NL and 83–28–19 WL. The fourth, filed by Robert W. Larson, proposes the allotment of Channel 299A at Diamond Lake as the community's first local aural transmission service. Channel 299A can be allotted at Diamond Lake without a site restriction at coordinates 43–10–44 NL and 122–8–16 WL. *See* **SUPPLEMENTARY INFORMATION.**

DATES: Comments must be filed on or before February 4, 2002, and reply comments must be filed on or before February 19, 2002.

FOR FURTHER INFORMATION CONTACT: Victoria M. McCauley, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket Nos. 01–340, 01–341, 01–342, 01–343, adopted December 5, 2001, and released December 14, 2001. The full text of this document is available for public inspection and copying during regular business hours at the FCC Reference

Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

The Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, *see* 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

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

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

2. Section 73.202(b), the Table of FM Allotments under Nebraska, is amended by adding Pierce, Channel 248C2.

3. Section 73.202(b), the Table of FM Allotments under Alabama, is amended by adding Coosada, Channel 226A.

4. Section 73.202(b), the Table of FM Allotments under Georgia, is amended by adding Pineview, Channel 226A.

5. Section 73.202(b), the Table of FM Allotments under Oregon, is amended by adding Diamond Lake, Channel 299A.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 02–370 Filed 1–7–02; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 173

[Docket No. RSPA–01–10741 (HM–220C)]

RIN 2137–AC86

Hazardous Materials: Filling of Propane Cylinders; Denial of Petition for Rulemaking

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

ACTION: Denial of petition for rulemaking and termination of docket HM–220C.

SUMMARY: RSPA is denying a petition for rulemaking filed by the Barbecue Industry Association requesting we require the registration of facilities that fill liquefied petroleum gas (LPG) cylinders having a water capacity of less than 200 pounds.

FOR FURTHER INFORMATION CONTACT: Gigi Corbin or Eileen Edmonson, (202) 366–8553, Office of Hazardous Materials Standards, Research and Special Programs Administration.

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1996, the Research and Special Programs Administration (RSPA, we) published an advance notice of proposed rulemaking (ANPRM) (61 FR 43515) to solicit comments on the merits of a petition for rulemaking filed by the Barbecue Industry Association (BIA) (P–1298). In its petition, BIA requested we amend the Hazardous Materials Regulations (HMR; 49 CFR parts 171–180) to require the registration of persons who fill DOT specification cylinders that have a water capacity of less than 200 pounds (about 24 gallons); are used for liquefied petroleum gas, a Division 2.1 (flammable) gas; and that come under the jurisdiction of the HMR. To obtain this registration, BIA proposed that the fillers' facilities and qualifications be reviewed by an independent inspection agency approved according to § 173.300a of the HMR. BIA proposed that registrants submit an application containing the following documentation:

(1) A certification of employee training;

(2) A certification that the filling equipment is suitable for use with LPG to provide for accurately filling the cylinders by weight according to current § 173.304(c);

(3) Proof of financial responsibility in the minimum amount of one million dollars; and

(4) An inspection report prepared by an independent inspection agency.

BIA's major concern is overfilling of propane cylinders used for barbecue grills. These cylinders are commonly called 20-pound cylinders, hold about five gallons, and are usually sold directly to consumers. BIA states that more than 5 million barbecue grills were sold in 1993, that the National Petroleum Gas Association (NPGA) estimates 50 million propane cylinders are currently in use, and that an additional 5 to 6 million are produced annually. BIA states that these market conditions have encouraged fill stations to use untrained employees to fill and service 20-pound cylinders. BIA asserts that the wide variations in current training and filling practices and inadequate regulations by state and local jurisdictions result in consumer injuries and deaths. BIA suggests Federal regulation will eliminate these differences and promote safer use of propane cylinders. BIA provided no estimates on the number of fillers that potentially would be affected by the proposal. The text of the petition was published verbatim in the ANPRM.

Comment Summary

To determine the possible impacts of BIA's proposal, the ANPRM included a request of commenters to provide estimates of the proposal's anticipated costs and safety benefits, burden hours, and the potential impact on small businesses and the environment. We received 11 comments from persons representing state and local agencies, trade associations, cylinder fillers and requalifiers, and the general public. The commenters unanimously oppose BIA's proposals, primarily because the costs associated with their implementation would be extremely high.

Most commenters agree that training is necessary for propane refillers; however, they object to BIA's training proposal. They state that existing state and Federal requirements cover most propane filling scenarios, including training, and that additional Federal regulations would be duplicative and confusing, and would increase costs. The NPGA states that the National Fire Protection Association (NFPA) Standard 58, titled ''Storage and Handling of Liquefied Petroleum Gases,'' is consistent with the HMR and is used as the basis of LPG regulation ''in virtually every state.'' This pamphlet discusses how to fill and transport these cylinders, even when customer-owned, and how to train employees performing

these operations. The Railroad Commission of Texas (RCT) maintains that the BIA proposal would not enhance safety in Texas; it notes that Texas had only two reported overfilling accidents in the past five years, neither of which was serious.

Most commenters agree that certification of scales to ensure their accuracy is a necessary safety practice, but note that these activities are currently regulated by the states. As the NPGA states:

> At present, the Hazardous Materials Regulations do not contain a provision that a company weighing a package as part of a manufacturing or hazmat filling operation must use a scale certified in accordance with NIST/NCWM Handbook 44 *Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices.* It has always been understood that such weighing operations are subject to state weights and measure laws and regulations and, therefore, are not a matter of DOT jurisdiction. Consequently, NPGA believes that the amendments proposed by BIA to require certified scales for cylinder filling is beyond the scope of the HMR and should therefore be denied.

Commenters objecting to the BIA proposal to require each propane filler to carry one million dollars in liability insurance state that the proposal is excessive and few small businesses can afford the amount. Three commenters report existing insurance requirements in their states. The Louisiana Liquefied Gas Commission states that it requires propane filling businesses to carry a minimum of $100,000 in insurance. RTC states that Texas requires licensed small cylinder fillers ''to carry a general liability policy including premises and operations in an amount of at least $25,000 per occurrence and $300,000 in the aggregate.'' This latter commenter estimates that carrying one million dollars in liability insurance would increase the insurance costs of its licensees from an average of $750 a year to $2,000 a year.

Finally, commenters object to the use of an independent inspection agency for inspecting a filler's qualifications and operations. They state that these agencies are not prepared to assume these additional responsibilities. One commenter notes that his state's Division of Weights and Measures requires all propane refilling scales to be tested yearly by an independent inspection agency and documented with the state.

Discussion

Federal hazardous materials transportation law (federal hazmat law), codified at 49 U.S.C. 5101 *et seq.*, authorizes the Secretary of Transportation to establish regulations for the safe transportation of hazardous materials in intrastate, interstate, and foreign commerce. The regulations apply to persons who: (1) Transport hazardous materials in commerce; (2) cause hazardous materials to be transported in commerce; or (3) manufacture, mark, maintain, recondition, repair, or test packagings (or components thereof) that are represented, marked, certified, or sold as qualified for use in the transportation of hazardous materials in commerce. 49 U.S.C. 5103(b)(1)(A).

The HMR apply to hazardous materials in cylinders offered for transportation or transported in commerce. For example, DOT specification cylinders must be designed, manufactured, and maintained in accordance with applicable HMR requirements. In addition, cylinders offered for transportation and transported in commerce must be filled as specified in § 173.304 of the HMR. Further, persons who fill and offer such cylinders for transportation in commerce must be trained. A company that fills cylinders intended for use in barbecue grills and offers such cylinders for transportation to a distribution or retail facility is subject to all applicable HMR requirements.

Many state and local governments have adopted and are enforcing the standards contained in NFPA Standard 58. The 1998 edition of this standard requires certain propane cylinders having capacities from 4 to 40 pounds to be fitted with overfilling prevention devices (OPDs). The standard defines an OPD as ''a safety device that is designed to provide an automatic means to prevent the filling of a container in excess of the maximum permitted filling limit.'' The standard requires an OPD and a fixed maximum liquid level gauge to be fitted on any cylinder manufactured after September 30, 1998, requalified after September 30, 1998, or filled on or after April 1, 2002. These newer OPDs are easily recognizable by a unique trilobular handwheel. The OPD handwheel is connected to the valve stem in a tamper-proof manner to prevent interchanging with a non-OPD valve. The use of OPDs on propane cylinders is supported by the Consumer Product Safety Commission and the Occupational Safety and Health Administration.

Conclusion

We agree with commenters to the ANPRM that the BIA proposal would impose significant costs on the industry. Further, the BIA proposals would not address safety problems involving refilling of consumer-owned barbecue cylinders since these are outside the scope of the Department's jurisdiction. Moreover, as commenters suggest, the BIA proposals unnecessarily duplicate state and local regulations applicable to refilling of cylinders. Finally, the NFPA 58 standard for OPDs on certain propane cylinders appears to address the safety issue of concern to BIA. For these reasons, we are denying BIA's petition. In consideration of the foregoing, Docket No. RSPA–01–10741 (HM–220C) is terminated.

Issued in Washington, DC, on January 2, 2002, under the authority delegated in 49 CFR part 106.

Frits Wybenga,

Deputy Associate Administrator for Hazardous Materials Safety.

[FR Doc. 02–445 Filed 1–7–02; 8:45 am]

BILLING CODE 4910–60–P

Proposed Rules

Federal Register
Vol. 67, No. 5
Tuesday, January 8, 2002

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1240

[Docket No. FV–01–709]

Honey Research, Promotion, and Consumer Information Order; Continuance Referendum

AGENCY: Agricultural Marketing Service, Agriculture.

ACTION: Referendum order.

SUMMARY: This document directs that a referendum be conducted among eligible producers of honey and importers of honey or honey products to determine whether they favor continuance of the Honey Research, Promotion, and Consumer Information Order (Order).

DATES: The referendum will be conducted from February 4 through March 1, 2002. To vote in this referendum, producers and importers must have been producing honey or importing honey or honey products during the period from October 1, 1999, through September 30, 2001.

ADDRESSES: Copies of the Order may be obtained from: Referendum Agent, Research and Promotion Branch (RP), Fruit and Vegetable Programs (FV), AMS, USDA, Stop 0244, Room 2535–S, 1400 Independence Avenue, S.W., Washington, D.C. 20250–0244.

FOR FURTHER INFORMATION CONTACT: Kathie Birdsell, RP, FV, AMS, USDA, Stop 0244, Room 2535–S, 1400 Independence Avenue, S.W., Washington, D.C. 20250–0244, telephone 888–720–9917 (toll free), fax 202–205–2800, e-mail *kathie.birdsell@usda.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to the Honey Research, Promotion, and Consumer Information Act, as amended (Act) [7 U.S.C. 4601–4613], it is hereby directed that a referendum be conducted to ascertain whether continuance of the Order is favored by producers of honey and importers of honey or honey products. The Order is authorized under the Act.

The representative period for establishing voter eligibility for the referendum shall be the period from October 1, 1999, through September 30, 2001. Persons who are producers of honey or importers of honey or honey products at the time of the referendum and during the representative period are eligible to vote. Persons who received an exemption from assessments for the entire representative period are ineligible to vote. The referendum shall be conducted by mail ballot from February 4 through March 1, 2002.

Section 13(c) of the Act provides that the Department of Agriculture (Department) shall conduct a referendum every five years to determine if persons subject to assessment under the Order approve continuation of the Order. Previous continuance referenda were conducted in 1991 and 1996.

Sections 12(b)(1)(A) and (B) of the Act provide that the Department shall continue the Order if continuance of the Order is approved by a majority of the producers and importers voting in the referendum and that the producers and importers comprising this majority produce or import not less than 50 percent of the quantity of the honey or honey products produced or imported during the representative period by those voting in the referendum.

In accordance with the Paperwork Reduction Act of 1995 [44 U.S.C. Chapter 35], the referendum ballot has been approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581–0093. It has been estimated that there are approximately 3,500 producers and 700 importers who will be eligible to vote in the referendum. It will take an average of 15 minutes for each voter to read the voting instructions and complete the referendum ballot.

Referendum Order

Kathie M. Birdsell, Margaret B. Irby, and Martha B. Ransom, RP, FV, AMS, USDA, Stop 0244, Room 2535–S, 1400 Independence Avenue, S.W. Washington, D.C. 20250–0244, are designated as the referendum agents to conduct this referendum. The referendum procedures [7 CFR 1240.200 through 1240.207], which were issued pursuant to the Act, shall be used to conduct the referendum.

The referendum agents will mail the ballots to be cast in the referendum and voting instructions to all known producers and importers prior to the first day of the voting period. Persons who are producers or importers at the time of the referendum and during the representative period are eligible to vote. Persons who received an exemption from assessments during the entire representative period are ineligible to vote. Any eligible producer or importer who does not receive a ballot should contact the referendum agents no later than one week before the end of the voting period. Ballots must be received by the referendum agents on or before March 1, 2002, in order to be counted.

List of Subjects in 7 CFR Part 1240

Advertising, Agricultural research, Honey, Imports, Reporting and recordkeeping requirements.

Authority: 7 U.S.C. 4601–4613 and 7 U.S.C. 7401.

Dated: January 3, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–449 Filed 1–4–02; 10:39 am]

BILLING CODE 3410–02–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AK–21–1709–b; FRL–7123–3]

Approval and Promulgation of State Implementation Plans; Inspection and Maintenance Program and Fuel Requirements: Alaska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes to approve two revisions to the carbon monoxide (CO) Alaska State Implementation Plan (SIP) in the Alaska Administrative Code (AAC). These two revisions to the SIP were submitted on February 24, 2000 and February 2, 2001. EPA is also proposing to grant final approval of Alaska's revised Inspection and Maintenance (I/M) Program SIP credit claim to 100% of credit applied to centralized I/M programs under Section

348 of the National Highway System Designation Act. This was resubmitted on November 7, 2001.

DATES: Written comments must be received in writing by February 7, 2002.

ADDRESSES: Written comments should be addressed to Wayne Elson, Environmental Protection Specialist (OAQ–107), Office of Air Quality, at the EPA Regional Office listed below. Copies of the state submittal are available at the following addresses for inspection during normal business hours. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Environmental Protection Agency, Region 10, Office of Air Quality, 1200 6th Avenue, Seattle, WA 98101. The Alaska Department of Environmental Conservation, 410 Willoughby Avenue, Suite 105, Juneau, AK 99801–1795.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne Elson, Office of Air Quality, (OAQ–107), EPA, 1200 6th Avenue, Seattle, WA 98101, (206) 553–1463.

SUPPLEMENTARY INFORMATION: The SIP revisions cover amendments to I/M requirements for Motor Vehicles (18 AAC 52), the State Air Quality Control Plan (18 AAC 50), and Fuel Requirements for Motor Vehicles (18 AAC 53). The most salient aspects of these rule changes include: new I/M equipment specifications and amending the Alaska I/M Program Manual; delayed start date for On-Board Diagnostic (OBD II) I/M test requirements; making vehicle stickers mandatory; removing the ''fast fail'' option and begin to require that all inspections be full and complete; and streamline and update several portions of the Alaska Air Quality Control Plan for more efficient reading and organization. This final approval of Alaska's I/M program credit claim to 100% removes the interim status of EPA's interim approvals of October 10, 1996 (61 FR 53163) and May 19, 1997 (62 FR 27199) for 85% of credit applied to centralized I/M programs.

In the Final Rules Section of this **Federal Register**, the EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If the EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

For additional information, see the Direct Final rule which is located in the Rules Section of this **Federal Register**.

Dated: December 12, 2001.

L. John Iani,

Regional Administrator, Region 10.

[FR Doc. 02–219 Filed 1–7–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[VA001–1000; FRL–7126–7]

Approval of Section 112(l) Authority for Hazardous Air Pollutants; State of Virginia; Department of Environmental Quality

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve Virginia Department of Environmental Quality's (VADEQ's) request for delegation of authority to implement and enforce its hazardous air pollutant regulations for perchloroethylene dry-cleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning, secondary lead smelting, hazardous waste combustors, Portland cement manufacturing, and secondary aluminum smelting which have been adopted by reference from the Federal requirements set forth in the Code of Federal Regulations. This proposed approval will automatically delegate future amendments to these regulations once VADEQ incorporates these amendments into its regulations. In addition, EPA is proposing to approve of VADEQ's mechanism for receiving delegation of future hazardous air pollutant regulations. This mechanism entails VADEQ's incorporation by reference of the unchanged Federal standard into its hazardous air pollutant regulation and VADEQ's notification to EPA of such incorporation. This action pertains only to affected sources, as defined by the Clean Air Act hazardous air pollutant program, which are not located at major sources, as defined by the Clean Air Act operating permit program. In the Final Rules section of this **Federal Register**, EPA is approving the State's request for delegation of authority as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Written comments must be received on or before February 7, 2002.

ADDRESSES: Written comments on this action should be sent concurrently to: Makeba A. Morris, Chief, Permits and Technical Assessment Branch, Mail Code 3AP11, Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103–2029, and Dennis H. Treacy, Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103 and the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: Dianne J. McNally, 215–814–3297, at the EPA Region III address above, or by e-mail at *mcnally.dianne@epa.gov.* Please note that any formal comments must be submitted, in writing, as provided in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION: For further information on this action, pertaining to approval of VADEQ's delegation of authority for the hazardous air pollutant emission standards for perchloroethylene dry-cleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning, secondary lead smelting, hazardous waste combustors,

portland cement manufacturing, and secondary aluminum smelting (Clean Air Act section 112), please see the information provided in the direct final action, with the same title, that is located in the ''Rules and Regulations'' section of this **Federal Register** publication.

Dated: December 26, 2001.

Judith M. Katz,

Director, Air Protection Division, Region III.

[FR Doc. 02–408 Filed 1–7–02; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2985; MM Docket No. 01–345; RM–10344]

Radio Broadcasting Services; Wickenburg and Salome, AZ

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Circle S Broadcasting Co., Inc., licensee of Station KWSG(FM), Wickenburg, Arizona, requesting the substitution of Channel 242C for Channel 242C3 and modification of its authorization to specify the higher class channel. Additionally, to accommodate the upgrade, petitioner also proposes the substitution of Channel 270A for vacant Channel 241A at Salome, Arizona. Channel 242C can be allotted to Wickenburg consistent with the technical requirements of the Commission's Rules at the petitioner's specified site located 24.6 kilometers (15.3 miles) west of the community at coordinates 33–54–15 NL and 112–59–02 WL. Channel 270A can be substituted for vacant Channel 241A at Salome, Arizona, at the current reference site for the existing channel at coordinates 33–46–54 NL and 113–36–42 NL. Additionally, as Wickenburg and Salome are each located within 320 kilometers (199 miles) of the U.S.-Mexico border, concurrence of the Mexican government to the proposals must be obtained.

DATES: Comments must be filed on or before February 11, 2002, and reply comments on or before February 26, 2002.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Lee Peltzman, Esq., Shainis and Peltzman, Chartered, 1850 M Street, NW., Suite 240, Washington, DC 20036.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 01–345, adopted December 12, 2001, and released December 21, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY–A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Qualtex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone (202) 863–2893.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, *see* 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR Part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Arizona, is amended by removing Channel 241A and adding Channel 270A at Salome; and removing Channel 242C3 and adding Channel 242C at Wickenburg.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 02–376 Filed 1–7–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2907; MM Docket Nos. 01–340, 01–341, 01–342, 01–343; RM–10345, RM–10346, RM–10347, RM–10348]

Radio Broadcasting Services; Pierce, NE; Coosada, AL; Pineview, GA; and Diamond Lake, OR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission seeks comment on proposals in four separate docketed proceedings in a multiple docket *Notice of Proposed Rule Making.* The first, filed by Pierce Radio, LLC, proposes to allot Channel 248C2 at Pierce, Nebraska as the community's first local aural transmission service. Channel 248C2 can be allotted at Pierce at a site 5 kilometers (3.1 miles) east of the community at coordinates 42–11–30 NL and 97–28–00 WL. The second, filed by Media Equities Corp., proposes to allot Channel 226A at Coosada, Alabama, as the community's first local aural transmission service. Channel 226A can be allotted at Coosada at a site 14 kilometers (8.7 miles) southeast of the community at coordinates 32–26–58 NL and 86–11–38 WL. The third, filed by Data+Corp., proposes the allotment of Channel 226A at Pineview, Georgia as the community's first local aural transmission service. Channel 226A can be allotted at Pineview at a site 8.4 kilometers (5.3 miles) southeast of the community at coordinates 32–00–44 NL and 83–28–19 WL. The fourth, filed by Robert W. Larson, proposes the allotment of Channel 299A at Diamond Lake as the community's first local aural transmission service. Channel 299A can be allotted at Diamond Lake without a site restriction at coordinates 43–10–44 NL and 122–8–16 WL. *See* **SUPPLEMENTARY INFORMATION.**

DATES: Comments must be filed on or before February 4, 2002, and reply comments must be filed on or before February 19, 2002.

FOR FURTHER INFORMATION CONTACT: Victoria M. McCauley, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket Nos. 01–340, 01–341, 01–342, 01–343, adopted December 5, 2001, and released December 14, 2001. The full text of this document is available for public inspection and copying during regular business hours at the FCC Reference

Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

The Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, *see* 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

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

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

2. Section 73.202(b), the Table of FM Allotments under Nebraska, is amended by adding Pierce, Channel 248C2.

3. Section 73.202(b), the Table of FM Allotments under Alabama, is amended by adding Coosada, Channel 226A.

4. Section 73.202(b), the Table of FM Allotments under Georgia, is amended by adding Pineview, Channel 226A.

5. Section 73.202(b), the Table of FM Allotments under Oregon, is amended by adding Diamond Lake, Channel 299A.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 02–370 Filed 1–7–02; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 173

[Docket No. RSPA–01–10741 (HM–220C)]

RIN 2137–AC86

Hazardous Materials: Filling of Propane Cylinders; Denial of Petition for Rulemaking

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

ACTION: Denial of petition for rulemaking and termination of docket HM–220C.

SUMMARY: RSPA is denying a petition for rulemaking filed by the Barbecue Industry Association requesting we require the registration of facilities that fill liquefied petroleum gas (LPG) cylinders having a water capacity of less than 200 pounds.

FOR FURTHER INFORMATION CONTACT: Gigi Corbin or Eileen Edmonson, (202) 366–8553, Office of Hazardous Materials Standards, Research and Special Programs Administration.

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1996, the Research and Special Programs Administration (RSPA, we) published an advance notice of proposed rulemaking (ANPRM) (61 FR 43515) to solicit comments on the merits of a petition for rulemaking filed by the Barbecue Industry Association (BIA) (P–1298). In its petition, BIA requested we amend the Hazardous Materials Regulations (HMR; 49 CFR parts 171–180) to require the registration of persons who fill DOT specification cylinders that have a water capacity of less than 200 pounds (about 24 gallons); are used for liquefied petroleum gas, a Division 2.1 (flammable) gas; and that come under the jurisdiction of the HMR. To obtain this registration, BIA proposed that the fillers' facilities and qualifications be reviewed by an independent inspection agency approved according to § 173.300a of the HMR. BIA proposed that registrants submit an application containing the following documentation:

(1) A certification of employee training;

(2) A certification that the filling equipment is suitable for use with LPG to provide for accurately filling the cylinders by weight according to current § 173.304(c);

(3) Proof of financial responsibility in the minimum amount of one million dollars; and

(4) An inspection report prepared by an independent inspection agency.

BIA's major concern is overfilling of propane cylinders used for barbecue grills. These cylinders are commonly called 20-pound cylinders, hold about five gallons, and are usually sold directly to consumers. BIA states that more than 5 million barbecue grills were sold in 1993, that the National Petroleum Gas Association (NPGA) estimates 50 million propane cylinders are currently in use, and that an additional 5 to 6 million are produced annually. BIA states that these market conditions have encouraged fill stations to use untrained employees to fill and service 20-pound cylinders. BIA asserts that the wide variations in current training and filling practices and inadequate regulations by state and local jurisdictions result in consumer injuries and deaths. BIA suggests Federal regulation will eliminate these differences and promote safer use of propane cylinders. BIA provided no estimates on the number of fillers that potentially would be affected by the proposal. The text of the petition was published verbatim in the ANPRM.

Comment Summary

To determine the possible impacts of BIA's proposal, the ANPRM included a request of commenters to provide estimates of the proposal's anticipated costs and safety benefits, burden hours, and the potential impact on small businesses and the environment. We received 11 comments from persons representing state and local agencies, trade associations, cylinder fillers and requalifiers, and the general public. The commenters unanimously oppose BIA's proposals, primarily because the costs associated with their implementation would be extremely high.

Most commenters agree that training is necessary for propane refillers; however, they object to BIA's training proposal. They state that existing state and Federal requirements cover most propane filling scenarios, including training, and that additional Federal regulations would be duplicative and confusing, and would increase costs. The NPGA states that the National Fire Protection Association (NFPA) Standard 58, titled ''Storage and Handling of Liquefied Petroleum Gases,'' is consistent with the HMR and is used as the basis of LPG regulation ''in virtually every state.'' This pamphlet discusses how to fill and transport these cylinders, even when customer-owned, and how to train employees performing

these operations. The Railroad Commission of Texas (RCT) maintains that the BIA proposal would not enhance safety in Texas; it notes that Texas had only two reported overfilling accidents in the past five years, neither of which was serious.

Most commenters agree that certification of scales to ensure their accuracy is a necessary safety practice, but note that these activities are currently regulated by the states. As the NPGA states:

> At present, the Hazardous Materials Regulations do not contain a provision that a company weighing a package as part of a manufacturing or hazmat filling operation must use a scale certified in accordance with NIST/NCWM Handbook 44 *Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices.* It has always been understood that such weighing operations are subject to state weights and measure laws and regulations and, therefore, are not a matter of DOT jurisdiction. Consequently, NPGA believes that the amendments proposed by BIA to require certified scales for cylinder filling is beyond the scope of the HMR and should therefore be denied.

Commenters objecting to the BIA proposal to require each propane filler to carry one million dollars in liability insurance state that the proposal is excessive and few small businesses can afford the amount. Three commenters report existing insurance requirements in their states. The Louisiana Liquefied Gas Commission states that it requires propane filling businesses to carry a minimum of $100,000 in insurance. RTC states that Texas requires licensed small cylinder fillers ''to carry a general liability policy including premises and operations in an amount of at least $25,000 per occurrence and $300,000 in the aggregate.'' This latter commenter estimates that carrying one million dollars in liability insurance would increase the insurance costs of its licensees from an average of $750 a year to $2,000 a year.

Finally, commenters object to the use of an independent inspection agency for inspecting a filler's qualifications and operations. They state that these agencies are not prepared to assume these additional responsibilities. One commenter notes that his state's Division of Weights and Measures requires all propane refilling scales to be tested yearly by an independent inspection agency and documented with the state.

Discussion

Federal hazardous materials transportation law (federal hazmat law), codified at 49 U.S.C. 5101 *et seq.*, authorizes the Secretary of Transportation to establish regulations for the safe transportation of hazardous materials in intrastate, interstate, and foreign commerce. The regulations apply to persons who: (1) Transport hazardous materials in commerce; (2) cause hazardous materials to be transported in commerce; or (3) manufacture, mark, maintain, recondition, repair, or test packagings (or components thereof) that are represented, marked, certified, or sold as qualified for use in the transportation of hazardous materials in commerce. 49 U.S.C. 5103(b)(1)(A).

The HMR apply to hazardous materials in cylinders offered for transportation or transported in commerce. For example, DOT specification cylinders must be designed, manufactured, and maintained in accordance with applicable HMR requirements. In addition, cylinders offered for transportation and transported in commerce must be filled as specified in § 173.304 of the HMR. Further, persons who fill and offer such cylinders for transportation in commerce must be trained. A company that fills cylinders intended for use in barbecue grills and offers such cylinders for transportation to a distribution or retail facility is subject to all applicable HMR requirements.

Many state and local governments have adopted and are enforcing the standards contained in NFPA Standard 58. The 1998 edition of this standard requires certain propane cylinders having capacities from 4 to 40 pounds to be fitted with overfilling prevention devices (OPDs). The standard defines an OPD as ''a safety device that is designed to provide an automatic means to prevent the filling of a container in excess of the maximum permitted filling limit.'' The standard requires an OPD and a fixed maximum liquid level gauge to be fitted on any cylinder manufactured after September 30, 1998, requalified after September 30, 1998, or filled on or after April 1, 2002. These newer OPDs are easily recognizable by a unique trilobular handwheel. The OPD handwheel is connected to the valve stem in a tamper-proof manner to prevent interchanging with a non-OPD valve. The use of OPDs on propane cylinders is supported by the Consumer Product Safety Commission and the Occupational Safety and Health Administration.

Conclusion

We agree with commenters to the ANPRM that the BIA proposal would impose significant costs on the industry. Further, the BIA proposals would not address safety problems involving refilling of consumer-owned barbecue cylinders since these are outside the scope of the Department's jurisdiction. Moreover, as commenters suggest, the BIA proposals unnecessarily duplicate state and local regulations applicable to refilling of cylinders. Finally, the NFPA 58 standard for OPDs on certain propane cylinders appears to address the safety issue of concern to BIA. For these reasons, we are denying BIA's petition. In consideration of the foregoing, Docket No. RSPA–01–10741 (HM–220C) is terminated.

Issued in Washington, DC, on January 2, 2002, under the authority delegated in 49 CFR part 106.

Frits Wybenga,

Deputy Associate Administrator for Hazardous Materials Safety.

[FR Doc. 02–445 Filed 1–7–02; 8:45 am]

BILLING CODE 4910–60–P

Notices

Federal Register

Vol. 67, No. 5

Tuesday, January 8, 2002

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

Commodity Credit Corporation

Announcement of the Emerging Markets Program for Fiscal Year 2002

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice.

SUMMARY: The Commodity Credit Corporation is inviting private sector proposals for the FY 2002 Emerging Markets Program.

DATES: All proposals must be received by 5:00 p.m. Eastern Standard Time, March 11, 2002. Announcements of funding decisions for the EMP are anticipated sometime after mid-July 2002.

FOR FURTHER INFORMATION CONTACT: Marketing Operations Staff, Foreign Agricultural Service, U.S. Department of Agriculture, Room 4932S, STOP 1042, 1400 Independence Ave., SW, Washington, DC 20250–1042, phone: (202) 720–4327, fax: (202) 720–9361, e-mail: *emo@fas.usda.gov*.

SUPPLEMENTARY INFORMATION:

Introduction

The Commodity Credit Corporation (CCC) announces that proposals are being accepted for participation in the Fiscal Year 2002 Emerging Markets Program (EMP). The purpose of the EMP is to assist U.S. organizations, public and private, to improve market access and to develop and promote U.S. agricultural products and/or processes in low-to middle income countries that offer promise of emerging market opportunities. This is to be accomplished by providing, or paying the costs of, approved technical assistance activities in those emerging markets. The EMP is administered by the Foreign Agricultural Service (FAS).

The Act defines an emerging market as any country that the Secretary of Agriculture determines:

(1) Is taking steps toward a market-oriented economy through the food, agriculture, or rural business sectors of the economy of the country; and

(2) Has the potential to provide a viable and significant market for United States agricultural commodities or products of United States agricultural commodities.

Because funds are limited and the range of potential emerging market countries is worldwide, proposals for technical assistance activities (''proposals'') will be considered which target those countries with: (1) Per capita income less than $9,265 (the ceiling on upper middle income economies as determined by the World Bank (World Development Indicators 2001)); and (2) population greater than 1 million. Proposals may address suitable regional groupings, *e.g.*, the islands of the Caribbean Basin.

Authority

The EMP is authorized by Section 1542(d)(1)(D) of the Food, Agriculture, Conservation, and Trade Act of 1990, as amended (the Act). Up to $10 million is available to fund the program.

Eligible Applicants, Commodities, and Activities

Any United States agricultural or agribusiness organization, university, or state department of agriculture is eligible to participate in the EMP. Proposals from research and consulting organizations will be considered if they provide evidence of substantial participation by the U.S. industry. U.S. market development cooperators may seek funding to address priority, market specific issues and to undertake activities not suitable for funding under other FAS marketing programs, e.g. the Foreign Market Development Cooperator Program and the Market Access Program.

All agricultural products, except tobacco, are eligible for consideration. Proposals which include multiple commodities are also eligible.

Only technical assistance activities are eligible for reimbursement. Following are examples of the types of activities that may be funded:

—Projects designed specifically to improve market access in emerging foreign markets. *Examples:* activities intended to mitigate the impact of sudden political events or economic and currency crises in order to maintain U.S. market share; responses to time-sensitive market opportunities;

—Marketing and distribution of value-added products, including new products or uses. *Examples:* food service development; market research on potential for consumer-ready foods or new uses of a product;

—Studies of food distribution channels in emerging markets, including infrastructural impediments to U.S. exports; such studies should be specific in their focus and may include cross-commodity activities which focus on problems, e.g., distribution, which affect more than one industry. *Examples:* grain storage handling and inventory systems development; distribution infrastructure development;

—Projects that specifically address various constraints to U.S. exports, including sanitary and phytosanitary issues and other non-tariff barriers. *Examples:* seminars on U.S. food safety standards and regulations; assessing and addressing pest and disease problems that inhibit U.S. product exports;

—Assessments and follow up activities designed to improve country-wide food and business systems, to reduce trade barriers, to increase prospects for U.S. trade and investment in emerging markets, and to determine the potential use for general export credit guarantees for commodities, facilities and services. *Examples:* product needs assessments and market analysis; assessments for using facilities credits to address infrastructural impediments;

—Projects that help foreign governments collect and use market information and develop free trade policies that benefit American exporters as well as the target country or countries. *Examples:* agricultural statistical analysis; development of market information systems; policy analysis;

—Short-term training in broad aspects of agriculture and agribusiness trade that will benefit U.S. exporters, including seminars and training at trade shows designed to expand the potential for U.S. agricultural exports by focusing on the trading system. *Examples:* retail training; marketing seminars; transportation seminars; training keyed to opening new or expanding existing markets.

The Program funds technical assistance activities on a project-by-

project basis. EMP funds may not be used to support normal operating costs of individual organizations, nor as a source by which to recover prior expenses from previous or ongoing projects. Ineligible activities include restaurant promotions; branded product promotions (including labeling and supplementing normal company sales activities intended to increase awareness and stimulate sales of branded products); advertising; administrative and operational expenses for trade shows; and the preparation and printing of brochures, flyers, posters, etc., except in connection with specific technical assistance activities such as training seminars. Other items excluded from funding are contained in the FY 2002 EMP Guidelines.

Project Suitability and Qualification Requirements

The underlying premise of the EMP is that there are distinctive characteristics of emerging agricultural markets that necessitate or benefit significantly from U.S. governmental assistance before the private sector moves to develop these markets through normal corporate or trade promotional activities. The emphasis is on marketing opportunities where there are risks that the private sector would not normally undertake alone. The EMP is intended to supplement, not supplant, the efforts of the U.S. private sector and it complements the efforts of other FAS marketing programs. Once a market access issue has been addressed by the EMP, further market development activities may be considered under other programs such as GSM–102 or GSM–103 credit guarantee programs, the Facility Guarantee Program, the Supplier Guarantee Program, the Market Access Program, or the Cooperator Program. Section 108 funds may be used to complement funding provided by the EMP.

The following marketing criteria will be used to determine the suitability of projects for funding under the EMP:

1. Low U.S. market share and significant market potential.

• Is there a significant lag in U.S. market share of a specific commodity in a given country or countries?

• Is there an identifiable obstacle or competitive disadvantage facing U.S. exporters (e.g., competitor financing, subsidy, competitor market development activity) or a systemic obstacle to imports of U.S. products (e.g., inadequate distribution, infrastructure impediments, insufficient information, lack of financing options or resources)?

• What is the potential of a project to generate a significant increase in U.S. agricultural exports in the near-to medium-term? (Estimates or projections of trade benefits to commodity exports, and the basis for evaluating such, must be included in EMP proposals.)

2. Recent change in a market.

• Is there, for example, a change in a sanitary or phytosanitary trade barrier; a change in an import regime or the lifting of a trade embargo; or a shift in the political or financial situation in a country?

Application Requirements and Process

It is highly recommended that any organization considering applying to the Program for FY 2002 first obtain a copy of the 2002 Program Guidelines. These Guidelines contain information on requirements that a proposal must include in order to be considered for funding under the Program.

Requests for the 2002 EMP Guidelines and additional information may be obtained from the Marketing Operations Staff at the address above. The Guidelines are also available at the following URL address: *http://www.fas.usda.gov/mos/em-markets/em-markets.html.*

To assist FAS in making determinations regarding funding, applications should be no longer than ten (10) pages and include the following information: (a) Name of organization submitting the proposal; (b) Federal tax ID number of submitting organization; (c) date of proposal; (d) address, telephone and fax numbers of the organization; (e) full title of proposal; (f) constraint description activities (statement of problem to be addressed); (g) objectives and detailed description of project approach and specific; (h) benefits to U.S. agricultural exports as a result of the project, including specific performance measures; (i) target country/countries for proposed activities; (j) supporting market analysis of the target market(s)—brief economic analysis for each commodity and country, including current market conditions and relevant trade data—and existing size of U.S. export market share, in dollars and/or quantities, and the basis or source(s) for this data; (k) information on whether similar activities are or have previously been funded in target country/countries (e.g., under FAS's MAP and/or FMD programs); (l) a clearly stated explanation as to why participating organization(s) are unlikely to carry out activities without Federal financial assistance; (m) projected starting date (should be after 15 July 2002) and time line(s) for project implementation; (n) detailed, line item project budget, including other sources of funding and contributions from participating organizations (additional requirements are contained in the 2002 Program Guidelines) and any third party contributions. Qualifications of applicant(s) should be included, but as an attachment.

This notice is complemented by concurrent notices announcing other foreign market development programs administered by FAS including the Market Access Program (MAP), the Foreign Market Development Cooperator (Cooperator) Program, the Section 108 Program, and the Quality Samples Program (QSP). For FY 2002, EMP applicants have the opportunity to utilize the Unified Export Strategy (UES) application process, an online system which provides a means for interested applicants to submit a consolidated and strategically coordinated single proposal that incorporates funding requests for any or all of these programs. Applicants are not required to use the UES, but are strongly encouraged to do so because it reduces paperwork and expedites the FAS processing and review cycle.

Applicants planning to use the on-line system must contact the Marketing Operations Staff at (202) 720–4327 to obtain site access information. A login ID and password will be supplied to a prospective applicant upon request. A ''Help'' file will be available to assist applicants with the process. However, the on-line application for the EMP will not be available until approximately late January. Therefore, all organizations applying for funding assistance in FY 2002 are urged to begin preparing their applications in accordance with the requirements contained herein and the FY 2002 Program Guidelines, and provide this information once the online application is available. A notice concerning the availability of the online system will be posted on the FAS web site. A printed version of the proposal should also be submitted (using WordPerfect, Word or compatible format) to one of the following addresses:

Hand Delivery (including FedEx, DHL, UPS, etc.): Marketing Operations Staff, Foreign Agricultural Service, U.S. Department of Agriculture, Room 4932-South,1400 Independence Avenue, SW, Washington, DC 20250–1042.

U.S. Postal Delivery: Marketing Operations Staff, Foreign Agricultural Service, U.S. Department of Agriculture, STOP 1042, 1400 Independence Ave., SW, Washington, DC 20250–1042.

Allocation of Funds

In general, all qualified proposals received before the application deadline will compete for EMP funding. The limited funds and the range of emerging markets worldwide in which the funds may be used preclude CCC from approving large budgets for individual projects. While there is no minimum or maximum amount set for EMP-funded projects, most are funded at a level of less than $500,000 and for a duration of one year or less. Multi-year proposals may be considered in the context of a strategic detailed plan of implementation. Funding in such cases is normally provided one year at a time, with commitments beyond the first year subject to interim evaluations.

In general, priority consideration will be given to proposals that identify and seek to address specific problems or constraints in rural business systems or food and agribusiness systems in emerging markets through technical assistance activities to expand or maintain U.S. agricultural exports. Priority will also be given to those proposals that include the willingness of the applicant to commit its own funds, or those of the U.S. industry, to seek export opportunities in an emerging market. The percentage of private funding proposed for a project will therefore be a critical factor in determining which proposals are funded under the EMP. Proposals will also be judged on their ability to provide benefits to the organization receiving EMP funds and to the broader industry which that organization represents.

Reporting Requirements

A performance report detailing the results of each project supported with EMP funds must be submitted to the Marketing Operations Staff at the address above. Because public funds are used to support EMP projects, these reports will be made available to the public. Complete final financial reports are to accompany performance reports.

Closing Date for Applications

The deadline for all applications to the EMP is 5:00 p.m. Eastern Standard Time, March 11, 2002. Announcements of funding decisions for the EMP are anticipated sometime after mid-July 2002.

Signed at Washington, DC on December 31, 2001.

Mary T. Chambliss,

Acting Administrator, Foreign Agricultural Service, and Vice President, Commodity Credit Corporation.

[FR Doc. 02–432 Filed 1–7–02; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Announcement of the Foreign Market Development Cooperator Program for Fiscal Year 2003

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice.

SUMMARY: Commodity Credit Corporation is inviting proposals for the Fiscal Year 2003 Foreign Market Development Cooperator Program.

DATES: All applications must be received by 5 p.m. Eastern Standard Time, March 11, 2002.

FOR FURTHER INFORMATION CONTACT: Marketing Operations Staff, Foreign Agricultural Service, U.S. Department of Agriculture, Room 4932–S, STOP 1042, 1400 Independence Ave., SW., Washington, DC 20250, (202) 720–4327.

SUPPLEMENTARY INFORMATION:

Introduction

The Commodity Credit Corporation (CCC) announces that applications are being accepted for participation in the Fiscal Year 2003 Cooperator (Cooperator) program. The program is designed to create, expand, and maintain foreign markets for United States' agricultural commodities and products through cost-share assistance. Financial assistance under the Cooperator program will be made available on a competitive basis and applications will be reviewed against the evaluation criteria contained herein. The Cooperator program is administered by the Foreign Agricultural Service (FAS).

Under the Cooperator program, CCC enters into agreements with nonprofit U.S. trade organizations which have the broadest possible producer representation of the commodity being promoted and gives priority to those organizations which are nationwide in membership and scope. Cooperators may receive assistance only for the promotion of generic activities which do not involve promotions targeted directly to consumers. The program generally operates on a reimbursement basis.

Authority

The Cooperator program is authorized by section 5(f) of the Commodity Credit Corporation Charter Act, 15 U.S.C. 714c(f). Cooperator program regulations appear at 7 CFR part 1484.

Eligible Applicants

To participate in the Cooperator program an applicant must be a nonprofit U.S. agricultural trade organization.

Application Process

To be considered for the Cooperator program an applicant must submit to the FAS information required by the Cooperator program regulations set forth in 7 CFR part 1484. Incomplete applications and applications which do not otherwise conform to this announcement will not be accepted for review.

The FAS administers various other agricultural export assistance programs, including the Market Access Program (MAP), Cochran Fellowships, the Emerging Markets Program, the Quality Samples Program, Section 108 foreign currency program, and several Export Credit Guarantee programs. Organizations which are interested in applying for Cooperator program funds are encouraged to submit their requests using the Unified Export Strategy (UES) format. The UES allows interested entities to submit a consolidated and strategically coordinated single proposal that incorporates requests for funding and recommendations for virtually all the FAS marketing programs, financial assistance programs, and market access programs. The suggested UES format encourages applicants to examine the constraints or barriers to trade which they face, identify activities which would help overcome such impediments, consider the entire pool of complementary marketing tools and program resources, and establish realistic export goals. Applicants are not required, however, to use the UES format.

Organizations can submit applications in the UES format by two methods. The first allows an applicant to submit information directly to the FAS through the UES application Internet site. The FAS highly recommends applying via the Internet, as this format virtually eliminates paperwork and expedites the FAS processing and review cycle. Applicants also have the option of submitting electronic versions (along with two paper copies) of their applications to the FAS on diskette.

Applicants planning to use the Internet-based system must contact the FAS Marketing Operations Staff on (202) 720–4327 to obtain site access information. The Internet-based application, including step-by-step instructions for its use, is located at the following URL address: *http://www.fas.usda.gov/cooperators.html.*

Applicants who choose to submit applications on diskette can download the UES handbook, including the suggested application format and

instructions, from the following URL address: *http://www.fas.usda.gov/mos/ues/unified.html.* A UES handbook also may be obtained by contacting the Marketing Operations Staff on (202) 720–4327.

All cooperator program applicants, whether applying via the Internet on diskette, also must submit by March 11, 2002, via hand delivery or U.S. mail, an original signed certification statement as specified in 7 CFR section 1484.20(a)(14). The UES handbook contains an acceptable certification format.

Any organization which is not interested in applying for the Cooperator program but would like to request assistance through one of the other programs mentioned should contact the Marketing Operations Staff on (202) 720–4327.

Review Process and Allocation Criteria

The FAS allocates funds in a manner which effectively supports the strategic decision-making initiatives of the Government Performance and Results Act (GPRA) of 1993 and the USDA's Food and Agricultural Policy (FAP). In deciding whether a proposed project will contribute to the effective creation, expansion, or maintenance of foreign markets, the FAS seeks to identify a clear, long-term agricultural trade strategy and a program effectiveness time line against which results can be measured at specific intervals using quantifiable product or country goals. The FAS also considers the extent to which a proposed project targets markets with the greatest growth potential. These factors are part of the FAS resource allocation strategy to fund applicants who can demonstrate performance and address the objectives of the GPRA and FAP.

Following is a description of the FAS process for reviewing applications and the criteria for allocating available Cooperator program funds.

(1) Phase 1—Sufficiency Review and FAS Divisional Review

Applications received by the closing date will be reviewed by the FAS to determine eligibility of the applicants and the completeness of the applications. These requirements appear at § 1484.14 and § 1484.20 of the Cooperator program regulations. Applications which meet the application requirements then will be further evaluated by the proper FAS Commodity Division. The Divisions will review each application against the criteria listed in § 1484.21 and § 1484.22 of the Cooperator program regulations. The purpose of this review is to identify meritorious proposals and the recommend an appropriate funding level for each application based upon these criteria.

(2) Phase 2—Competitive Review

Meritorious applications then will be passed on to the Office of the Deputy Administrator, Commodity and Marketing Programs, for the purpose of allocating available funds among the applicants. Applications which pass the Divisional Review will compete for funds on the basis of the following allocation criteria (the number in parentheses represents a percentage weight factor):

(a) Contribution Level (40)

- The applicant's 6-year average share (1998–2003) of all contributions (contributions may include cash and goods and services provided by U.S. entities in support of foreign market development activities) compared to
- The applicant's 6-year average share (1998–2003) of all Cooperator marketing plan budgets.

(b) Past Export Performance (20)

- The 6-year average share (1997–2002) of the value of exports promoted by the applicant compared to
- The applicant's 6-year average share (1997–2002) of all Cooperator marketing plan budgets plus a 6-year average share (1996–2001) of foreign overhead provided for co-location within a U.S. agricultural trade office.

(c) Past Demand Expansion Performance (20)

- The 6-year average share (1997–2002) of the total value of world trade of the commodities promoted by the applicant compared to
- The applicant's 6-year average share (1997–2002) of all Cooperator marketing plan budgets plus a 6-year average share (1996–2001) of MAP program ceiling levels and a 6-year average share (1996–2001) of foreign overhead provided for co-location within a U.S. agricultural trade office.

(d) Future Demand Expansion Goals (10)

- The project total dollar value of world trade of the commodities being promoted by the applicant for the year 2008 compared to
- The applicant's requested funding level.

(e) Accuracy of Past Demand Expansion Projects (10)

- The actual dollar value share of world trade of the commodities being promoted by the applicant for the year 2001 compared to
- The applicant's past projected share of world trade of the commodities being promoted by the applicant for the year 2001, as specified in the 1998 Cooperator program application.

The Commodity Divisions' recommended funding level for each applicant is converted to a percentage of the total Cooperator program funds available then multiplied by the total weight factor to determine the amount of funds allocated to each applicant.

Closing Date for Applications

All Internet-based applications must be properly submitted by 5 p.m. Eastern Standard Time, March 11, 2002. Signed certification statements also must be received by that time at one of the addresses listed below.

All applications on diskette (with two accompanying paper copies and a signed certification statement) and any other applications must be received by 5 p.m. Eastern Standard Time, March 11, 2002, at one of the following addresses:

Hand Delivery (including FedEx, DHL, UPS, etc.): U.S. Department of Agriculture, Foreign Agricultural Service, Marketing Operations Staff, Room 4932–S, 1400 Independence Avenue, SW, Washington, DC 20250–1042.

U.S. Postal Delivery: U.S. Department of Agriculture, Foreign Agricultural Service, Marketing Operations Staff, STOP 1042, 1400 Independence Ave., SW, Washington, DC 20250–1042.

Signed at Washington, DC on December 31, 2001.

Mary T. Chambliss,

Acting Administrator, Foreign Agricultural Service, and Vice President, Commodity Credit Corporation.

[FR Doc. 02–433 Filed 1–7–02; 8:45 am]

BILLING CODE 3410–10–M

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Announcement of the Market Access Program for Fiscal Year 2002

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice.

SUMMARY: Commodity Credit Corporation is inviting proposals for the Fiscal Year 2002 Market Access Program.

DATES: All applications must be received by 5 p.m. Eastern Standard Time, March 11, 2002.

FOR FURTHER INFORMATION CONTACT: Marketing Operations Staff, Foreign

Agricultural Service, U.S. Department of Agriculture, Room 4932–S, STOP 1042, 1400 Independence Ave., SW., Washington, DC 20250, (202) 720–4327.

SUPPLEMENTARY INFORMATION:

Introduction

The Commodity Credit Corporation (CCC) announces that applications are being accepted for participation in the Fiscal Year 2002 Market Access Program (MAP). The MAP is designed to create, expand and maintain foreign markets for United States' agricultural commodities and products through cost-share assistance. Financial assistance under the MAP will be made available on a competitive basis and applications will be reviewed against the evaluation criteria contained herein. The MAP is administered by the Foreign Agricultural Service (FAS).

Under the MAP, CCC enters into agreements with eligible participants to share the costs of certain overseas marketing and promotion activities. MAP participants may receive assistance for either generic or brand promotion activities. The program generally operates on a reimbursement basis.

Authority

The MAP is authorized under section 203 of the Agricultural Trade Act of 1978, as amended. MAP regulations appear at 7 CFR part 1485.

Eligible Applicants

To participate in the MAP an applicant must be: a nonprofit U.S. agricultural trade organization, a nonprofit state regional trade group (i.e., an association of State Departments of Agriculture), a U.S. agricultural cooperative, a State agency, or a small-sized U.S. commercial entity (other than a cooperative or producer association).

Available Funds

$90 million of cost-share assistance may be obligated under this announcement to eligible MAP applicants.

Application Process

To be considered for the MAP an applicant must submit to the FAS information required by the MAP regulations set forth in 7 CFR part 1485. Incomplete applications and applications which do not otherwise conform to this announcement will not be accepted for review.

The FAS administers various other agricultural export assistance programs including the Foreign Market Development Cooperator (Cooperator) program, Cochran Fellowships, the Emerging Markets Program, the Quality Samples Program, the Section 108 foreign currency program, and several Export Credit Guarantee programs. Organizations which are interested in applying for MAP funds are encouraged to submit their requests using the Unified Export Strategy (UES) format. The UES allows interested entities to submit a consolidated and strategically coordinated single proposal that incorporates requests for funding and recommendations for virtually all the FAS marketing programs, financial assistance programs, and market access programs. The suggested UES format encourages applicants to examine the constraints or barriers to trade which they face, identify activities which would help overcome such impediments, consider the entire pool of complementary marketing tools and program resources, and establish realistic export goals. Applicants are not required, however, to use the UES format.

Organizations can submit applications in the UES format by two methods. The first allows an applicant to submit information directly to the FAS through the UES application Internet site. The FAS highly recommends applying via the Internet, as this format virtually eliminates paperwork and expedites the FAS processing and review cycle. Applicants also have the option of submitting electronic versions (along with two paper copies) of their applications to the FAS on diskette.

Applicants planning to use the Internet-based system must contact the FAS Marketing Operations Staff on (202) 720–4327 to obtain site access information. The Internet-based application, including step-by-step instructions for its use, is located at the following URL address: *http://www.fas.usda.gov/cooperators.html.*

Applicants who choose to submit applications on diskette can download the UES handbook, including the suggested application format and instructions, from the following URL address: *http://www.fas.usda.gov/mos/ues/unified.html.* A UES handbook also may be obtained by contacting the Marketing Operations Staff on (202) 720–4327.

All MAP applicants, whether applying via the Internet or diskette, also must submit by March 11, 2002, via hand delivery or U.S. mail, an original signed certification statement as specified in 7 CFR 1485.13(a)(2)(i)(G). The UES handbook contains an acceptable certification format.

Any organization which is not interested in applying for the MAP but would like to request assistance through one of the other programs mentioned should contact the Marketing Operations Staff on (202) 720–4327.

Review Process and Allocation Criteria

The FAS allocates funds in a manner which effectively supports the strategic decision-making initiatives of the Government Performance and Results Act (GPRA) of 1993 and the USDA's Food and Agricultural Policy (FAP). In deciding whether a proposed project will contribute to the effective creation, expansion, or maintenance of foreign markets, the FAS seeks to identify a clear, long-term agricultural trade strategy and a program effectiveness time line against which results can be measured at specific intervals using quantifiable product or country goals. The FAS also considers the extent to which a proposed project targets markets with the greatest growth potential. These factors are part of the FAS resource allocation strategy to fund applicants who can demonstrate performance and address the objectives of the GPRA and FAP.

Following is a description of the FAS process for reviewing applications and the criteria for allocating available MAP funds.

(1) Phase 1—Sufficiency Review and FAS Divisional Review

Applications received by the closing date will be reviewed by the FAS to determine the eligibility of the applicants and the completeness of the applications. These requirements appear at § 1485.12 and § 1485.13 of the MAP regulations. Applications which meet the requirements then will be further evaluated by the proper FAS Commodity Division. The Divisions will review each application against the criteria listed in § 1485.14 of the MAP regulations. The purpose of this review is to identify meritorious proposals and to recommend an appropriate funding level for each application based upon these criteria.

(2) Phase 2—Competitive Review

Meritorious applications then will be passed on to the Office of the Deputy Administrator, Commodity and Marketing Programs, for the purpose of allocating available funds among the applicants. Applications which pass the Divisional Review will compete for funds on the basis of the following allocation criteria (the number in parentheses represents a percentage weight factor):

(a) Applicant's Contribution Level (40)

- The applicant's 4-year average share (1999–2002) of all contributions (cash

and goods and services provided by U.S. entities in support of overseas marketing and promotion activities) compared to

• The applicant's 4-year average share (1999–2002) of the funding level for all MAP participants.

(b) Past Performance (30)

• The 3-year average share (1999–2001) of the value of exports promoted by the applicant compared to

• The applicant's 2-year average share (2000–2001) of the funding level for all MAP applicants plus, for those groups participating in the Cooperator program, the 2-year average share (2001–2002) of Cooperator marketing plan budgets, and the 2-year average share (2000–2001) of foreign overhead provided for co-location within a U.S. agricultural office;

(c) Projected Export Goals (15)

• The total dollar value of projected exports promoted by the applicant for 2002 compared to

• The applicant's requested funding level;

(d) Accuracy of Past Projections (15)

• Actual exports for 2000 as reported in the 2002 MAP application compared to

• Past projections of exports for 2000 as specified in the 2000 MAP application.

The Commodity Divisions' recommended funding level for each applicant is converted to a percentage of the total MAP funds available then multiplied by the total weight factor as described above to determine the amount of funds allocated to each applicant.

Closing Date for Applications

All Internet-based applications must be properly submitted by 5 p.m. Eastern Standard Time, March 11, 2002. Signed certification statements also must be received by that time at one of the addresses listed below.

All applications on diskette (with two accompanying paper copies and a signed certification statement) and any other applications must be received by 5 p.m. Eastern Standard Time, March 11, 2002, at one of the following addresses:

Hand Delivery (including FedEx, DHL, UPS, etc.): U.S. Department of Agriculture, Foreign Agricultural Service, Marketing Operations Staff, Room 4932–S, 14th and Independence Avenue, SW., Washington, DC 20250–1042.

U.S. Postal Delivery: U.S. Department of Agriculture, Foreign Agricultural Service, Marketing Operations Staff, STOP 1042, 1400 Independence Ave., SW, Washington, DC 20250–1042.

Signed at Washington, DC on December 31, 2001.

Mary T. Chambliss,

Acting Administrator, Foreign Agricultural Service, and Vice President, Commodity Credit Corporation.

[FR Doc. 02–431 Filed 1–7–02; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Announcement of the Quality Samples Program for Fiscal Year 2002

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice.

SUMMARY: Commodity Credit Corporation is inviting proposals for the FY 2002 Quality Samples Program.

DATES: All proposals must be received by 5 p.m. Eastern Standard Time, March 11, 2002.

FOR FURTHER INFORMATION CONTACT: Marketing Operations Staff, Foreign Agricultural Service, U.S. Department of Agriculture, Room 4932–S, STOP 1042, 1400 Independence Ave., SW, Washington, DC 20250–1042, (202) 720–4327.

SUPPLEMENTARY INFORMATION:

Introduction

The Commodity Credit Corporation (CCC) announces that proposals are being accepted for participation in the Fiscal Year 2002 Quality Samples Program (QSP). The QSP is designed to encourage the development and expansion of export markets for U.S. agricultural commodities by assisting U.S. entities in providing commodity samples to potential foreign importers to promote a better understanding and appreciation for the high quality of U.S. agricultural commodities. CCC will review all proposals it receives against the evaluation criteria contained herein and award QSP funds on a competitive basis. Financial assistance will be made available on a reimbursement basis.

Under the QSP, CCC enters into agreements with those entities whose proposals have been accepted. The QSP agreement between CCC and the participant will include the maximum amount of CCC funds that may be used to reimburse certain activity costs which have been approved by CCC and paid by the QSP participant. QSP participants will be responsible for procuring (or arranging for the procurement of) commodity samples, exporting the samples, and providing the technical assistance necessary to facilitate successful use of the samples by importers. A QSP participant will be reimbursed after CCC reviews its reimbursement claim and determines that the claim is complete. CCC will not reimburse the costs of providing technical assistance. QSP agreements are subject to review and verification by the Foreign Agricultural Service's (FAS) Compliance Review Staff. Upon request, a QSP participant shall provide to CCC the original documents which support the participant's reimbursement claims. CCC may deny a claim for reimbursement if the claim is not supported by adequate documentation. Cash advances will not be made available to any QSP participant.

The QSP is administered by FAS. This notice supercedes any prior notices concerning the QSP.

Authority

The QSP is authorized under section 5(f) of the CCC Charter Act, 15 U.S.C. 714c(f).

Available Funds

$2.5 million of cost-share assistance may be obligated under this announcement.

General Scope of QSP Projects

QSP projects are the activities undertaken by a QSP participant to provide an appropriate sample of a U.S. agricultural commodity to a foreign importer, or a group of foreign importers, in a given market. The purpose of the project is to provide information to an appropriate target audience regarding the attributes, characteristics, and proper use of the U.S. commodity. A QSP project addresses a single market/commodity combination. As a general matter, QSP projects should conform to the following guidelines:

• Projects should benefit the represented U.S. industry and not a specific company or brand;

• Projects should develop a new market for a U.S. product, promote a new U.S. product, or promote a new use for a U.S. product, rather than promote the substitution of one established U.S. product for another;

• Sample commodities provided under a QSP project must be in sufficient supply and available on a commercial basis;

• The QSP project must either subject the commodity sample to further processing or substantial transformation in the importing country, or the sample must be used in technical seminars designed to demonstrate to an

appropriate target audience the proper preparation or use of the sample in the creation of an end product;

• Samples provided in a QSP project shall not be directly used as part of a retail promotion or supplied directly to consumers; and

• Samples shall be in quantities less than a typical commercial sale and limited to the amount sufficient to achieve the project goal (e.g., not more than a full commercial mill run in the destination country).

QSP projects shall target foreign importers and target audiences who:

• Have not previously purchased the U.S. commodity which will be shipped under the QSP;

• Are unfamiliar with the variety, quality attribute, or end-use characteristic of the U.S. commodity which will be shipped under the QSP;

• Have been unsuccessful in previous attempts to import, process, and market the U.S. commodity which will be shipped under the QSP (e.g., because of improper specification, blending, or formulation; or sanitary or phytosanitary (SPS) issues);

• Are interested in testing or demonstrating the benefits of the U.S. commodity which will be shipped under the QSP; or

• Need technical assistance in processing or using the U.S. commodity which will be shipped under the QSP.

Major Changes From the FY 2001 Program

Due to limited funding, the FY 2001 program limited the number of projects which could be undertaken by a participant. Under this announcement, the number of projects per participant will not be limited.

The FY 2001 program limited the funding to $50,000 of QSP reimbursement. Under this announcement, projects will be limited to $60,000 of QSP reimbursement. Projects comprised of technical preparation seminars; that is, projects which do not include further processing or substantial transformation; will remain limited to $10,000 of QSP reimbursement, as these projects require smaller samples. Under the QSP, participants may be reimbursed for certain costs of purchasing and transporting commodity samples. Although providing technical assistance is required for all projects, costs of providing the actual technical assistance will not be reimbursed under the QSP.

Proposal Process

In order to be considered for participation in the QSP, interested parties should submit proposals to FAS as described in this notice. QSP proposals must contain complete information about the proposed projects. This notice is complemented by concurrent notices announcing four other foreign market development programs administered by FAS, including the Market Access Program (MAP), the Foreign Market Development Cooperator (Cooperator) Program, the Emerging Markets Program, and the Section 108 Foreign Currency Program.

The MAP and Cooperator Program notices detail a Unified Export Strategy (UES) application process which provides a means for interested applicants to submit a consolidated and strategically coordinated single proposal that incorporates funding requests for any or all of these programs. Some applicants to the QSP, particularly those who also are applying for funding under the MAP or Cooperator Program, are encouraged to use the UES application process. The Internet-based UES application, including step-by-step instructions for its use, is located at the following URL address: *http://www.fas.usda.gov/cooperators.html.* Other applicants should follow the application procedures contained in this notice.

Entities interested in participating in the QSP are not required to submit proposals in any specific format; however, FAS recommends that proposals contain, at a minimum, the following:

(a) Organizational information, including:

• Organization's name, address, Chief Executive Officer (or designee), and Federal Tax Identification Number (TIN);

• Type of organization;

• Name, telephone number, fax number, and e-mail address of the primary contact person;

• A description of the organization and its membership;

• A description of the organization's prior export promotion experience; and

• A description of the organization's experience in implementing an appropriate trade/technical assistance component;

(b) Market information, including:

• An assessment of the market;

• A long-term strategy in the market; and

• U.S. export value/volume and market share (historic and goals) for 1998–2004;

(c) Project information, including:

• A brief project title;

• Amount of funding requested;

• A brief description of the specific market development trade constraint or opportunity to be addressed by the project, performance measures for the years 2002–2004 which will be used to measure the effectiveness of the project, a benchmark performance measure for 2001, the viability of long term sales to this market, the goals of the project, and the expected benefits to the represented industry;

• A description of the activities planned to address the constraint or opportunity, including how the sample will be used in the end-use performance trial, the attributes of the sample to be demonstrated and their end-use benefit, and details of the trade/technical servicing component (including who will provide and who will fund this component);

• A sample description (i.e., commodity, quantity, quality, type, and grade), including a justification for selecting a sample with such characteristics (this justification should explain in detail why the project could not be effective with a smaller sample);

• An itemized list of all estimated costs associated with the project for which reimbursement will be sought; and

• The importer's role in the project regarding handling and processing the commodity sample;

(d) Information indicating all funding sources and amounts to be contributed by each entity that will supplement implementation of the proposed project. This may include the organization that submitted the proposal, private industry entities, host governments, foreign third parties, CCC, FAS, or other Federal agencies. Contributed resources may include cash, goods, and services.

Review Process

Proposals will be evaluated by the applicable FAS commodity division. The divisions will review each proposal against the factors described below. The purpose of this review is to identify meritorious proposals, recommend an appropriate funding level for each proposal based upon these factors, and submit the proposals and funding recommendations to the Deputy Administrator, Commodity and Marketing Programs.

FAS will use the following criteria in evaluating proposals:

• The ability of the organization to provide an experienced staff with the requisite technical and trade experience to execute the proposal;

• The extent to which the proposal is targeted to a market in which the United States is generally competitive;

• The potential for expanding commercial sales in the proposed market;

• The nature of the specific market constraint or opportunity involved and how well it is addressed by the proposal;

• The extent to which the importer's contribution in terms of handling and processing enhances the potential outcome of the project;

• The amount of reimbursement requested and the organization's willingness to contribute resources, including cash and goods and services of the U.S. industry and foreign third parties; and

• How well the proposed technical assistance component assures that performance trials will effectively demonstrate the intended end-use benefit.

Highest priority for funding under this announcement will be given to meritorious proposals which target countries which meet either of the following criteria:

• Per capita income less than $9,265 (the ceiling on upper middle income economies as determined by the World Bank (World Development Indicators 2001)); and population greater than 1 million. Proposals may address suitable regional groupings, for example, the islands of the Caribbean Basin; or

• U.S. market share of imports of the commodity identified in the proposal of 10 percent or less.

Agreements

Following approval of a proposal, CCC will enter into an agreement with the organization that submitted the proposal. Agreements will incorporate the details of each project as approved by FAS. Each agreement will identify terms and conditions pursuant to which CCC will reimburse certain costs of each project. Agreements will also outline the responsibilities of the participant, including, but not limited to, procurement (or arranging for procurement) of the commodity sample at a fair market price, arranging for shipment of the commodity sample within the time limit specified in the agreement (organizations should endeavor to ship commodities within 6 months of effective date of agreement), compliance with cargo preference requirements (shipment on United States flag vessels, as required), compliance with the Fly American Act requirements (shipment on United States air carriers, as required), timely and effective implementation of technical assistance, and submission of a written evaluation report within 90 days of expiration of the agreement. Evaluation reports should address all performance measures which were presented in the proposal.

Closing Date for Proposals

All proposals must be submitted in duplicate and received by 5 p.m. Eastern Standard Time, March 11, 2002, at one of the following addresses:

Hand Delivery (including FedEx, UPS, etc.): U.S. Department of Agriculture, Foreign Agricultural Service, Marketing Operations Staff, Room 4932–S, 14th and Independence Avenue, SW., Washington, DC 20250–1042.

U.S. Postal Delivery: U.S. Department of Agriculture, Foreign Agricultural Service, Marketing Operations Staff, STOP 1042, 1400 Independence Ave., SW., Washington, DC 20250–1042.

Signed at Washington, DC on December 31, 2001.

Mary T. Chambliss,

Acting Administrator, Foreign Agricultural Service, and Vice President, Commodity Credit Corporation.

[FR Doc. 02–434 Filed 1–7–02; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Food Safety Inspection Service

[Docket No. 01–035N]

National Advisory Committee on Microbiological Criteria for Foods

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice of public meeting; request for comments.

SUMMARY: The National Advisory Committee on Microbiological Criteria for Foods (NACMCF) will meet January 22–25, 2002. This meeting replaces the NACMCF meeting originally scheduled for September 17–20, 2001. The original meeting was postponed because of the September 11, 2001 terrorist attacks.

The meeting is open to the public. The committee will discuss *Salmonella* performance standards in meat and poultry products; *Escherichia coli* O157:H7 in blade-tenderized, non-intact beef; the evaluation of hot holding temperatures; Codex ''Discussion Paper on Proposed Draft Guidelines for the Validation of Food Hygiene Control Measures,'' and the scientific basis for establishing safety-based ''use by'' date labeling for refrigerated, ready-to-eat foods.

FSIS will finalize an agenda on or before the meeting date and post it to its Internet web page.

DATES: The full Committee will meet on Wednesday, Thursday, and Friday, January 23, 24, and 25, 2002; subcommittee meetings will be held on January 22 and 23, 2002.

ADDRESSES: The meeting will be held at the Omni Shoreham Hotel at 2500 Calvert St., NW, Washington, DC 20008. Send an original and two copies of comments to the Food Safety and Inspection Service Docket Room: Docket #01–035N, Room 102 Cotton Annex Building, 300 12th Street, SW., Washington, DC 20250. Comments may also be sent by facsimile (202) 205–0381. The comments and the official transcript of the meeting, when it becomes available, will be kept in the FSIS Docket Room at the above address.

FOR FURTHER INFORMATION CONTACT: Persons interested in making a presentation, submitting technical papers, or providing comments should contact Brenda Halbrook (202) 690–6600, Fax (202) 690–6337, e-mail address: *brenda.halbrook@dchqexs1.hqnet.usda.gov,* or mailing address: Food Safety and Inspection Service, Department of Agriculture, Office of Public Health and Science, Aerospace Center, Room 333, 1400 Independence Avenue, SW, Washington, DC 20250–3700. Persons requiring a sign language interpreter or other special accommodations should notify Ms. Halbrook, by January 7, 2001.

SUPPLEMENTARY INFORMATION:

Background

The NACMCF was established on March 18, 1988, in response to a recommendation of the National Academy of Sciences for an interagency approach to microbiological criteria for food, and in response to a recommendation of the U.S. House of Representatives Committee on Appropriations, as expressed in the Rural Development, Agriculture, and Related Agencies Appropriation Bill for fiscal 1988. The Charter for the NACMCF is available for viewing on the FSIS internet Web page at *http://www.fsis.usda.gov/OA/programs/nacmcf_chart.htm.*

The NACMCF provides scientific advice and recommendations to the Secretary of Agriculture and the Secretary of Health and Human Services on public health issues relative to the safety and wholesomeness of the U.S. food supply including development of microbiological criteria and review and evaluation of epidemiological and risk assessment data and methodologies for assessing microbiological hazards in foods. The Committee also provides advice to the Centers for Disease Control and Prevention and the Departments of Commerce and Defense. Dr. I. Kaye Wachsmuth, Deputy Administrator, Office of Public Health and Science, FSIS, is the Committee Chair, Janice F.

Oliver, Deputy Director, Center for Food Safety and Applied Nutrition, Food and Drug Administration, is the Co-Chair, and Brenda Halbrook, FSIS, is the Executive Secretary.

At the January 22–25, 2002, meeting announced in this document, the Committee will

- Discuss *Salmonella* performance standards in meat and poultry products;
- Discuss *Escherichia coli* O157:H7 in blade-tenderized, non-intact beef;
- Discuss the evaluation of hot holding temperatures;
- Discuss the Codex ''Discussion Paper on Proposed Draft Guidelines for the Validation of Food Hygiene Control Measures,'' and
- Discuss the scientific basis for establishing safety-based ''use by'' date labeling for refrigerated, ready-to-eat foods.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are aware of this notice, FSIS will announce the meeting and provide copies of this **Federal Register** publication in the FSIS Constituent Update. FSIS provides a weekly FSIS Constituent Update, which is communicated via fax to over 300 organizations and individuals. In addition, the update is available on-line through the FSIS Web page located at *http://www.fsis.usda.gov.* The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and any other types of information that could affect, or would be of interest to, our constituents/stakeholders. The constituent fax list consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals that have requested to be included. Through these various channels, FSIS is able to provide information to a much broader, more diverse audience. For more information and to be added to the constituent fax list, fax your request to the Congressional and Public Affairs Office, at (202) 720–5704.

Margaret O'K Glavin,

Acting Administrator.

[FR Doc. 02–499 Filed 1–4–02; 11:35 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Section 108 Foreign Currency Program

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice.

SUMMARY: The Foreign Agricultural Service invites proposals from interested parties to use certain foreign currencies acquired by the United States for activities to expand markets for U.S. agricultural commodities and for technical assistance activities.

FOR FURTHER INFORMATION CONTACT: Marketing Operations Staff, Foreign Agricultural Service, U.S. Department of Agriculture, Room 4932–S, STOP 1042, 1400 Independence Ave., SW., Washington, DC 20250–1042, (202) 720–4327.

SUPPLEMENTARY INFORMATION:

Introduction

The Foreign Agricultural Service (FAS) will use available currencies of the Dominican Republic, Jamaica, Sri Lanka, and Tunisia, to provide assistance in market development and agricultural technical assistance activities. This use of foreign currencies is commonly referred to as the ''section 108 foreign currency program.'' These foreign currencies were acquired by USDA pursuant to agreements made under Title I of the Agricultural Trade Development and Assistance Act of 1954, (Pub. L. 480).

Title I, Pub. L. 480 authorizes the U.S. government to finance the sale and exportation of agricultural commodities to foreign governments on concessional terms. Between 1986 and 1991, the U.S. entered into various Title I, Pub. L. 480 agreements with foreign governments, on terms which allowed repayment to the United States in local currencies. Pub. L. 480 authorizes the U.S. government to use these foreign currencies to implement market development and agricultural technical assistance activities.

This announcement supersedes all previous announcements regarding this program. On February 12, 2001, FAS published a notice in the **Federal Register** (66 FR 9818–9820) inviting proposals to use currencies of Costa Rica, Dominican Republic, Jamaica, and Tunisia for market development projects and technical assistance activities. The currencies of Costa Rica, which were available under the previous announcements, are no longer available. The currencies of Sri Lanka have been added to the list.

FAS must disburse local currencies to program participants, usually through the disbursing officer in the U.S. embassy in the country of origin. That is, FAS may not convert the local currency to any other currency prior to disbursement. Activities funded with section 108 currencies are not limited to the country where the currency originated. It is the responsibility of the recipient to arrange for receiving and using the foreign currencies made available, or converting the funds to other currencies. At the time of this announcement, approximately 28 million Dominican Republic pesos; 210 million Jamaica dollars; 12 million Tunisia dinars; and 1.7 million Sri Lanka rupees are available.

Proposal Process

This notice is complemented by concurrent notices announcing four other foreign market development programs administered by FAS, including the Market Access Program (MAP), the Foreign Market Development Cooperator (Cooperator) Program, the Emerging Markets Program, and the Quality Samples Program (QSP). The MAP and Cooperator Program notices detail a Unified Export Strategy (UES) application process which provides a means for interested applicants to submit a consolidated and strategically coordinated single proposal that incorporates funding requests for any or all of these programs. Some applicants to the section 108 foreign currency program, particularly those who are applying for funding under more than one program, may wish to use the UES application process. The Internet-based UES application, including step-by-step instructions for its use, is located at the following URL address: *http://www.fas.usda.gov/cooperators.html.* Other applicants, particularly those who are applying for funding only under the section 108 foreign currency program, should follow the application procedures contained in this notice. Interested applicants that are unsure of how to apply are urged to contact the Marketing Operations Staff at the address or phone number above.

FAS recommends that proposals to participate in the section 108 foreign currency program contain, at a minimum, the following:

(a) Organizational information, including:

- Organization's name, address, Chief Executive Officer (or designee), and Federal Tax Identification Number (TIN);
- Type of organization, e.g., corporation, non-profit organization;

• Name, telephone number, fax number, and e-mail address of the primary contact person;

• If a trade organization, a description of the organization and its membership;

• A description of the organization's prior export promotion experience; and

• A description of the organization's experience in implementing a trade or technical assistance activity;

(b) Market information, including:

• An assessment of the targeted market;

• A long-term strategy in the market; and

• U.S. export value/volume and market share data and goals for 1999–2004;

(c) Project information, including:

• A brief project title;

• Request for funding in one of the available foreign currencies;

• A brief description of the specific market development trade constraint to be addressed by the project, performance measures for the years 2002–2004 which will be used to measure the effectiveness of the project, a benchmark performance measure for 2002, the viability of long term sales to this market, the goals of the project, and the expected benefits to the represented industry;

• A method for evaluating and reporting results;

• A description of the activities planned to address the constraint; and

• An itemized list of all estimated costs associated with each project activity for which reimbursement will be sought;

(d) Information indicating all funding sources and amounts to be contributed by each entity that will supplement implementation of the proposed project. This may include the organization that submitted the proposal, private industry entities, host governments, foreign third parties, Commodity Credit Corporation, FAS, or other Federal agencies. Contributed resources may include cash, goods, and services; and,

(e) A completed Standard Form 424 (SF–424). This form is available on the Internet via the section 108 fact sheet at the following URL address: *http://www.fas.usda.gov/info/factsheets/108fact.htm,* or by calling the contact listed above.

Review Process and Allocation Criteria

The FAS allocates funds in a manner which effectively supports the strategic decision-making initiatives of the Government Performance and Results Act (GPRA) of 1993 and the USDA's Food and Agricultural Policy (FAP). In deciding whether a proposed project will contribute to the effective creation, expansion, or maintenance of foreign markets, the FAS seeks to identify a clear, long-term agricultural trade strategy and a program effectiveness time line against which results can be measured at specific intervals using quantifiable product or country goals. The FAS also considers the extent to which a proposed project targets markets with the greatest growth potential. These factors are part of the FAS resource allocation strategy to fund applicants who can demonstrate performance and address the objectives of the GPRA and FAP. FAS will provide financial assistance under this program on a competitive basis and applications will be reviewed against the evaluation criteria contained herein. Proposals will be evaluated by the applicable FAS commodity division. The divisions will recommend funding levels for each applicant based on a review of the applications against the following factors:

• The ability of the organization to provide an experienced staff with the requisite technical and trade expertise to execute the proposal;

• The funding request and the organization's willingness to contribute resources, including cash, goods and services of the U.S. industry and foreign third parties;

• The conditions or constraints affecting the level of U.S. exports and market share for the agricultural commodities and products;

• The degree to which the proposed project is likely to contribute to the creation, expansion, or maintenance of the targeted foreign market; and

• The degree to which the organization's proposal is coordinated with other private or U.S. government-funded market development projects.

The purpose of this review is to identify meritorious proposals and to suggest an appropriate funding level for each application based upon these factors. Meritorious proposals will then be reviewed by representatives of each FAS program area for the purpose of allocating available funds among the applicants. FAS will prioritize meritorious proposals according to the following criteria.

First priority consideration will be given to proposals which target the growth markets listed below. These developing markets account for a significant share of world imports of major farm commodities and much of the projected long-term growth in global import demand. As such, they are expected to be among the most supportive of USDA's primary export objective of increasing the U.S. share of world agricultural trade. First priority growth markets for allocation of section 108 funds: Brazil, countries in Central America, Chile, China, Egypt, India, Indonesia, Malaysia, Mexico, Philippines, Russia, South Africa, South Korea, Thailand, Turkey, and Vietnam. First priority consideration will also be given to proposals which target the countries from which the foreign currencies originate, i.e., Dominican Republic, Jamaica, Sri Lanka, and Tunisia.

Second priority consideration will be given to proposals which target other markets where growth prospects for the relevant agricultural product are high. These proposals would serve to open new markets or bring about substantial growth in existing markets.

In all cases, preference is given to nonprofit U.S. agricultural trade organizations that represent an entire industry or are nationwide in membership and scope.

Note: FAS generally reviews section 108 proposals on a quarterly basis. However, FAS may also consider proposals on an accelerated basis if an urgent marketing opportunity becomes available. FAS will evaluate such proposals according to the criteria specified in this notice. Details concerning the accelerated review can be obtained from the section 108 fact sheet on the Internet at the following URL address: *http://www.fas.usda.gov/info/factsheets/108fact.htm* or by calling the contact listed above.

Agreements

Following approval of a proposal, FAS will enter into an agreement with the organization that submitted the proposal. Agreements will incorporate the project details as approved by FAS and specify any other terms and conditions applicable to project funding. Agreements include the maximum amount of funds, in local currencies rather than U.S. dollars, which may be made available for a participant's approved activities. All agreements with non-profit organizations under this program are administered under 7 CFR part 3019—Uniform Administrative Requirements for Grants and Cooperative Agreements with Institutions of Higher Education, Hospitals, and other Non-profit Organizations. These regulations can be found on the Internet at the following URL address: *http://www.access.gpo.gov/nara/cfr/waisidx_;01/7cfr3019_01.html.*

Submission of Proposals

Proposals may be submitted on a continuous basis. However, all Internet-based section 108 proposals (using the UES application) must be properly

submitted by 5 p.m. Eastern Standard Time, March 11, 2002, because the UES entry Web site closes at that time. Signed SF–424 forms must be delivered to one of the addresses listed below.

All proposals on diskette (with two accompanying paper copies and a signed SF–424 form) and any other proposals must be delivered to one of the following addresses:

Hand Delivery (including FedEx, DHL, UPS, etc.): U.S. Department of Agriculture, Foreign Agricultural Service, Marketing Operations Staff, Room 4932–S, 14th and Independence Ave., SW., Washington, DC 20250–1042.

U.S. Postal Delivery: U.S. Department of Agriculture, Foreign Agricultural Service, Marketing Operations Staff, STOP 1042, 1400 Independence Ave., SW., Washington, DC 20250–1042.

Signed at Washington, DC on December 31, 2001.

Mary T. Chambliss,

Acting Administrator, Foreign Agricultural Service.

[FR Doc. 02–430 Filed 1–7–02; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Forest Service

Northeast Washington Resource Advisory Committee (RAC); Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Northeast Washington Resource Advisory Council will meet Wednesday and Thursday, January 23 and 24, 2002 at the Spokane Community College, Colville Campus Monumental Room at 985 S. Elm Street, Colville, Washington. The meeting will begin at 9 a.m. and continue until 4 p.m. each day.

Agenda items include: (1) FACA overview, (2) roles and responsibilities, (3) review RAC guidebook, (4) communication strategies, (5) future agenda items, (6) future meeting dates, (7) project process and identification, (8) election of chairperson, and (9) Public Forum.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to designated federal official, Nora Rasure or Cynthia Reichelt, Public Affairs Officer, Colville National Forest, 765 S. Main, Colville, Washington 99114: (509) 684–7000.

Dated: December 28, 2001.

Nora B. Rasure,

Forest Supervisor.

[FR Doc. 02–395 Filed 1–7–02; 8:45 am]

BILLING CODE 3410–11–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Louisiana Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Louisiana Advisory Committee to the Commission will convene at 5:30 p.m. and adjourn at 7:30 p.m. on January 31, 2002, at the Radisson Hotel & Conference Center, 4728 Constitution Avenue, Baton Rouge, Louisiana 70808. The purpose of the meeting is to discuss the draft report on environmental justice, and plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Melvin L. Jenkins, Director of the Central Regional Office, 913–551–1400 (TDD 913–551–1414). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, January 3, 2002.

Debra A. Carr,

Deputy General Counsel, Office of the General Counsel.

[FR Doc. 02–447 Filed 1–7–02; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Pennsylvania Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Pennsylvania Advisory Committee to the Commission will convene at 12:30 p.m. and adjourn at 4:30 p.m. on Thursday, January 17, 2002, at the Philadelphia Convention Center, Conference Room B, 12th and Arch Streets, Philadelphia, Pennsylvania 19107. The Advisory Committee will provide an orientation to members, plan a press conference to release its report, Barriers to Minority and Women Owned Businesses in Pennsylvania, and discuss new topic areas.

Persons desiring additional information, or planning a presentation to the Committee, should contact Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, January 3, 2002.

Debra A. Carr,

Deputy General Counsel, Office of the General Counsel.

[FR Doc. 02–446 Filed 1–3–02; 2:46 pm]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–866]

Notice of Antidumping Duty Order: Certain Folding Gift Boxes From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of antidumping duty order.

SUMMARY: On December 5, 2001, the Department of Commerce issued its amended final determination of sales at less than fair value with respect to certain folding gift boxes from the People's Republic of China. On December 26, 2001, the International Trade Commission notified the Department of its determination that an industry in the United States is being injured by reason of imports of subject merchandise from the People's Republic of China that are sold at less than fair value. The Department of Commerce hereby issues an antidumping duty order on certain folding gift boxes from the People's Republic of China.

EFFECTIVE DATE: January 8, 2002.

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 and (202) 482–0180, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (''the Act'') by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations at 19 CFR part 351 (April 2001).

Scope of the Order

The products covered by this order are certain folding gift boxes. Folding gift boxes are a type of folding or knock-down carton manufactured from paper or paperboard. 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 order excludes gift boxes manufactured from paper or paperboard of a thickness of more than 0.8 millimeters, corrugated paperboard, or paper mache. The scope also excludes those gift boxes for which no side of the box, when assembled, is at least nine inches in length.

Folding gift boxes included in this scope 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 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. 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 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 order 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 classified under Harmonized Tariff Schedules of the United States (HTSUS) subheadings 4819.20.0040 and 4819.50.4060. These subheadings also cover products that are outside the scope of this order. Furthermore, although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this order is dispositive.

Antidumping Duty Order

In accordance with section 735(a) of the Tariff Act, the Department made its final determination that certain folding gift boxes from the People's Republic of China (''PRC'') are being sold at less than fair value. See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Folding Gift Boxes From the People's Republic of China*, 66 FR 58115 (November 20, 2001). We received ministerial error allegations from one respondent and upon consideration of these allegations, we issued an amended final determination. See *Notice of Amended Final Determination of Sales at Less Than Fair Value: Certain Folding Gift Boxes From the People's Republic of China*, 66 FR 63216 (December 5, 2001).

On December 26, 2001, in accordance with section 735(d) of the Act, the International Trade Commission (''the Commission'') notified the Department of its final determination pursuant to section 735(b)(1)(A)(i) of the Tariff Act that an industry in the United States is materially injured by reason of less-than-fair-value imports of subject merchandise from the PRC. Therefore, in accordance with section 736(a)(1) of the Act, the Department will direct the Customs Service to assess, upon further advice by the Department, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price of the merchandise for all relevant entries of folding gift boxes from the PRC. These antidumping duties will be assessed on all unliquidated entries of folding gift boxes from the PRC entered, or withdrawn from the warehouse, for consumption on or after August 6, 2001, the date on which the Department published its *Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Folding Gift Boxes From the People's Republic of China*, 66 FR 40973 (August 6, 2001). On or after the date of publication of this notice, the Customs Service must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the estimated weighted-average antidumping duty margins as noted below for all companies except Max Fortune Industrial Ltd. Because we found a *de minimis* margin for Max Fortune Industrial Ltd., Max Fortune Industrial Ltd. is excluded from this order. The ''PRC-wide'' rate applies to all exporters of subject merchandise not specifically listed. The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average percent margin
Red Point Paper Products Co., Ltd	8.90
Max Fortune Industrial Ltd. (*de minimis*)	1.67
PRC-wide Rate	164.75

This notice constitutes the antidumping duty order with respect to folding gift boxes from the PRC. Interested parties may contact the Department's Central Records Unit, Room B–099 of the main Commerce building, for copies of an updated list of antidumping duty orders currently in effect.

This order is published in accordance with section 736(a) of the Act.

Dated: January 2, 2002.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 02–436 Filed 1–7–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–808]

Stainless Steel Wire Rod From India; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to a request by the Viraj Group, Limited (''Viraj Group''), respondent, the Department of Commerce (''the Department'') is conducting an administrative review of the antidumping duty order on stainless steel wire rod (''SSWR'') from India. The period of review (''POR'') is December 1, 1999, through November 30, 2000.

We have preliminarily determined that the Viraj Group has made sales below normal value (''NV''). If these preliminary results are adopted in our final results of this administrative review, we will instruct the U.S.

Customs Service to assess antidumping duties. We invite interested parties to comment on these preliminary results. Parties who submit arguments in this segment of the proceeding are requested to submit with the argument: (1) A statement of the issue, and (2) a brief summary of the argument.

EFFECTIVE DATE: January 8, 2002.

FOR FURTHER INFORMATION CONTACT: Catherine Bertrand, AD/CVD Enforcement Group III, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3207.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (''the Act'') by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all references to the Department's regulations are to the provisions codified at 19 CFR part 351 (2001).

Background

On October 20, 1993, the Department published in the **Federal Register** the antidumping duty order on certain stainless steel wire rod from India (58 FR 54110). On December 20, 2000, the Department published in the **Federal Register** a notice of opportunity to request an administrative review of this antidumping duty order (65 FR 79802).

On December 27, 2000, the Viraj Group requested an administrative review of the antidumping duty order on certain stainless steel wire rods from India. In accordance with 19 CFR 351.221(b), we published a notice of initiation of the review of the Viraj Group on January 31, 2001 (66 FR 8378).

On January 31, 2001, the Department issued a questionnaire to the Viraj Group. The Department initiated a cost of production inquiry and requested that the Viraj Group respond to section D of the questionnaire in addition to sections A, B and C. The Viraj Group submitted its Section A questionnaire response on February 28, 2001, and re-submitted it on March 6, 2001, in the correct format pursuant to the Department's request. On April 17, 2001, the Viraj Group submitted its Sections B, C and D questionnaire responses. The Department, however, considered the Section D response to be insufficient and requested that Viraj Group re-submit its Section D questionnaire response, which it did on August 13, 2001. The Department issued supplemental questionnaires to the Viraj Group and received responses on June 20, 2001, July 9, 2001, August 24, 2001, November 13, 2001, November 28, 2001. Petitioners submitted comments on the record on May 3, 2001, October 10, 2001, and November 28, 2001.

On July 23, 2001, due to the reasons set forth in the *Extension of Time Limit for the Preliminary Results of Antidumping Administrative Review: Certain Stainless Steel Wire Rod From India,* 66 FR 38257, the Department extended the due date for the preliminary results. In accordance with section 751(a)(3)(A) of the Act, the Department extended the due date for the notice of preliminary results the maximum 120 days allowable, from the original due date of September 2, 2001, to December 31, 2001. The Department is conducting this review in accordance with section 751 of the Act.

Verification

As provided in section 782(i) of the Act, we verified sales and cost information provided by the Viraj Group from December 3–12, 2001, using standard verification procedures, including an examination of relevant sales, cost, and financial records, and selection of original documentation containing relevant information. Our verification results are outlined in the public version of the verification report and are on file in the Department's Central Records Unit located in Room B–099 of the main Department of Commerce Building, 14th Street and Constitution Avenue, NW., Washington, DC.

Period of Review

The period of review is December 1, 1999 through November 30, 2000.

Scope of the Review

The merchandise under review is certain stainless steel wire rod (SSWR) which are hot-rolled or hot-rolled annealed and/or pickled rounds, squares, octagons, hexagons or other shapes, in coils. SSWR are made of alloy steels containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. These products are only manufactured by hot-rolling and are normally sold in coiled form, and are of solid cross section. The majority of SSWR sold in the United States are round in cross-section shape, annealed and pickled. The most common size is 5.5 millimeters in diameter.

The SSWR subject to this review are currently classifiable under subheadings 7221.00.0005, 7221.00.0015, 7221.00.0030, 7221.00.0045, and 7221.00.0075 of the *Harmonized Tariff Schedule of the United States* (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under review is dispositive of whether or not the merchandise is covered by the review.

Collapsing

The Viraj Group is composed of the following four companies: Viraj Forgings, Ltd. (''VFL''); Viraj Alloys, Ltd. (''VAL''); Viraj Impoexpo, Ltd. (''VIL''); and Viraj USA, Inc. (''Viraj USA''), which was incorporated during the POR on May 22, 2000. The Department has preliminarily determined that these four companies are affiliated for the purposes of this administrative review, and that the three producing companies, VAL, VIL, and VFL, should be collapsed and considered one entity pursuant to section 771(33) of the Act and section 351.401(f) of the Department's regulations. *See Memorandum from Edward C. Yang to Joseph A. Spetrini: 1999–2000 Administrative Review of Stainless Steel Wire Rod From India; Collapsing Memorandum of the Viraj Group, Limited,* dated December 31, 2001.

The Department has found the four companies affiliated based on the evidence on the record which states that Mr. Chhatwal and Mr. Kochhar are the directors for all four companies and they jointly run all four companies, and their decisions are made for the interest of the group as a whole. Furthermore, the stock of VAL, VFL and VIL is mainly held by Mr. Chhatwal, Mr. Kochhar, and their relatives. Collectively, this group holds more than 40% of the shares in VIL, VAL, and VFL. Also, VFL owns 100% of Viraj USA.

We find that the three producing companies (VAL, VIL, and VFL) should be collapsed because the evidence on the record indicates that VAL, VFL and VIL each use production facilities for similar or identical merchandise that would not require substantial retooling of any facility in order to restructure manufacturing priorities. For sales to the home market, VAL makes billets and then sends them to an unaffiliated subcontractor for rolling into wire rod. The subcontractor returns the black wire rod to VAL who sells it in the home market as subject merchandise. For sales to the U.S. market, VIL and VFL purchase the billets from VAL and send them to the same sub-contractor that VAL uses for rolling into wire rod. The subcontractor returns the black wire rod

which is then annealed at VFL's facilities, pickled at VIL's facilities, packed and then exported. Consequently, VAL, VFL and VIL are all considered ''producers'' of this wire rod for purposes of this review. Given that VAL, VIL and VFL all produced wire rod during the POR, no substantial retooling would be needed to restructure priorities among the three companies. Moreover, the companies are under common control and ownership, they use the same production facilities for producing wire rod, and the operations of the companies are intertwined. Therefore, the companies are capable, through their sales and production operations, of manipulating prices or affecting production decisions.

Affiliation

The Department has analyzed the issue of whether the Viraj Group was affiliated with its U.S. customer, Kurt Orban Partners (''KOP''), for a portion of the POR, May 22, 2000 through November 30, 2000. At the Department's request, KOP submitted information on the record of this proceeding on November 5, 2001, and November 28, 2001. The evidence on the record indicates that KOP's Vice President and later President, Matt Orban, was also the Vice President of Viraj USA. The record indicates that his duties as Viraj USA's Vice President were clerical in nature. Specifically his duties included signing customs documents with power of attorney and signing bank papers on behalf of Viraj USA. The record indicates Matt Orban also answered correspondence with customs brokers and shipping companies on behalf of Viraj USA. At KOP, Mr. Orban had primary responsibility for the general administration, sales, purchasing, supplier relations, and information technology. Both the Viraj Group and KOP deny that Matt Orban had any control over Viraj USA's sales and pricing decisions. *See* Viraj Group's June 20, 2001 submission at 6. There is no information on the record that indicates Matt Orban did have control over Viraj USA; therefore, the Department preliminarily determines that the Viraj Group and KOP are not affiliated for purposes of this administrative review.

Normal Value Comparisons

To determine whether the Viraj Group's sales of subject merchandise from India to the United States were made at less than normal value, we compared the export price (''EP'') and constructed export price (''CEP''), as appropriate, to the normal value (''NV''), as described in the ''Export Price/ Constructed Export Price'' and ''Normal Value'' sections of this notice, below. In accordance with section 777A(d)(2) of the Act, we calculated monthly weighted-average prices for NV and compared these to individual EP and CEP transactions.

Transactions Reviewed

We compared the aggregate volume of the Viraj Group's home market sales of the foreign like product and U.S. sales of the subject merchandise to determine whether the volume of the foreign like product the Viraj Group sold in India was sufficient, pursuant to section 773(a)(1) of the Act, to form a basis for NV. Because the Viraj Group's volume of home market sales of the foreign like product was greater than five percent of its U.S. sales of subject merchandise, in accordance with section 773(a)(1)(B)(i) of the Act, we have based the determination of NV upon the Viraj Group's home market sales of the foreign like product. Thus, we based NV on the prices at which the foreign like product was first sold for consumption in India in the usual commercial quantities, in the ordinary course of trade, and, to the extent possible, at the same level of trade (''LOT'') as the CEP or EP sales, as appropriate.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products covered by the **Scope of the Review** section above, which were produced and sold by the Viraj Group in the home market during the POR, to be foreign like products for purposes of determining appropriate comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics and reporting instructions listed in the Department's questionnaire.

We have preliminarily determined to consider grade 304L and grade 304LER as the same for purposes of the model match program. The Viraj Group submitted information on the record which claimed that these two grades should not be treated the same. However, after analyzing this data, we conclude that there is insufficient evidence on the record to support a determination that grades 304L and 304LER should be treated differently. Specifically, the evidence on the record is insufficient because the physical characteristics for each grade are not significantly different from one another. For example, in the grade specifications provided on the record by the Viraj Group, the grades 304L and 304LER have the same specifications for carbon, silicon, magnesium, phosphorus, and sulfur. Additionally, the ranges for chromium and nickel for 304LER are a subset of the ranges of those elements for grade 304L. The Department preliminarily determines that the specifications for these grades do not differ significantly. It is the Department's practice not to create additional categories unless the physical characteristics are significantly different from an existing known category. *See e.g., Certain Cold-Rolled Carbon Steel Flat Products From Korea: Final Results of Antidumping Duty Administrative Review,* 63 FR 781 (January 7, 1998). Therefore, we did not create an additional grade category for grade 304LER for purposes of these preliminary results.

Export Price and Constructed Export Price

In accordance with section 772(a) of the Act, EP is the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States. In accordance with section 772(b) of the Act, constructed export price CEP is the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under subsections (c) and (d).

For purposes of this review, the Viraj Group has classified certain sales as EP sales and certain sales as CEP sales. Based on the information on the record, we are using export price as defined in section 772(a) of the Act for sales before May 22, 2000, and CEP for sales on or after May 22, 2000, because that is the date on which the U.S. re-seller, Viraj USA, was incorporated.

The Viraj Group has classified those sales made by VIL and VFL to the unaffiliated U.S. customer as EP sales. The Viraj Group reported that these sales are shipped directly from the factory in India to the U.S. customer. The Department calculated EP for the appropriate sales based on packed, delivered prices to customers in the United States. We made deductions, where appropriate, from the starting price for following movement expenses:

marine insurance, international freight, inland freight, U.S. customs duties, and brokerage and handling in accordance with section 772(c)(2) of the Act.

The Viraj Group has classified those sales made by VIL and VFL through Viraj USA, an affiliated reseller that is 100% owned by VFL, as CEP sales. VIL and VFL make the shipment from India on a CIF basis to Viraj USA. Viraj USA clears the goods through customs and pays the customs duty. Then Viraj USA sells the good to the U.S. customer by issuing an invoice to the customer. The customer makes payment to Viraj USA.

Based on the evidence on the record, the Department preliminarily determines that VIL and VFL's U.S. sales through Viraj USA were made ''in the United States'' within the meaning of section 772(b) of the Act, and thus have been appropriately classified by the Viraj Group as CEP transactions.

We calculated CEP, in accordance with section 772(b) of the Act, based on the packed CIF prices to the first unaffiliated customer in the United States. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, brokerage and handling, inland freight, international freight, U.S. customs duties, marine insurance, customs clearance and delivery arrangements. In accordance with section 772(d)(1) of the Act, we deducted those selling expenses associated with economic activities occurring in the United States, including direct selling expenses (bank charges and credit expenses) and indirect selling expenses. As explained in the ''Duty Drawback'' section below, we are not making any adjustments for duty drawback for EP or CEP sales.

Normal Value

1. Comparison Market Viability

The Viraj Group reported the home market sales of VAL, as well as the largest third country market sales of VIL and VFL, who did not make any home market sales during the POR. Since we have preliminarily determined to collapse the companies of the Viraj Group, we used the home market sales of VAL as the basis of normal value.

After testing home market viability, as discussed in the ''Transactions Reviewed'' section, supra, and after determining whether home market sales were at below-cost prices, in the ''Cost of Production Analysis,'' infra, we calculated NV as noted in the ''Price-to-Price Comparisons'' and ''Price-to-Constructed Value (''CV'') Comparisons'' sections of this notice.

2. Cost of Production Analysis

Because the Department disregarded certain Viraj Group sales made in the home market at prices below the cost of producing the subject merchandise in the most recently completed segment of this proceeding and excluded such sales from normal value, the Department determined that there are reasonable grounds to believe or suspect that the Viraj Group made sales in the home market at prices below the cost of producing the merchandise in this review. *See Stainless Steel Wire Rod From India; Final Results of Antidumping Duty Administrative Review,* 65 FR 31302 (May 17, 2000), and section 773(b)(2)(A)(ii) of the Act. As a result, the Department initiated a cost of production inquiry in this case on January 31, 2001, to determine whether the Viraj Group made home market sales during the POR at prices below their respective COPs within the meaning of section 773(b) of the Act.

3. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of the Viraj Group's cost of materials and fabrication for the foreign like product, plus amounts for home market selling, general and administrative expenses (''SG&A''), including interest expenses, and packing costs. We used home market sales and COP information provided by the Viraj Group in its questionnaire responses.

4. Test of Home Market Prices

We compared the weighted-average COP for the POR to the Viraj Group's home market sales of the foreign like product as required under section 773(b) of the Act. In determining whether to disregard home market sales made at prices less than the COP, we examined whether such sales: (1) Were made within an extended period of time in substantial quantities; and (2) were not made at prices which permitted the recovery of all costs within a reasonable period of time.

5. Results of the COP Test

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of the Viraj Group's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because the below-cost sales were not made in ''substantial quantities.'' Where 20 percent or more of the Viraj Group's sales of a given product were at prices less than the COP, we determined such sales to have been made in ''substantial quantities.'' The extended period of time for this analysis is the POR. *See* section 773(b)(2)(B) of the Act and 19 CFR 351.406(b). Because each individual price was compared to the weighted-average COP for the cost reporting period, any sales that were below cost were also at prices which did not permit cost recovery within a reasonable period of time. *See* section 773(b)(2)(D). We compared the COP for subject merchandise to the reported home market prices less any applicable movement charges. Based on this test, we disregarded below-cost sales.

Calculation of Constructed Value

We calculated CV in accordance with section 773(e)(1) of the Act based on the sum of respondent's cost of materials, fabrication, SG&A, including interest expenses, and profit. We calculated the COP included in the calculation of CV as noted above, in the ''Calculation of COP'' section of the notice. In accordance with section 773(e)(2)(A) of the Act and 19 CFR 351.405(b)(1), we based SG&A and profit on the amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product, in the ordinary course of trade, for consumption in the foreign country.

Price-to-Price Comparisons

For those product comparisons for which there were sales at prices above the COP, we based NV on the home market prices to the home market customers. We made adjustments, where appropriate, for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act. We calculated NV based on prices to unaffiliated home market customers. We made circumstances of sale adjustments for credit expenses, as appropriate.

Price-to-CV Comparisons

In accordance with section 773(a)(4) of the Act, we base NV on CV if we are unable to find suitable home market sales of the foreign like product. For price-to-CV comparisons, we made adjustments to CV in accordance with section 773(a)(8) of the Act.

Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade (''LOT'') as the EP or CEP transaction. The NV LOT is that of the starting-price sales in the comparison market or, when NV is based on CV, that of the sales from which we derive SG&A expenses and profit. For EP, the LOT is also the level

of the starting-price sale, which is usually from the exporter to the importer. For CEP, it is the level of the constructed sale from the exporter to the affiliated importer. *See* 19 CFR 351.412(c)(1).

To determine whether NV sales are at a different LOT than EP or CEP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. Substantial differences in selling activities are a necessary, but not sufficient condition for determining that there is a difference in the stage of marketing. 19 CFR 351.412(c)(2). If the comparison market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the differences in the levels between NV and CEP sales affect price comparability, we adjust NV under section 773(A)(7)(B) of the Act (the CEP offset provision). *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Carbon Steel Plate from South Africa*, 62 FR 61731 (November 19, 1997).

In the home market, the Viraj Group reported one level of trade. The Viraj Group sold through one channel of distribution in the home market: directly to unaffiliated customers (trading companies and actual users). The Viraj Group claimed one level of trade in its U.S. market. The Viraj Group sold through two channels of distribution in the U.S. market: (1) directly to unaffiliated customers in the United States prior to May 22, 2000, the date of incorporation of Viraj USA; and (2) directly from the mill through Viraj USA to unaffiliated customers after May 22, 2000.

For sales in the home market channel, the Viraj Group reported that all of its sales are sold ex-factory. The selling functions performed by the Viraj Group include business promotion (*e.g.*, salesmen travel, entertainment, and product testing), extension of credit, price negotiation, and order processing. Because there is only one sales channel in the home market, and because identical selling functions are performed for all home market sales, we preliminarily determine that there is one LOT in the home market.

We reviewed the selling functions and services performed by the Viraj Group in the U.S. market, as represented by the Viraj Group in its responses. The Viraj Group indicated that the selling functions performed by the Viraj Group were the same for EP sales and CEP sales (*i.e.,* sales to Viraj USA). Viraj USA was incorporated on May 22, 2000, and after that time, Viraj USA handled customs clearance, but there was no change in the selling functions of the Viraj Group. We find that the differences in the degree of selling functions performed (*i.e.*, price negotiation and provision of freight) to be minor. Therefore, we preliminarily determine that there is one LOT in the U.S. market.

The selling functions of the Viraj Group are very minimal for both the home market and the U.S. market. The Viraj Group does not incur warranty expenses, technical service expenses, royalties, or advertising expenses for either market, and only provides freight services for EP transactions. Accordingly, we preliminarily determine that sales in the home market and in the U.S. market were made at the same LOT and have not made a LOT adjustment.

Duty Drawback

In the previous administrative review (*see Stainless Steel Wire Rod From India; Final Results of Antidumping Duty Administrative Review,* 65 FR 31302, (May 17, 2000)), the Department denied the Viraj Group's request for an upward adjustment to the U.S. starting price based on duty drawback because the reported duty drawback was not directly linked to the amount of duty paid on imports used in the production of merchandise for export as required by the Department's two-part test, which states there must be: (1) a sufficient link between the import duty and the rebate, and (2) a sufficient amount of raw materials imported and used in the production of the final exported product. *See Rajinder Pipes Ltd.* v. *U.S. (''Rajinder Pipes'')*, 70 F. Supp. 2d 1350, 1358. The Court of International Trade upheld the Department's decision to deny respondent an adjustment for duty drawback because there was not substantial evidence on the record to establish that part one of the Department's test had been met. *See Viraj Group, Ltd.* v. *United States of America and Carpenter Technology, Corp., et al.,* Slip Op. 01–104 (CIT August 15, 2001).

Similarly, in the current review, the Department finds that the Viraj Group has not provided substantial evidence on the record to establish the necessary link between the import duty and the reported rebate for duty drawback. The Viraj Group has reported that it received duty drawback in the form of duty entitlement certificates which are issued by the Government of India to neutralize the incidence of basic custom duty on the import of raw materials used in the production of subject merchandise, but has failed to establish the necessary link between the import duty paid and the rebate given by the Government of India. As in the previous review, the Viraj Group was not able to demonstrate that the import duty paid and the duty drawback rebate were directly linked. Therefore, the Department is denying a duty drawback credit for the preliminary results of this review.

Preliminary Results of Review

As a result of our review, we preliminarily determine that the following weighted-average dumping margin exists for the Viraj Group for the period December 1, 1999, through November 30, 2000:

Producer/manufacturer/exporter	Weighted-average margin (percent)
The Viraj Group, Limited	0.73

The Department will disclose calculations performed in connection with these preliminary results of review within five days of the date of publication of this notice. Any interested party may request a hearing within 30 days of publication. Any hearing, if requested, will be held two days after the scheduled date for submission of rebuttal briefs. Issues raised in the hearing will be limited to those raised in the case briefs. Case briefs from interested parties may be submitted not later than 30 days after the date of publication of this notice in the **Federal Register**; rebuttal briefs may be submitted not later than five days thereafter. The Department will publish the final results of this administrative review, including its analysis of issues raised in any written comments or at a hearing, not later than 120 days after the date of publication of this notice.

Upon issuance of the final results of this review, the Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. If these preliminary results are adopted in our final results, we will instruct the Customs Service not to assess antidumping duties on the merchandise subject to review. Upon completion of this review, the Department will issue appraisement instructions directly to the Customs Service. In accordance with 19 CFR 351.212(b), if applicable, we

will calculate an importer-specific ad valorem duty assessment rate based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total customs value of the sales used to calculate those duties. This rate will be assessed uniformly on all entries of that particular importer made during the POR.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of these administrative reviews, as provided by section 751(a)(1) of the Act: (1) For the Viraj Group, a deposit equal to the above margin will be required; (2) if the exporter is not a firm covered in this review, a prior review, or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (3) the cash deposit rate for all other manufacturers or exporters will continue to be 48.80 percent, the ''All Others'' rate made effective by the original investigation.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: December 31, 2001.

Susan H. Kuhbach,

Acting Assistant Secretary for Import Administration.

[FR Doc. 02–435 Filed 1–7–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D.121401C]

Marine Mammals; File No. 555-1565

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

ACTION: Receipt of application for amendment.

SUMMARY: Notice is hereby given that James Harvey, Ph.D., Moss Landing Marine Laboratories, P.O. Box 450, Moss Landing, CA 95039, has requested an amendment to scientific research Permit No. 555–1565.

DATES: Written or telefaxed comments must be received on or before February 7, 2002.

ADDRESSES: The amendment request and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)713–0376;

Northwest Region, NMFS, 7600 Sand Point Way NE, BIN C15700, Bldg. 1, Seattle, WA 98115–0700; phone (206)526–6150; fax (206)526–6426; and

Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213; phone (562)980–4001; fax (562)980–4018.

Written comments or requests for a public hearing on this request should be submitted to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular amendment request would be appropriate.

Comments may also be submitted by facsimile at (301)713–0376, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period. Please note that comments will not be accepted by e-mail or other electronic media.

FOR FURTHER INFORMATION CONTACT: Amy Sloan or Ruth Johnson, (301)713–2289.

SUPPLEMENTARY INFORMATION: The subject amendment to Permit No. 555–1565, issued on September 29, 2000 (65 FR 60411) is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

Permit No. 555–1565 authorizes the permit holder to study the distribution, ecological role, health, and behavior of harbor seals (*Phoca vitulina*) along the west coast of North America via capture, tagging, marking, and biological sampling, and performing vocalization playback experiments. The Permit also authorizes research on harbor seals in rehabilitation, including captive feeding studies to quantify biases associated with using fecal samples for diet analysis, and surgical implantation of radio tags to determine the efficacy of using such tags for application to the wild population for monitoring animal movements. The permit holder requests authorization to collect from the wild up to 8 harbor seals per year for use in the captive feeding studies and release them back to the wild after approximately 6 months in captivity; conduct feeding experiments on 10 California sea lions (*Zalophus californianus*) undergoing rehabilitation; and harass up to 2000 California sea lions per year at haul-out sites throughout central California for scat collection.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: December 31, 2001.

Ann D. Terbush,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 02–439 Filed 1–7–02; 8:45 am]

BILLING CODE 3510–22–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 Cambodia

January 3, 2002.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 8, 2002.

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 Memorandum of Understanding of December 29, 2001, between the Governments of the United States and Cambodia amends and extends the bilateral textile agreement of January 20, 1999 to cover the period January 1, 2002 through December 31, 2004.

The limits under this agreement may be revised if Cambodia becomes a member of the World Trade Organization (WTO) and the United States applies the WTO agreement to Cambodia.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 2002 limits, which include a nine percent (9%) increase to all of Cambodia's quotas under the Labor Standards provision described in **Federal Register** notice 64 FR 60428, published on November 5, 1999).

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 66 FR 65178, published on December 18, 2001).

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

January 3, 2002.

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 Memorandum of Understanding, dated December 29, 2001, between the Governments of the United States and Cambodia, you are directed to prohibit, effective on January 8, 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 Cambodia 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
331/631	2,012,222 dozen pairs.
334/634	220,696 dozen.
335/635	84,383 dozen.
338/339	3,472,705 dozen.
340/640	973,656 dozen.
345	122,031 dozen.
347/348/647/648	3,894,622 dozen.
352/652	778,925 dozen.
435	21,037 dozen.
438	101,072 dozen.
445/446	123,533 dozen.
638/639	1,168,386 dozen.
645/646	324,552 dozen.

This directive cancels and supercedes the counting letter of December 26, 2001. The limits set forth above are subject to adjustment pursuant to the provisions of the Memorandum of Understanding of December 29, 2001 between the Governments of the United States and Cambodia.

Products in the above categories exported during 2001 shall be charged to the applicable category limits for that year (see directive dated January 8, 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.

These limits may be revised if Cambodia becomes a member of the World Trade Organization (WTO) and the United States applies the WTO agreement to Cambodia.

Moreover, these limits may be revised in light of the U.S. determination as to whether working conditions in the Cambodian textile and apparel sector substantially comply with Cambodian labor law and internationally recognized core labor standards (see **Federal Register** notice 64 FR 60428, published on November 5, 1999).

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. 02–437 Filed 1–7–02; 8:45 am]

BILLING CODE 3510–DR–S

DEPARTMENT OF DEFENSE

Department of the Army

Availability of Non-Exclusive, Exclusive License or Partially Exclusive Licensing of U.S. Patent Application Concerning Method for Forming a Parachute and a Parachute Formed Thereby

AGENCY: U.S. Army Soldier and Biological Chemical Command (SBCCOM), DoD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR part 404.6, announcement is made of the availability for licensing of U.S. Patent No. US 6,328,262 B1 entitled ''Method for Forming a Parachute and a Parachute Formed Thereby'' issued December 11, 2001. This patent has been assigned to the United States Government as represented by the Secretary of the Army.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Rosenkrans at U.S. Army Soldier and Biological Chemical Command, Kansas Street, Natick, MA 01760, Phone; (508) 233–4928 of e-mail: *Robert.Rosenkrans@natick.army.mil.*

SUPPLEMENTARY INFORMATION: Any licenses granted shall comply with 35 U.S.C. 209 and 37 CFR part 404. The following Patent Number, Title and Issue date is provided:

Patent Number: US 6,328,262 B1.

Title: Method for Forming a Parachute and a Parachute Formed Thereby.

Issue Date: December 11, 2001.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 02–444 Filed 1–7–02; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability of Non-Exclusive, Exclusive License or Partially Exclusive Licensing of U.S. Patent Application Concerning Parachute Assembly

AGENCY: U.S. Army Soldier and Biological Chemical Command (SBCCOM), DoD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR Part 404.6, announcement is made of the availability for licensing of U.S. Patent No. US 6,328,263 B1 entitled ''Parachute Assembly'' issued December 11, 2001. This patent has been assigned to the United States Government as

represented by the Secretary of the Army.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Rosenkrans at U.S. Army Soldier and Biological Chemical Command, Kansas Street, Natick, MA 01760, Phone: (508) 233–4928 or E-mail: Robert Rosenkrans@natick.army.mil.

SUPPLEMENTARY INFORMATION: Any licenses granted shall comply with 35 U.S.C. 209 and 37 CFR part 404. The following Patent Number, Title and Issue date is provided:

Patent Number: US 6,328,263 B1.
Title: Parachute Assembly
Issue Date: December 11, 2001.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 02–442 Filed 1–7–02; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Estuary Habitat Restoration Council; Open Meeting

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of open meeting.

SUMMARY: In accordance with Section 105(h) of the Estuary Restoration Act of 2000 (Title I, Pub. L. 106–457), announcement is made of the forthcoming meeting of the Estuary Habitat Restoration Council. The meeting is open to the public.

DATES: The meeting will be held from 10 a.m. to 12 p.m. on Wednesday, January 23, 2002.

ADDRESSES: The meeting will be in room 3M60/70, 441 G Street, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ms. Ellen Cummings, Headquarters, U.S. Army Corps of Engineers, Washington, DC 20314–1000, (202) 761–4558; or Ms. Cynthia Garman-Squier, Office of the Assistant Secretary of the Army (Civil Works), Washington, DC, (202) 512–6668.

SUPPLEMENTARY INFORMATION: The Estuary Habitat Restoration Council consists of representatives of five agencies. These are the National Oceanic and Atmospheric Administration (NOAA), Environmental Protection Agency, U.S. Fish and Wildlife Service, Department of Agriculture, and Army.

The agenda for the meeting includes a discussion of the draft national estuary restoration strategy, which the Council is required by law to develop. The strategy is designed to ensure a comprehensive approach to maximize benefits derived from estuary habitat restoration projects and to foster the coordination of Federal and non-Federal activities related to restoration of estuary habitat.

Current security measures require that persons interested in attending the meeting must pre-register with us before 2 p.m. on January 18, 2002. Please contact Ellen Cummings at 202–761–4558 to pre-register. When leaving a voice mail message please provide the name of the individual attending, the company or agency represented, and a telephone number, in case there are any questions. The public should enter on the ''G'' Street side of the GAO building. All attendees are required to show photo identification and must be escorted to the meeting room by Corps personnel. Attendees' bags and other possessions are subject to being searched. All attendees arriving between one-half hour before and one-half hour after 10 a.m. will be escorted to the meeting. Those that are not pre-registered and/or arriving later than the allotted time will be unable to attend the public meeting.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 02–443 Filed 1–7–02; 8:45 am]

BILLING CODE 3710–92–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before March 11, 2002.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) title; (3) summary of the collection; (4) description of the need for, and proposed use of, the information; (5) respondents and frequency of collection; and (6) reporting and/or recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: January 2, 2002.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Educational Research and Improvement

Type of Review: Revision.
Title: Program for International Student Assessment (PISA).
Frequency: One-time.
Affected Public: Businesses or other for-profit; State, Local, or Tribal Gov't, SEAs or LEAs.
Reporting and Recordkeeping Hour Burden: Responses: 1,440. Burden Hours: 4,817.
Abstract: The Program for International Student Assessment (PISA) is a new system of international assessments that focus on 15-year-olds' capabilities in reading literacy, mathematics literacy, and science literacy. PISA 2000 was the first cycle of PISA, which will be conducted every three years, with a primary focus on one area for each cycle. PISA 2000 focuses on reading literacy; mathematics literacy will be the focus in 2003, and science literacy in 2006. In addition to assessment data, PISA provides background information on school context and student demographics to benchmark performance and inform policy.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the Internet address *OCIO.RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Kathy Axt at (540) 776–7742 or via her Internet address *Kathy.Axt@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 02–328 Filed 1–7–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before February 7, 2002.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Karen Lee, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10202, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the Internet address *Karen_F._Lee@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or recordkeeping burden. OMB invites public comment.

Dated: January 2, 2002.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Educational Research and Improvement

Type of Review: Reinstatement.

Title: Baccalaureate and Beyond Longitudinal Study, Third Followup (B&B:93/2003).

Frequency: On Occasion.

Affected Public: Individuals or household.

Reporting and Recordkeeping Hour Burden: Responses: 830. Burden Hours: 385.

Abstract: The Baccalaureate and Beyond Longitudinal Study, Third Followup (B&B:93/2003) will survey 1992–93 bachelor's degree recipients from public and private postsecondary institutions. The data will provide long term information on graduates' additional postsecondary education and training, employment, workforce activities, and other life experiences. The study directs special focus on sample members who began teaching.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the Internet address *OCIO.RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request. Comments regarding burden and/or the collection activity requirements should be directed to Kathy Axt at (540) 776–7742 or via her Internet address *Kathy.Axt@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 02–329 Filed 1–7–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[Number DE–PS36–02GO90014]

Solicitation for Financial Assistance Applications; Inventions and Innovation Program

AGENCY: Golden Field Office, Department of Energy (DOE).

ACTION: Notice of solicitation for financial assistance applications.

SUMMARY: The Department of Energy's Office of Industrial Technologies (OIT) is funding a competitive grant program entitled the Inventions and Innovation (I&I) Program. The goals of the I&I Program are to improve energy efficiency through the promotion of innovative ideas and inventions that have a significant, potential energy impact and a potential, future commercial market. These goals are consistent with the mission of the Office of Energy Efficiency and Renewable Energy (EERE), which is to develop and promote the adoption of cost-effective renewable energy and energy efficiency technologies within the building, industrial, transportation, and power sectors for the benefit of economic competitiveness, energy security, and environmental quality of the nation. The following mission focus industries, comprised of the most energy intensive industries in the U.S. manufacturing sector, are of particular interest to the Program: Agriculture, Aluminum, Chemicals, Forest products, Glass, Metal-casting, Mining, Petroleum, and Steel. Category 1 applications must be applications relevant to the Glass mission focus industry. Only Glass specific applications will be accepted under Category 1. Category 2 applications are open to all the mission focus industries and the building, transportation, and power sectors.

DATES: DOE expects to issue the solicitation on or about December 19, 2001. The deadline for receipt of applications will be on or about 3 pm Mountain Time on February 15, 2002.

ADDRESSES: The formal solicitation document will be disseminated electronically as Solicitation Number DE–PS36–02GO90014, Inventions and Innovation (I&I) Program, through the Industry Interactive Procurement System (IIPS) located at the following URL: *http://e-center.doe.gov.* IIPS provides the medium for disseminating

solicitations, receiving financial assistance applications, and evaluating the applications in a paperless environment. Completed applications are required to be submitted via IIPS. Individuals who have the authority to enter their company into a legally binding contract/agreement and intend to submit proposals/applications via the IIPS system must register and receive confirmation that they are registered prior to being able to submit an application on the IIPS system. An IIPS ''User Guide for Contractors'' can be obtained by going to the IIPS Homepage at the URL noted above and then clicking on the ''Help'' button. Questions regarding the operation of IIPS may be e-mailed to the IIPS Help Desk at *IIPS_HelpDesk@e-center.doe.gov* or call the help desk at (800) 683–0751.

FOR FURTHER INFORMATION CONTACT: Margo Gorin, Contract Specialist, at *margo_gorin@nrel.gov*

SUPPLEMENTARY INFORMATION: A selection of former projects funded by the I&I Program that have reached commercial markets included the following:

- Meta-Lax Stress Relief Equipment offers distinct advantages over conventional heat treatment methods. It uses less energy, is portable, can handle any size metal part, and treats metal stress in hours versus days.
- Aero Cylinder Technology replaces conventional cylinders by combining air spring bellows into assemblies for use on machines (such as punch presses) to control motion and large masses. The air springs act as counter balancers and press cushioners to eliminate alignment problems. This proper alignment reduces downtime and compressed air losses, resulting in significant energy savings.
- Electro-Optic Inspection of Heat Exchangers is a laser-based, nondestructive evaluation system for inspecting heat exchanger tubing for internal corrosion, erosion, scale buildup, and deformation. Benefits to petrochemical, pulp and paper, and power-generation plants include reduced downtime and increased efficiency.
- Hydrodynamic Multi-Deflection Pad Bearings optimize bearing operation in high-speed, combined heat and power turbines, high-load electric motors or gear boxes, air or gas compressors, and air conditioning refrigeration equipment. Energy loss due to friction is reduced up to forty-percent by using fluids as a wedge between pads and moving parts.

Solicitation Specifications: Eligibility requirements include the following: (1) Individuals that are U.S. citizens, either native-born or naturalized; (2) small businesses (as defined by the Small Business Administration) that are U.S. owned, as defined in 10 CFR part 600.501; or (3) institutions of higher learning located in the U.S. Individual inventors and very small businesses (15 or fewer employees) are especially encouraged to participate. More than one application may be submitted by an applicant for different innovations. However, funding will be limited to one award per applicant, per cycle. Also more than one organization may be involved in an application as long as the lead organization and lead financial assistance management responsibilities are defined. The Catalog of Federal Domestic Assistance number assigned to the I&I Program is 81.036. Cost sharing by applicants and/or cooperating participants is not required but highly encouraged. In addition to direct financial contributions, cost sharing can include beneficial services or items such as manpower, equipment, consultants, and computer time that are allowable in accordance with applicable cost principles.

The Golden Field Office has been assigned the responsibility of issuing the solicitation and administering the awards. Ideas that have a significant energy savings impact and future commercial market potential are chosen for financial support through the competitive solicitation process. The I&I Program will provide financial assistance of up to $40,000 for Category 1 and up to $200,000 for Category 2 to applications that fall within the ''conceptual'' and ''developmental'' stages of development, respectively. To be considered for a Category 2 award, a bench-scale model and/or other preliminary investigations must be complete. Each award may cover a project period of up to one year for Category 1 and up to two years for Category 2. In addition to financial assistance, the I&I Program offers technical guidance and commercialization support to successful applicants through the Resource Centers for Innovation (RCI).

Availability of Funds for FY 2001: DOE is announcing the availability of up to $2.16 million dollars in agreement funds for Fiscal Year 2002. The awards will be made through a competitive solicitation. DOE reserves the right to fund in whole or in part any, all, or none of the proposals submitted in response to this notice.

Issued in Golden, Colorado on December 20, 2001.

Matthew A. Barron,

Acting Director, Office of Acquisition and Financial Assistance, Golden Field Office.

[FR Doc. 02–390 Filed 1–7–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Hanford

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Hanford. The Federal Advisory Committee Act (Pub. L. No 92–463, 86 Stat. 770) requires that public notice of these meeting be announced in the **Federal Register**.

DATES:

Thursday, February 7, 2002, 9 a.m.–5 p.m.

Friday, February 8, 2002, 8:30 a.m.–3 p.m.

ADDRESSES: West Coast Hotel, 1101 North Columbia Center Boulevard, Kennewick, WA (509–783–0611).

FOR FURTHER INFORMATION CONTACT: Gail McClure, Public Involvement Program Manager, Department of Energy Richland Operations Office, P.O. Box 550 (A7–75), Richland, WA, 99352; Phone: (509) 373–5647; Fax: (509) 376–1563.

SUPPLEMENTARY INFORMATION: *Purpose of the Board:* The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

Thursday, February 7, 2002

- Ad Hoc Task Force Report on January 15–16 workshop.
- Introduction of Advice on the River Corridor Tri-Party Agreement (TPA) Change Package.
- FY04 Budget Development Process.
- Follow-up Discussion on White Paper: ''Evaluating Hanford Public Involvement: Goals, Activities, and a Framework for Discussion''.
- Integrated Safety Management System (ISMS): Bechtel National Inc. Approach to ISMS.

Friday, February 8, 2002

- Adoption of Board Advice on the River Corridor Tri-Party Agreement (TPA) Draft Change Package
- Board Feedback on Addressing Agencies' Issues for Consideration

• Committee Updates
• Public Involvement Process Related to Budget Development

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Gail McClure's office at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided equal time to present their comments.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 between 9 a.m. and 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be available by writing to Gail McClure, Department of Energy Richland Operation Office, P.O. Box 550, Richland, WA 99352, or by calling her at (509) 373–5647.

Issued at Washington, DC on January 2, 2002.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 02–391 Filed 1–7–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–259–002]

ANR Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

January 2, 2002.

Take notice that on December 26, 2001, ANR Pipeline Company (ANR) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, Sixteenth Revised Sheet No. 19, proposed to be effective January 1, 2002.

ANR states that the above-referenced tariff sheet is being filed to implement the Joint Offer of Settlement And Explanatory Statement and corresponding Stipulation and Agreement (Offer of Settlement) being filed simultaneously with this filing. As discussed in the Offer of Settlement, ANR has agreed to adjust the currently approved fuel matrix methodology for determining ANR's fuel use and lost-and-unaccounted-for retention percentages under its currently effective tariff mechanism. ANR has agreed to implement this revised methodology as to the current annual fuel matrix redetermination at issue in this proceeding, on an interim basis effective January 1, 2002, until ANR submits its next annual redetermination filing under its tariff to be effective April 1, 2002.

ANR states that, in general, the change in methodology results in fuel rate decreases only, but in any event, ANR is not proposing to put into effect any increases that result from the new methodology for the interim period January 1, 2002 through March 31, 2002.

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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–347 Filed 1–7–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP95–408–042]

Columbia Gas Transmission Corporation; Notice of Compliance Filing

January 2, 2002.

Take notice that on December 17, 2001, Columbia Gas Transmission Corporation (Columbia) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets, bearing a proposed effective date of January 1, 2002:

Fifty-fourth Revised Sheet No. 25
Fifty-fourth Revised Sheet No. 26
Fifty-fourth Revised Sheet No. 27
Twenty-fourth Revised Sheet No. 30A

Columbia states that this filing is being submitted pursuant to Stipulation I, Article I, Section E, True-up Mechanism, of the Settlement (Settlement) in Docket No. RP95–408 et al., approved by the Commission on April 17, 1997 (79 FERC 61,044 (1997)). Under the approved section of the Settlement, Columbia is required to true-up its collections pursuant to the Settlement Component for 12-month periods commencing November 1, 1996 and ending October 31, 2004. The fifth 12-month period (Period V) ended October 31, 2001. Columbia is making this true-up filing in compliance with the Settlement to return a net over-recovery of $3,070,840 for Period V, which includes interest and the true-up of the Period IV Settlement Component adjustment, through an adjustment to the Settlement Component of the base rates for the period January 1, 2002 through October 31, 2002.

Columbia states that copies of its filing have been mailed to all firm customers, interruptible customers, and affected state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–336 Filed 1–7–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–391–006]

Colorado Interstate Gas Company; Notice of Annual Revenue Report

January 2, 2002.

Take notice that on December 26, 2001, Colorado Interstate Gas Company tendered for filing its second and final report detailing the revenues received and credits distributed to eligible shippers from providing Interruptible Swing Service for the period July 1, 2000 through September 30, 2001.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before January 9, 2002. 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–341 Filed 1–7–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–350–007]

Colorado Interstate Gas Company; Notice of Compliance Filing

January 2, 2002.

Take notice that on December 20, 2001, Colorado Interstate Gas Company (CIG) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the tariff sheets listed in Appendices A, B and C to the filing, to become effective October 1, 2001.

CIG states that the tariff sheets are being filed in compliance with the Commission's November 20, 2001 order in this proceeding to revise HEEN service and to re-file certain tariff sheets.

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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–348 Filed 1–7–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–42–001]

Colorado Interstate Gas Company; Notice of Compliance Filing

January 2, 2002.

Take notice that on December 28, 2001, Colorado Interstate Gas Company (CIG) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Ninth Revised Sheet No. 284A, to be effective February 1, 2002.

CIG states that the tariff sheet and accompanying explanation address certain issues raised in the Commission's order issued December 10, 2001 in this proceeding regarding its Automatic Parking and Lending Service and similar imbalance services.

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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–350 Filed 1–7–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP95–408–043]

Columbia Gas Transmission Corporation; Notice of Compliance Filing

January 2, 2002.

Take notice that on December 17, 2001, Columbia Gas Transmission Corporation (Columbia) tendered a filing in compliance with Stipulation II, Article III, Section F, of the settlement filed in Docket No. RP95–408 et al., approved on April 17, 1997 (79 FERC 61,044 (1997)) (Settlement). Pursuant to Article III, Section F, Columbia is filing to comply with the Settlement requirement that all facilities not sold by Columbia as of December 31, 2001, ''shall be deemed to have been sold for zero dollars.''

Columbia states further that copies of this filing have been mailed to all parties to the Docket Nos. RP95–408, et al. proceedings.

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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–337 Filed 1–7–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–389–038]

Columbia Gulf Transmission Company; Notice of Negotiated Rate Filing

January 2, 2002.

Take notice that on December 27, 2001, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing the following contract for disclosure of a recently negotiated rate transaction:

ITS–2 Service Agreement No. 71879 between Columbia Gulf Transmission Company and Amoco Energy Trading Corp. dated December 21, 2001

Transportation service is to commence January 1, 2002 under the agreement.

Columbia Gulf states that copies of the filing have been served on all parties identified on the official service list in Docket No. RP96–389.

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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–338 Filed 1–7–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–389–039]

Columbia Gulf Transmission Company; Notice of Negotiated Rate Filing

January 2, 2002.

Take notice that on December 27, 2001, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing the following contract for disclosure of a recently negotiated rate transaction:

FTS–2 Service Agreement No. 71910 between Columbia Gulf Transmission Company and Dynegy Marketing and Trade dated December 24, 2001

Transportation service is to commence January 1, 2002 under the agreement.

Columbia Gulf states that copies of the filing have been served on all parties identified on the official service list in Docket No. RP96–389.

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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–339 Filed 1–7–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–14–002]

Crossroads Pipeline Company; Notice of Compliance Filing

January 3, 2002.

Take notice that on December 28, 2001, Crossroads Pipeline Company (Crossroads) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, its entire tariff, with a proposed effective date of November 1, 2001. This tariff is being filed in compliance with the Commission's October 31, 2001 Letter Order in the above-referenced docket.

Crossroads states that the purpose of this filing is to change its tariff from 7 point font to 10 point font as required by the Commission.

Crossroads states that copies of its filing and has been sent by first-class mail, postage prepaid, by Crossroads to each of the parties on the official service list in Docket No. RP02–14–000. Copies have also been mailed to each of Crossroads' firm and interruptible customers and affected state Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18

CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–469 Filed 1–7–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–126–000]

Eastern Shore Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

January 2, 2002.

Take notice that on December 18, 2001, Eastern Shore Natural Gas Company (ESNG) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, certain revised tariff sheets in the above captioned docket, bear a proposed effective date of November 1, 2001.

ESNG states that the purpose of this instant filing is to track rate changes attributable to storage services purchased from Transcontinental Gas Pipe Line Corporation (Transco) under its Rate Schedules GSS and LSS. The costs of the above referenced storage services comprise the rates and charges payable under ESNG's respective Rate Schedules GSS and LSS. This tracking filing is being made pursuant to Section 3 of ESNG's Rate Schedules GSS and LSS.

ESNG states that copies of the filing have been served upon its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–352 Filed 1–7–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–130–000]

Eastern Shore Natural Gas Company; Notice of Proposed Changes In FERC Gas Tariff

January 2, 2002.

Take notice that on December 27, 2001, Eastern Shore Natural Gas Company (ESNG) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, certain revised tariff sheets, bear a proposed effective date of January 1, 2002.

ESNG states that the purpose of this instant filing is to track rate changes attributable to storage services purchased from Columbia Gas Transmission Corporation (Columbia) under its Rate Schedules FSS and SST. The costs of the above referenced storage services comprise the rates and charges payable under ESNG's respective Rate Schedule CFSS. This tracking filing is being made pursuant to Section 3 of ESNG's Rate Schedule CFSS.

ESNG states that copies of the filing have been served upon its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–355 Filed 1–7–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–305–006]

Mississippi River Transmission Corporation; Notice of Negotiated Rates

January 2, 2002.

Take notice that on December 21, 2001, Mississippi River Transmission Corporation (MRT) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheet to be effective January 1, 2002:

Original Sheet No. 10D

MRT states that the purpose of this filing is to reflect the implementation of a new negotiated rate transaction.

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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–345 Filed 1–7–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–172–004]

Mojave Pipeline Company; Notice of Compliance Filing

January 3, 2002.

Take notice that on December 28, 2001, Mojave Pipeline Company (Mojave) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheet, with an effective date of February 1, 2002:

Seventh Revised Sheet No. 11
First Revised Sheet No. 105
First Revised Sheet No. 134
Original Sheet No. 243
Original Sheet No. 244
Original Sheet No. 245
Original Sheet No. 246
Sheet Nos. 247 through 399

Mojave states that the tariff sheets are being filed to comply with the Commission's order issued December 21, 2001 and to implement the terms of the Offer of Settlement and Stipulation and Agreement filed in this proceeding. The tariff sheets are proposed to become effective February 1, 2002.

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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–467 Filed 1–7–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER99–3719–001 and EC99–100–001]

Mountain West Independent System Admin. Sierra Pacific Power Co. and Nevada Power Co.; Notice of Filing

January 2, 2002.

Take notice that on December 21, 2001, Deseret Generation & Transmission Cooperative and Mt. Wheeler Power, Inc. notified the Commission of the withdrawal of their request for rehearing in Docket No. ER99–3719–001 and Docket No. EC99–100–001.

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 the comment date. 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 Commission's Web site 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.

Comment Date: January 11, 2002.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–335 Filed 1–7–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–176–047]

Natural Gas Pipeline Company of America; Notice of Negotiated Rate Filing

January 2, 2002.

Take notice that on December 19, 2001, Natural Gas Pipeline Company of America (Natural) tendered for filing to become part of its FERC Gas Tariff, Sixth Revised Volume No. 1, Original Sheet No. 26V, with an effective date of January 1, 2002.

Natural states that the purpose of this filing is to implement a negotiated rate transaction with NRG Power Marketing, Inc. under Natural's Rate Schedules FTS pursuant to Section 49 of the General Terms and Conditions of Natural's Tariff.

Natural requests waivers of the Commission's Regulations, including both the 30-day and the 60-day notice requirements of Section 154.207, to the extent necessary to permit the tariff sheet to become effective January 1, 2002.

Natural states that copies of the filing are being mailed to its customers, interested state commissions and all parties set out on the Commission's official service list in Docket No. RP99–176.

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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–342 Filed 1–7–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–176–048]

Natural Gas Pipeline Company of America; Notice of Negotiated Rate

January 2, 2002.

Take notice that on December 27, 2001, Natural Gas Pipeline Company of America (Natural) tendered for filing to become part of its FERC Gas Tariff, Sixth Revised Volume No. 1, Original Sheet No. 26W and Original Sheet No. 26W.01, to be effective December 28, 2001.

Natural states that the purpose of this filing is to implement four (4) new negotiated rate transactions under Natural's Rate Schedule FTS pursuant to Section 49 of the General Terms and Conditions of Natural's Tariff. Natural states that the negotiated rate agreements do not deviate in any material respect from the applicable form of service agreement in Natural's Tariff.

Natural states that copies of the filing are being mailed to its customers, interested state commissions and all parties set out on the Commission's official service list in Docket No. RP99–176.

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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–343 Filed 1–7–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–223–006]

Northern Natural Gas Company; Notice of Compliance Filing

January 2, 2002.

Take notice that on December 21, 2001, Northern Natural Gas Company (Northern), tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets, proposed to be effective August 1, 2001 and June 1, 2001, respectively, in compliance with the Commission's Order dated October 24, 2001:

Substitute 1st Revised 56 Revised Sheet No. 51

Substitute 1st Revised 57 Revised Sheet No. 51

Northern further states that copies of the filing have been mailed to each of its customers and interested State Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–344 Filed 1–7–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–438–000]

Northwest Pipeline Corporation; Notice of Site Visit

January 2, 2002.

On January 15–16, 2002, the Office of Energy Projects (OEP) staff will conduct a pre-certification site visit of Northwest Pipeline Corporation's (Northwest) Rockies Expansion Project in Pocatello, Idaho. We will examine the proposed project route and possible alternative routes in Pocatello. The inspection will be conducted by automobile and on foot. Representatives of Northwest will be accompanying the OEP staff.

All interested parties may attend. Those planning to attend must provide their own transportation. For further information on attending the site visit, please contact the Commission's Office of External Affairs at (202) 208–0004.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–334 Filed 1–7–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP00–395–003, RP00–613–002, and RP96–348–011 (Not Consolidated)]

Panhandle Eastern Pipe Line Company; Notice of Compliance Filing

January 2, 2002.

Take notice that on December 28, 2001, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the revised tariff sheets listed on Appendix A attached to the filing proposed to be effective February 1, 2002.

Panhandle asserts that the purpose of this filing is to implement the terms of the July 23, 2001 Stipulation and Agreement in Docket Nos. RP00–395–000, RP00–395–001, RP00–613–000, and RP96–348–000 [Not Consolidated] (Settlement). The Settlement was approved, as modified, by the

Commission's October 12, 2001 Order on Panhandle's Order No. 637 Settlement, 97 FERC ¶ 61,046 (2001), and the Commission's Order on Compliance Filing issued on December 19, 2001, 97 FERC ¶ 61,285 (2001), in the above referenced proceedings. In addition, the price references to Gas Daily on Tariff Sheet Nos. 272, 272D and 272E have been updated to reflect the current nomenclature in the subject publication.

Panhandle states that copies of this filing are being served on all affected customers, applicable state regulatory agencies and parties to 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–346 Filed 1–7–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–69–001]

PG&E Gas Transmission, Northwest Corporation; Notice of Compliance Filing

January 2, 2002.

Take notice that on December 19, 2001, PG&E Gas Transmission, Northwest Corporation (GTN) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1–A, the following substitute tariff sheets: Substitute Thirty-fifth Revised Sheet No. 4, Substitute Nineteenth Revised Sheet No. 4A and Substitute Fourteenth Revised Sheet No. 6C. GTN states that these tariff sheets establish GTN's Gas Research Institute (''GRI'') surcharge for calendar year 2002. GTN proposes that these sheets be made effective January 1, 2002.

GTN further states that a copy of this filing has been served on GTN's jurisdictional customers and interested state regulatory agencies.

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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–351 Filed 1–7–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–128–000]

Sea Robin Pipeline Company; Notice of Flowthrough Crediting Report

January 2, 2002.

Take notice that on December 21, 2001, Sea Robin Pipeline Company (Sea Robin) submitted its Annual Flowthrough Crediting Mechanism Filing. Sea Robin states that this filing was made pursuant to Section 27 of the General Terms and Conditions of Sea Robin's FERC Gas Tariff which requires the crediting of certain amounts received as a result of resolving monthly imbalances between its gas and liquefiables shippers and under its operational balancing agreements, and imposing scheduling penalties during the 12 month period ending October 31, 2001.

Sea Robin reports that it paid $298,131.88 in excess of amounts received from shippers. In accordance with Section 27.1, the excess amount paid by Sea Robin will be carried forward and offset against any accumulated amounts during the subsequent twelve-month period.

Sea Robin further states that copies of this filing are being served on all affected customers, applicable state regulatory agencies and parties to the proceeding.

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 on or before January 9, 2002. 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–353 Filed 1–7–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–129–000]

Southern LNG Inc.; Notice of Tariff Filing

January 2, 2002.

Take notice that on December 21, 2001, Southern LNG Inc. (SLNG) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the tariff sheets in Appendix A to its filing, to become effective February 1, 2002.

SLNG states that the proposed changes would change the initial rates for open-access service at the liquefied natural gas (LNG) receiving terminal on

Elba Island, Georgia (Elba Island Terminal). SLNG submits the changes as a limited filing under Section 4 of the Natural Gas Act, pursuant to an order of the Federal Energy Regulatory Commission issued on November 30, 2001 in Docket Nos. CP99–580–003 and CP99–582–004.

SLNG states that the proposed changes reflect the cost of recommissioning and modifying the Elba Island Terminal.

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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–354 Filed 1–7–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–17–002]

Tennessee Gas Pipeline Company; Notice of Compliance Filing

January 2, 2002.

Take notice that on December 21, 2001, Tennessee Gas Pipeline Company (Tennessee) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, Second Substitute First Revised Sheet No. 23F, Eighteenth Revised Sheet No. 25, Original Sheet No. 25A, and Substitute Sixth Revised Sheet No. 159, with an effective date of December 1, 2001.

Tennessee states that the purpose of this filing is to comply with the December 14 Order, in which the Commission approved Tennessee's proposal to provide Extended Receipt Service (ERS) and Extended Delivery Service (EDS) on Incremental Laterals for shippers receiving firm transportation service under Rate Schedule FT–A, but required Tennessee to file revised tariff sheets to properly reflect the services in the tariff.

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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–349 Filed 1–7–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–131–000]

Texas Eastern Transmission, LP; Notice of Proposed Changes in FERC Gas Tariff

January 2, 2002.

Take notice that on December 27, 2001, Texas Eastern Transmission, LP (Texas Eastern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1 and First Revised Volume No. 2, revised tariff sheets listed on Appendix A to the filing to become effective February 1, 2002.

Texas Eastern states that these revised tariff sheets are filed pursuant to Section 15.1, Electric Power Cost (EPC) Adjustment, of the General Terms and Conditions of Texas Eastern's FERC Gas Tariff, Seventh Revised Volume No. 1. Texas Eastern states that Section 15.1 provides that Texas Eastern shall file to be effective each February 1 revised rates for each applicable zone and rate schedule based upon the projected annual electric power costs required for the operation of transmission compressor stations with electric motor prime movers and to also reflect the EPC Surcharge which is designed to clear the balance in the Deferred EPC Account.

Texas Eastern states that the rate changes proposed to the primary firm capacity reservation charges, usage rates and 100% load factor average costs for full Access Area Boundary service from the Access Area Zone, East Louisiana, to the three market area zones are as follows:

Zone	Reservation	Usage	100% LF
Market 1	$0.029 /dth	$0.0009 /dth	$0.0019 /dth
Market 2	0.089 /dth	0.0029 /dth	0.0058 /dth
Market 3	0.130 /dth	0.0043 /dth	0.0086 /dth

Texas Eastern states that copies of its filing have been mailed to all affected customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make

protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–356 Filed 1–7–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–288–019]

Transwestern Pipeline Company; Notice of Negotiated Rates

January 2, 2002.

Take notice that on December 21, 2001, Transwestern Pipeline Company (Transwestern) tendered for filing to become part of Transwestern's FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, proposed to become effective on January 1, 2002:

14 Revised Sheet No. 5B.05
Fourth Revised Sheet No. 5B.08

Transwestern states that the above sheets are being filed to implement a specific Reliant Energy Services Inc. negotiated rate transaction in accordance with the Commission's Policy Statement on Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines.

Transwestern further states that copies of the filing have been mailed to each of its customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–340 Filed 1–7–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–132–000]

Viking Gas Transmission Company; Notice of Tariff Filing

January 2, 2002.

Take notice that on December 28, 2001, Viking Gas Transmission Company (Viking) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1 the tariff sheets listed on Attachment A (Primary Case) and Attachment B (Pro Forma Case) to the filing. Viking requests an effective date of July 1, 2002 for the tariff sheets listed on Attachment A and, accordingly, requests that the Commission suspend this filing for the maximum statutory period of five months.

Viking respectfully requests that the Commission allow Viking's Pro Forma Case to become effective only after a final Commission order on this proceeding. Should the Commission accept Viking's Pro Forma Case, Viking will submit actual tariff sheets in place of the Pro Forma tariff sheets to be effective on a prospective basis.

Viking states that the purpose of this filing is to revise Viking's rates for jurisdictional services to reflect current and projected costs and changes in demand on Viking's system. Viking is also filing to adopt term-differentiated rates and a demand rate for Daily Demand Service under Rate Schedule LMS, to change scheduling priority for interruptible services to ensure that capacity is allocated to those shippers that most value it and to provide for the termination of interruptible contracts with shippers who have not exercised any contractual rights for firm, interruptible or load management services for at least one year. In its Pro Forma Case, Viking is proposing to roll-in the costs of facilities installed during the 1999 expansion project approved by the Commission in Docket Nos. CP98–761–000. This project is appropriate for rolled-in rate treatment due to the significant systemwide reliability and operational benefits it provides to pre-expansion customers.

Viking states that copies of the filing have been mailed to all of its jurisdictional customers and to affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–357 Filed 1–7–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–425–005]

Williams Gas Pipelines Central, Inc.; Notice of Negotiated Rates

January 3, 2002.

Take notice that on December 28, 2001, Williams Gas Pipelines Central, Inc. (Williams) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets to become effective January 1, 2002:

Fourth Revised Sheet No. 1

Original Sheet No. 11
Sheet No. 12

Williams states that the purpose of this filing is to reflect the negotiated rate contract with Kansas Industrial Energy Supply Company.

Williams states that copies of the revised tariff sheets are being mailed to all parties on the service list, Williams' jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,
Acting Secretary.

[FR Doc. 02–468 Filed 1–7–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC02–39–000, et al.]

UtiliCorp United Inc., et al.; Electric Rate and Corporate Regulation Filings

January 2, 2001.

Take notice that the following filings have been made with the Commission. Any comments should be submitted in accordance with Standard Paragraph E at the end of this notice.

1. UtiliCorp United Inc.

[Docket No. EC02–39–000]

Take notice that on December 28, 2001, UtiliCorp United Inc. (UtiliCorp), filed with the Federal Energy Regulatory Commission (Commission) an application pursuant to Section 203 of the Federal Power Act, 16 U.S.C. 824b, and part 33 of the Commission's regulations, 18 CFR part 33. UtiliCorp requests authorization and approval of the sale by UtiliCorp and the purchase by the KAMO Electric Cooperative, Inc. (KAMO) of certain limited transmission facilities within the city of El Dorado Springs, Missouri.

Comment Date: January 18, 2002.

2. UtiliCorp United Inc.

[Docket No. EC02–40–000]

Take notice that on December 28, 2001, UtiliCorp United Inc. (UtiliCorp), filed with the Federal Energy Regulatory Commission (Commission) an application pursuant to Section 203 of the Federal Power Act, 16 U.S.C. 824b, and part 33 of the Commission's regulations, 18 CFR part 33. UtiliCorp requests authorization and approval of the sale by UtiliCorp and the purchase by the City of El Dorado Springs, Missouri (El Dorado Springs) of an electrical substation along with a transmission line and related assets.

Comment Date: January 18, 2002.

3. Rayburn Country Electric Cooperative, Inc.

[Docket No. ER02–210–001]

Take notice that on December 27, 2001, Rayburn Country Electric Cooperative Inc., (Rayburn Electric) tendered for filing 1st Revised Rate Schedule No. 3 with the Federal Energy Regulatory Commission. Rayburn Electric has re-filed 1st Revised Rate Schedule No. 3 to comply with the requirements of Order No. 614 and as directed by the Commission in a letter order issued on December 7, 2001.

Comment Date: January 17, 2002.

4. Illinois Power Company

[Docket No. ER02–609–000]

Take notice that on December 26, 2001, Illinois Power Company (Illinois Power), filed with the Federal Energy Regulatory Commission (Commission) a Firm Long-Term Point-To-Point Transmission Service Agreement entered into with Dynegy Power Marketing, Inc. Illinois Power requests an effective date of January 1, 2002 for the agreement and seeks a waiver of the Commission's notice requirement. Illinois Power states that a copy of this filing has been sent to the customer.

Comment Date: January 16, 2002.

5. Progress Energy Inc. Florida Power Corporation

[Docket No. ER02–610–000]

Take notice that on December 26, 2001, Florida Power Corporation (FPC) tendered for filing an executed Osceola Facility Parallel Operation Agreement between FPC and Seminole Electric Cooperative, Inc. FPC is requesting an effective date of December 1, 2001 for this Rate Schedule.

A copy of the filing was served upon the Florida Public Service Commission and the North Carolina Utilities Commission.

Comment Date: January 16, 2002.

6. Illinois Power Company

[Docket No. ER02–611–000]

Take notice that on December 26, 2001, Illinois Power Company (Illinois Power), filed with the Federal Energy Regulatory Commission (Commission) a Firm Long-Term Point-To-Point Transmission Service Agreement entered into with Exelon Generation, L.L.C. Illinois Power requests an effective date of January 1, 2002 for the agreement and seeks a waiver of the Commission's notice requirement. Illinois Power states that a copy of this filing has been sent to Exelon Generation, L.L.C.

Comment Date: January 16, 2002.

7. Xcel Energy Services Inc.

[Docket No. ER02–612–000]

Take notice that on December 26, 2001, Xcel Energy Services Inc. (XES), on behalf of Southwestern Public Service (SPS), submitted for filing an Interconnection Agreement between SPS and Texas New Mexico Power Company.

SPS requests that the Commission accept the agreement effective December 9, 2001, and requests waiver of the Commission's notice requirements in order for the agreements to be accepted for filing on the date requested.

Comment Date: January 16, 2002.

8. Calpine Energy Services, L.P.

[Docket No. ER02–614–000]

Take notice that on December 27, 2001, Calpine Energy Services, L.P., (the Applicant) tendered for filing, under section 205 of the Federal Power Act, an amendment to its rate schedule for authorization to make wholesale sales of certain ancillary services at market-based rates, to reassign transmission capacity, and to resell firm transmission rights.

Comment Date: January 17, 2002.

9. Western Resources, Inc.

[Docket No. ER02–616–000]

Take notice that on December 26, 2001, Western Resources, Inc. (WR) tendered for filing a Service Agreement between WR and Energy USA—TPC Corp. WR states that the purpose of this

agreement is to permit Energy USA—TPC Corp. to take service under WR's Market Based Power Sales Tariff on file with the Commission. This agreement is proposed to be effective December 21, 2001.

Copies of the filing were served upon Energy USA—TPC Corp. and the Kansas Corporation Commission.

Comment Date: January 16, 2002.

10. New York Independent System Operator, Inc.

[Docket No. ER02–617–000]

Take notice that on December 27, 2001, the New York System Operator, Inc. (NYISO) tendered for filing proposed revisions and additions to its Market Administration and Control Area Services Tariff (Services Tariff) designed to provide for payments to qualified suppliers of voltage support service. The NYISO has requested that the Commission act on this filing in an expedited manner, waive its usual 60-day notice period requirement and make the filing effective no later than January 1, 2002.

The NYISO has served a copy of this filing on all persons that have executed Service Agreements under the NYISO Services Tariff or the NYISO Open Access Transmission Tariff, on the New York Public Service Commission, and on the electric utility regulatory agencies in New Jersey and Pennsylvania. The NYISO has also emailed a copy of this filing to all of the subscribers to the NYISO Technical Information Exchange list.

Comment Date: January 17, 2002.

11. Mid-Continent Area Power Pool

[Docket No. ER02–618–000]

Take notice that on December 28, 2001, the Mid-Continent Area Power Pool (MAPP), on behalf of its public utility members, filed long-term firm point-to-point service agreements under MAPP Schedule F with Split Rock Energy and Utilicorp United, Inc.

Comment Date: January 18, 2002.

12. Public Service Company of New Mexico

[Docket No. ER02–619–000]

Take notice that on December 27, 2001, Public Service Company of New Mexico (PNM) filed a Notice of Cancellation with the Federal Energy Regulatory Commission (Commission) with respect to Amended and Restated Service Schedule C—Electric Service, under the Interconnection Agreement between PNM and the City of Farmington, New Mexico (COF) (Supplement No. 8 to PNM Rate Schedule FERC No. 51). Pursuant to the provisions of Amended and Restated Service Schedule C (Service Schedule C), Public Service Company of New Mexico provided notice to COF of its intent to terminate the service schedule. Consistent with the provisions of Service Schedule C, PNM's notice of termination and the notice requirements of 18 CFR 35.15, PNM requests that cancellation of Supplement No. 8 (as supplemented) to PNM Rate Schedule FERC No. 51 become effective on March 1, 2002.

A copy of the filing has been served upon COF and an informational copy was provided to the New Mexico Public Regulation Commission. The Notice of Cancellation is available for public inspection during normal business hours at PNM's offices in Albuquerque, New Mexico.

Comment Date: January 17, 2002.

13. Florida Power & Light Company

[Docket No. ER02–620–000]

Take notice that on December 27, 2001 Florida Power & Light Company (FPL) tendered for filing a proposed service agreement with City of Homestead for Long-Term Firm transmission service under FPL's Open Access Transmission Tariff.

FPL requests that the proposed service agreement becomes effective on December 21, 2001.

FPL states that this filing is in accordance with Section 35 of the Commission's regulations.

Comment Date: January 17, 2002.

14. Exelon Generation Company, LLC

[Docket No. ER02–621–000]

Take notice that on December 27, 2001, Exelon Generation Company, LLC (Exelon Generation) submitted for filing a power sales service agreement between Exelon Generation and Dynegy Power Marketing, Inc., under Exelon Generation's wholesale power sales tariff, FERC Electric Tariff Original Volume No. 2.

Comment Date: January 17, 2002.

15. New England Power Company

[Docket No. ER02–622–000]

Take notice that on December 27, 2001, New England Power Company (NEP) tendered for filing First Revised Service Agreement No. 4 for service under NEP's Wholesale Market Sales Tariff, FERC Electric Tariff, Original Volume No. 10 between NEP and Constellation Power Source, Inc.

Comment Date: January 17, 2002.

16. NewCorp Resources Electric Cooperative, Inc.

[Docket No. ER02–623–000]

Take notice that on December 27, 2001, NewCorp Resources Electric Cooperative, Inc. (NCR) tendered for filing with the Federal Energy Regulatory Commission (Commission) amendments to its Tariff for Electric Service (Tariff), which was previously accepted by the Commission in Docket No. ER95–973–000, and was revised pursuant to a notice of succession accepted in Docket No. ER97–1689–000. NCR proposes to change its rate design without increasing its tariff rates in order to unbundle the transmission service component from the power sales component of its rates, to true up its cost-of-service formula based on actual costs for 2000, to modify its purchased power adjustment clause to eliminate monthly demand cost adjustments, and to revise the list of delivery points for Cap Rock Electric Cooperative, Inc. NewCorp proposes that these changes be allowed to take effect on January 1, 2002, and requests waiver of notice requirements to allow this effective date.

Comment Date: January 17, 2002.

17. Allegheny Power Service Corporation, on behalf of Monongahela Power Company, The Potomac Edison Company, and West Penn Power Company (Allegheny Power)

[Docket No. ER02–624–000]

Take notice that on December 26, 2001, Allegheny Power Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power), filed Service Agreement No. 368 to add Exelon Generation Company, L.L.C. to Allegheny Power's Open Access Transmission Service Tariff which has been accepted for filing by the Federal Energy Regulatory Commission. The proposed effective date under the Service Agreement is January 1, 2002.

Comment Date: January 16, 2002.

18. Pinnacle West Capital Corporation

[Docket No. ER02–625–000]

Take notice that on December 26, 2001, Pinnacle West Capital Corporation (PWCC) tendered for filing with the Federal Energy Regulatory Commission (FERC or Commission) a Service Agreement, Rate Schedule FERC No. 5, under PWCC's rate Schedule FERC No. 1 for service to Tohono O'odham Utility Authority (TOUA).

A copy of this filing has been served on TOUA.

Comment Date: January 16, 2002.

19. West Penn Power Company

[Docket No.ER02–626–000]

Take notice that on December 26, 2001, Allegheny Energy Service Corporation on behalf of West Penn Power Company (West Penn), submitted a Notice of Cancellation of Service Agreement No. 15 (including its Amendments and Supplements) with the Borough of Tarentum, a customer under West Penn's Rate Schedule designated as FERC Electric Tariff, First Revised Volume No. 1.

West Penn has requested that the cancellation be effective March 16, 2002.

Comment Date: January 16, 2002.

20. Carolina Power & Light Company

[Docket No. ER02–627–000]

Take notice that on December 27, 2001, Progress Energy, Inc. (Progress Energy), on behalf of Carolina Power & Light Company (CP&L), tendered for filing with the Federal Energy Regulatory Commission (Commission) revised service agreements (Revised Service Agreements) executed by Florida Power Corporation (FPC) under CP&L's open-access transmission tariff (OATT), FERC Electric Tariff, Third Revised Volume No. 3 (CP&L's OATT), to comply with the Commission's June 25, 2001, September 21, 2001 and November 26, 2001 orders in Docket Nos. ER01–1807–007, et al. and ER01–2020–000, et al. See Carolina Power & Light Co. and Florida Power Corp., 95 FERC ¶ 61,429 (2001). Progress Energy also tendered for filing an index of FPC's Service Agreements as filed under CP&L's OATT.

Progress Energy respectfully requests that the Revised Service Agreements become effective on the date set forth on the cover sheet for each Revised Service Agreement.

Copies of the filing were served upon the Commission's official service list and the North Carolina Utilities Commission, the South Carolina Public Service Commission and the Florida Public Service Commission.

Comment Date: January 17, 2002.

21. El Paso Electric Company, Public Service Company of New Mexico, Texas-New Mexico Power Company

[Docket No. ER02–628–000]

Take notice that on December 27, 2001, El Paso Electric Company, Public Service Company of New Mexico, and Texas-New Mexico Power Company (collectively, Utilities) jointly tendered for filing an Interconnection Agreement between the Utilities and Duke Energy Luna, LLC under each of the Utilities' Open-Access Transmission Tariffs. The Utilities request that the Interconnection Agreement be permitted to become effective on December 26, 2001. The Utilities state that this filing is in accordance with part 35 of the Commission's regulations, 18 CFR 35, and that a copy has been served on the Texas Public Utility Commission and the New Mexico Public Regulation Commission.

Comment Date: January 17, 2002.

22. Talbot EMC

[Docket No. ER02–629–000]

Take notice that on December 27, 2001, Talbot EMC tendered for filing with the Federal Energy Regulatory Commission (Commission) an initial rate schedule pursuant to Section 205 of the Federal Power Act and Section 35.12 of the Commission's Regulations.

This filing consists of the Power Purchase Agreements, dated as of November 1, 2001, between Talbot EMC and each of its 30 member distribution cooperatives (the Members) pursuant to which Talbot EMC will sell power and/or energy to those Members. Copies of the filing were served upon all of the Members.

Talbot EMC is seeking wiavers of certain Commission requirements as part of this filing.

Comment Date: January 17, 2002.

23. Exelon Generation Company, LLC

[Docket No. ER02–630–000]

Take notice that on December 27, 2001, Exelon Generation Company, LLC (Exelon Generation), submitted for filing a power sales service agreement between Exelon Generation and Old Dominion Electric Cooperative under Exelon Generation's wholesale power sales tariff, FERC Electric Tariff Original Volume No. 2.

Comment Date: January 18, 2002.

24. Exelon Generation Company, LLC

[Docket No. ER02–631–000]

Take notice that on December 28, 2001, Exelon Generation Company, LLC (Exelon Generation), submitted for filing a power sales service agreement between Exelon Generation and Mirant Americas Energy Marketing, LP under Exelon Generation's wholesale power sales tariff, FERC Electric Tariff Original Volume No. 2.

Comment Date: January 18, 2002.

25. Exelon Generation Company, LLC

[Docket No. ER02–632–000]

Take notice that on December 28, 2001, Exelon Generation Company, LLC (Exelon Generation), submitted for filing a power sales service agreement between Exelon Generation and The New Power Company under Exelon Generation's wholesale power sales tariff, FERC Electric Tariff Original Volume No. 2.

Comment Date: January 18, 2002.

26. Commonwealth Edison Company

[Docket No. ER02–633–000]

Take notice that on December 28, 2001, Commonwealth Edison Company (ComEd) submitted for filing an unexecuted Service Agreement for Short-Term Firm Point-to-Point Transmission Service and an associated unexecuted Dynamic Scheduling Agreement with Exelon Generation Company, LLC (Exelon).

ComEd requests an effective date of January 1, 2002 and accordingly seeks waiver of the Commission's notice requirements.

Copies of the filing were served on Exelon and Ormet.

Comment Date: January 18, 2002.

27. Delmarva Power & Light Company

[Docket No. ER02–634–000]

Take notice that on December 28, 2001, Delmarva Power & Light Company (Delmarva) tendered for filing an Interconnection Agreement between Delmarva and the Delaware Municipal Electric Corporation (DEMEC). The Interconnection Agreement provides for the interconnection of DEMEC's generating facilities with the Delmarva transmission system.

Delmarva respectfully requests that the Interconnection Agreement become effective on December 31, 2001.

Copies of the filing were served upon the Delaware Public Service Commission, the Maryland Public Service Commission and the Virginia State Corporation Commission.

Comment Date: January 18, 2002.

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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–394 Filed 1–7–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM02–1–000]

Standardization of Generator Interconnection Agreements and Procedures; Notice of Staff Public Meeting

January 3, 2002.

In October 2001, the Federal Energy Regulatory Commission (Commission) issued an Advance Notice of Proposed Rulemaking seeking comments on a standard generator interconnection agreement and procedure that would be applicable to all public utilities that own, operate, or control transmission facilities under the Federal Power Act. As part of this process, on January 11, 2002, the Generator Interconnection Coalition [1] (Coalition) will file a single consensus document that will include a standard connection agreement and a standard interconnection procedures document.

The Commission staff will hold public meetings on Thursday, January 17, 2002, and Friday, January 18, 2002, to discuss and clarify the consensus document. The meetings are scheduled to take place each day from 9 a.m. to 5 p.m in the Commission Meeting Room at the Federal Energy Regulatory Commission, 888 First St. NE, Washington, DC.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–470 Filed 1–7–02; 8:45 am]

BILLING CODE 6717–01–P

[1] The Coalition includes representatives from: generators, marketers, transmission owners, industrial power producers, transmission dependent utilities, regional transmission organizations, independent system operators, distributed resources and state commissions. A list of the Coalition Members is included in Attachment 1 of the Coalition's Status Report, which was filed in this docket on December 14, 2001.

ENVIRONMENTAL PROTECTION AGENCY

[GA–057–1–200210; FRL–7125–6]

Adequacy Status of the Atlanta, Georgia, Ozone Attainment Demonstration for Transportation Conformity Purposes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of adequacy.

SUMMARY: In this action, EPA is notifying the public that we have found the motor vehicle emissions budgets in the Atlanta, Georgia, ozone attainment demonstration submitted on July 1, 2001, adequate for conformity purposes. On March 2, 1999, the D.C. Circuit Court ruled that submitted State Implementation Plans (SIPs) cannot be used for conformity determinations until EPA has affirmatively found them adequate. As a result of our finding, the Atlanta ozone nonattainment area must use the motor vehicle emissions budgets from the submitted ozone attainment demonstration for future conformity determinations.

DATES: This finding is effective January 23, 2002.

FOR FURTHER INFORMATION CONTACT: The finding and the response to comments will be available at EPA's conformity Web site: *http://www.epa.gov/oms/traq,* (once there, click on the ''Conformity'' button, then look for ''Adequacy Review of SIP Submissions for Conformity'').

The SIP is available for public viewing at the United States Environmental Protection Agency, 61 Forsyth Street, S.W., Atlanta, Georgia, 30303. You can request a copy of the SIP submission by contacting Kelly Sheckler, Air Quality Modeling and Transportation Section, United States Environmental Protection Agency, 61 Forsyth Street, S.W., Atlanta, Georgia 30303, phone: (404) 562–9042, fax: (404) 562–9019, e-mail: *Sheckler.Kelly@epa.gov.*

SUPPLEMENTARY INFORMATION:

Background

This notice is simply an announcement of a finding that we have already made. EPA Region 4 sent a letter to the Georgia Environmental Protection Division on December 20, 2001, stating that the motor vehicle emissions budgets in the Atlanta, Georgia, ozone attainment demonstration for 2004 are adequate. This finding has been announced on EPA's conformity website referenced above.

EPA Region 4 received comments on the motor vehicle emissions budget for transportation conformity purposes contained in the Atlanta, Georgia, 1-hour ozone attainment demonstration. EPA Region 4 has prepared a response to those comments and has posted the response on the website referenced above.

Transportation conformity is required by section 176(c) of the Clean Air Act. EPA's conformity rule requires that transportation plans, programs, and projects conform to SIPs and establishes the criteria and procedures for determining whether or not they do. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards.

We have described our process for determining the adequacy of submitted SIP budgets in guidance (May 14, 1999 memo titled ''Conformity Guidance on Implementation of March 2, 1999 Conformity Court Decision''). This guidance was used in making our adequacy determination. The criteria by which we determine whether a SIP's motor vehicle emission budgets are adequate for conformity purposes are outlined in 40 CFR 93.118(e)(4). Please note that an adequacy review is separate from EPA's completeness review, and it also should not be used to prejudge EPA's ultimate action to approve or disapprove the SIP. The SIP could later be disapproved for reasons unrelated to the transportation conformity even though the budgets have been deemed adequate.

Authority: 42 U.S.C. 7401–7671q.

Dated: December 20, 2001.

Mike Peyton,

Acting Regional Administrator, Region 4.

[FR Doc. 02–410 Filed 1–7–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7126–9]

Notice of Withdrawal of Proposed Prospective Purchaser Agreement in Relation to the Metcoa Radiation Superfund Site, Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as Amended by the Superfund Amendments and Reauthorization Act of 1986

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Notice is hereby given of withdrawal by the Prospective Purchaser from a proposed Prospective Purchaser Agreement and Covenant Not To Sue, executed between the United States, on behalf of the U.S. Environmental Protection Agency (''EPA''), and Medure Development LLC (''Prospective Purchaser'') in accordance with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9601–9675, as amended (''CERCLA''). EPA and the U.S. Department of Justice consent to the withdrawal. Therefore, the Agreement will not take effect. The withdrawn agreement concerned the Metcoa Radiation Superfund Site (''Site'') located on Route 551 and Metallurgical Way, approximately one-half mile north of the center of the village of Pulaski, and Route 208 in Pulaski, Lawrence County, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Humane L. Zia (3RC41), Assistant Regional Counsel, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103; phone: (215) 814–3454.

SUPPLEMENTARY INFORMATION: The Environmental Protection Agency previously published in the **Federal Register** a Notice of Prospective Purchaser Agreement and Request for Public Comment, 65 FR 77876 (December 13, 2000), and a Notice of Reopening of Public Comment Period, 66 FR 8234 (January 30, 2001), concerning this Prospective Purchaser Agreement.

Dated: January 2, 2002.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

[FR Doc. 02–411 Filed 1–7–02; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

December 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 February 7, 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.:* 3060–0054.

Title: Application for Exemption From Ship Station Requirements.

Form No.: FCC Form 820.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit; and individuals for household.

Number of Respondents: 250.

Estimated Time Per Response: 1.166 hours.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 292 hours.

Total Annual Cost: $36,000.

Needs and Uses: FCC rules require this collection of information when exemptions from radio provisions of statute, treaty or international agreements are requested. The data is used by examiners to determine the applicant's qualifications for the requested exemption. The data collected on this form includes the applicant's Taxpayer Identification Number. However, this information will be redacted from public view. This form has been revised to include FCC Registration Number and to correct mailing addresses in the general instructions, where to file completed applications and filing for emergency requests. The estimated average burden and number of respondents has been corrected based on receipts for the past 2 years.

Federal Communications Commission.

Wiliam F. Caton,

Deputy Secretary.

[FR Doc. 02–366 Filed 1–7–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comments Requested

December 28, 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 March 11, 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 Les Smith, Federal Communications Commissions, Room 1A–804, 445

Twelfth Street, SW., Washington, DC 20554 or via the Internet to *lesmith@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at *lesmith@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Approval Number: 3060–0170.

Title: Section 73.1030 Notifications concerning interference to radio astronomy, research and receiving installations.

Form No.: None.

Type of Review: Extension of currently approved collection.

Respondents: Businesses or other for-profit.

Number of Respondents: 57.

Estimated Hours Per Response: 1.5 hours (0.5 hours respondents; 1 hour contact consulting engineer).

Frequency of Response: Reporting, on occasion.

Cost to Respondents: $8,550.

Estimated Total Annual Burden: 29 hours.

Needs and Uses: Section 73.1030 requires licensees to provide written notification to the Interference Office at Green Bank, West Virginia, the Observatories at Green Bank, West Virginia, Sugar Grove, West Virginia, or the Arecibo Observatory, setting forth the particulars of a proposed station. The data are used by the Interference Office/Observatories to enable them to file comments or objections with the FCC in response to the notification in order to minimize potential interference.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. 02–369 Filed 1–7–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collections Approved by Office of Management and Budget

December 21, 2001.

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collections pursuant to the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid control number. For further information contact Shoko B. Hair, Federal Communications Commission, (202) 418–1379.

Federal Communications Commission

OMB Control No.: 3060–0056.

Expiration Date: December 31, 2004.

Title: Part 68—Connection of Terminal Equipment to the Telephone Network.

Form No.: N/A.

Respondents: Business or other for-profit; Individuals or household.

Estimated Annual Burden: 54,369 respondents; .10 minutes—24 hours per respondent; 2.1 hours per response (avg.); 117,959 total annual burden hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $2,705,000.

Frequency of Response: On occasion; Recordkeeping; Third Party Disclosure.

Description: In the Telecommunications Act of 1996 (1996 Act), Congress directed the Commission to review its rules every even-numbered year and repeal or modify those found to be no longer in the public interest. Consistent with the directive of Congress, in the year 2000, the Commission undertook its second comprehensive biennial review of the Commission's rules to eliminate regulations that are no longer necessary because the public interest can be better served through reliance on market forces. In a Report and Order issued in CC Docket No. 99–216, Biennial Regulatory Review of Part 68 of the Commission's Rules and Regulations, released December 21, 2000 (Order), the Commission completely eliminate significant portions of Part 68 of our rules governing the connection of customer premises equipment (terminal equipment) to the public switched telephone network and privatize the standards development and terminal equipment approval processes. Specifically, in the Commission transferred responsibility for developing technical criteria to Standards Development Organizations (SDOs) that are accredited by the American National Standards Institute (ANSI), and the responsibility for compiling and publishing all standards ultimately adopted as technical criteria for terminal equipment to the Administrative Council for Terminal Attachments (Administrative Council). The Commission maintains its rules' broad principles, including a proscription against causing any of four harms to the public switched telephone network by the direct connection of terminal equipment. Once the Administrative Council publishes the technical criteria, the Commission shall presume the criteria to be valid for the prevention of the harms to the public switched telephone network by terminal equipment interconnection, subject to *de novo* review by petition to this Commission. Conformance with the technical criteria will be considered a demonstration of compliance with the Commission's rules prohibiting terminal equipment from harming the public switched telephone network. Terminal equipment manufacturers either will submit their products to telecommunications certification bodies (TCBs) for certification of conformity with the technical criteria (instead of submitting them for registration with the Commission), or they will use the Commission's Supplier's Declaration of Conformity (SDoC) process to show conformity with the technical criteria. This process will be more efficient and responsive to the needs of all segments of the industry, and remove the Commission from a role where governmental involvement is no longer necessary or in the public interest. Following is a summary of the collections contained in the Order and 47 CFR part 68. See the Order and 47 CFR part 68 for additional information. a. Administrative Council for Terminal Attachment's Requirements—Currently, under rule 68.102 manufacturers must register terminal equipment. FCC Form 730 is no longer required to be used to obtain registration of telephone equipment pursuant to part 68 of the Commission's rules, but applicants may be required to file information with Telecommunications Certification Bodies or with the Administrative Council for Terminal Attachments. The Commission has ceased accepting applications for registration of part 68 equipment and transferred responsibility for establishing and maintaining the database of approved equipment to the Administrative Council. While continued collection of the information formerly required by FCC Form 730 is permitted, the Commission only requires that the database contain sufficient information for providers of telecommunications, this Commission and the U.S. Customs Service to carry out their functions. (No. of respondents: 2400; hours per response: 24 hours; total annual burden: 57,600 hours). b. Section 68.106—Notification to Provider of Wireline Telecommunications—Section 68.106 requires customers connecting terminal equipment or protective circuitry to the public switched telephone network shall, upon request of the provider of wireline telecommunications inform the provider of wireline

telecommunications of the particular line(s) to which such connection is made, and any other information required to be placed on that terminal equipment pursuant to Section 68.354. Customers connecting systems assembled of combinations of individually-approved terminal equipment and protective circuitry shall provide, upon the request of the provider of wireline telecommunications, provide the information delineated in Section 68.106(b)(i)–(iv). Customers who intend to connect premises wiring other than fully protected premises wiring to the public switched telephone network shall, in addition to the requirements in Section 68.106(b), give notice to the provider of wireline telecommunications in accordance with Section 68.215(e). (No. of respondents: 50,000; hours per response: .05 hours; total annual burden: 2500 hours). c. Section 68.108, Notification of Incidence of Harm—Section 68.108 requires that providers of wireline telecommunications notify the customer that temporary discontinuance of service may be required should terminal equipment, inside wiring, plugs and jacks, or protective circuitry cause harm to the public switched telephone network or should the provider reasonably determinate that such harm is imminent. (No. of respondents: 7500; hours per response: 0.5 hours; total annual burden: 750 hours). d. Section 68.110, Disclosure of Technical Information—Section 68.110(a) requires provider of wireline telecommunications to provide, upon request, technical information concerning interface parameters not specified by the technical criteria published by the Administrative Council for Terminal Attachments that are needed to permit terminal equipment to operate in a manner compatible with the communications facilities of a provider of wireline telecommunications. Section 68.110(b) requires that a provider of wireline telecommunications give the customer adequate notice in writing if changes can be reasonably expected to render any customer's terminal equipment incompatible with the communications facilities of the provider of wireline telecommunications, or require modification or alteration of such terminal equipment, or otherwise materially affect its use or performance. (No. of respondents: 40; hours per response: .50 hours; total annual burden: 20 hours). Section 68.110(c) requires provider of wireline telecommunications to provide building owners with all available information regarding carrier-installed wiring on the customer's side of the demarcation point, including copies of existing schematic diagrams and service records. (No. of respondents: 200, with 1200 responses; hours per response: 1 hours; total annual burden: 1200 hours). e. Section 68.215, Notarized Affidavit—Section 68.215 requires that a notarized affidavit and one copy thereof be prepared by the installation supervisor in advance of each operation associated with the installation, connection, reconfiguration and removal of other than fully-protected premises wiring (except when accomplished functionally using a cross-connect panel), except when involved with removal of the entire premises communications systems using such wiring. The affidavit and its copy must contain the information specified in 47 CFR 68.215(e)(1)–(9). (No. of respondents: 7500; hours per response: .50 hours; total annual burden: 3750 hours). f. Section 68.218, Compliance Warrants—Section 68.218 requires that the responsible party warrants that each unit of equipment marketed under such authorization will comply with all applicable rules and regulations of part 68 and with the applicable technical criteria of the Administrative Council for Terminal Attachments. (No. of respondents: 974, with 2350 responses; hours per response: .5 hours; total annual burden: 1175 hours).

g. Section 68.324, Supplier's Declaration of Conformity—Section 68.324(a)(1)–(6) lists the information that each responsible party must include in the Supplier's Declaration of Conformity. (No. of respondents: 974, with 2350 responses; hour per response: 20 hours; total annual burden: 47,000 hours). h. Section 68.326, Retention of Records—Section 68.326 requires that responsible party for a Supplier's Declaration of Conformity maintains records containing the information specified in Section 68.326(a)(1)–(4) for at least ten years after the manufacture of said equipment has been permanently discontinued, or until the conclusion of an investigation or a proceeding, if the responsible party is officially notified prior to the expiration of such ten year period that an investigation or any other administrative proceeding involving its equipment has been instituted, whichever is later. See 47 CFR 68.326. (No. of respondents: 974, with 2350 responses; hours per response: .5 hours; total annual burden: 1175 hours). i. Section 68.346, Description of Testing Facilities—Section 68.346 requires that each responsible party for equipment that is subject to a Supplier's Declaration of Conformity compiles and retains a description of the measurement facilities employed for testing the equipment. The description shall contain the information required by the Administrative Council for Terminal Attachments. See 47 CFR Section 68.346. (No. of respondents: 974, with 2350 responses; hours per response: .25 hours; total annual burden: 587 hours). j. Section 68.354, Numbering and Labeling Requirements—Section 68.354 requires that terminal equipment and protective circuitry that is subject to a Supplier's Declaration of Conformity or that is certified by a Telecommunications Certification Body have labels in a place and manner required by the Administrative Council for Terminal Attachments. Terminal equipment labels shall include an identification numbering system in a manner required by the Administrative Council for Terminal Attachments. FCC numbering and labeling requirements existing prior to the effective date of these rules shall remain unchanged until the Administrative Council for Terminal Attachments publishes its numbering and labeling requirements. See 47 CFR 68.354. See also 47 CFR 68.612. (No. of respondents: 974, with 2350 responses: .25 hours; total annual burden: 587 hours). k. Sections 68.400—68.417, Complaints. A complaint must be in writing and contain the information specified in Section 68.400(a)–(d). (No. of respondents: 5; hours per response: 20 hours; total annual burden: 20 hours). l. Section 68.418, Designation of Agents for Service—Pursuant to Section 68.418, every responsible party of equipment approved pursuant to part 68 must designate and identify one or more agents upon whom service may be made of all notices, inquiries, orders, decisions, and other pronouncements of the Commission in any matter before the Commission. See 47 CFR Section 68.418. (No. of respondents: 974, with 2350 responses: hours per response: .1 hour; total annual burden: 235 hours). m. Section 68.419, Answers to Informal complaints—Section 68.419 requires that any responsible party to whom the Commission or the Consumer Information Bureau directs an informal complaint file an answer within the time specified by the Commission or the Consumer Information Bureau, as required by in Section 68.419(a)–(e). (No. of respondents: 5; hours per response: 20 hours; total annual burden: 100 hours). n. Section 68.604, Requirements for submitting technical criteria—Any SDO that submits

standards to the Administrative Council for Terminal Attachments for publication as technical criteria shall certify to the Administrative Council for Terminal Attachments the information found in Section 68.604(c)(1)–(3). See 47 CFR Section 68.604. (No. of respondents: 5, with 10 responses; hours per burden: 5 hours; total annual burden: 5 hours). o. Section 68.610, Database of Terminal Equipment—Section 68.610 requires that the Administrative Council for Terminal Attachments operates and maintains a database of all approved terminal equipment. (No. of respondents: 974, with 2350 responses; hours per response: .5 hours; total annual burden: 1175 hours). To ensure that consumers, providers of telecommunications, the Administrative Council, TCBs, and the Commission are able to trace products to the party responsible for placing terminal equipment on the market, it is essential to require manufacturers and suppliers to provide the information specified in the Order and 47 CFR part 68. Authority: 47 U.S.C. 151–154; 47 U.S.C. 201–205; 47 U.S.C. 303. Obligation to respond: Required to obtain or retain benefits.

OMB Control No.: 3060–0972.

Expiration Date: June 30, 2002.

Title: Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers (LECs) Subject to Rate-of-Return Regulation.

Form No.: N/A.

Respondents: Business or other for-profit.

Estimated Annual Burden: 8059 respondents; 4.8 hours per response (avg.); 38,760 total annual burden hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $228,000.

Frequency of Response: On occasion; Quarterly; Annually; One-time; Third Party Disclosure.

Description: In the Second Report and Order in CC Docket Nos. 00–256, Fifteenth Report and Order in CC Docket No. 96–45, and Report and Order in CC Docket Nos. 98–77 and 98–166 (Report and Order), consistent with the recommendation of the Federal-State Joint Board on Universal Service, the Commission modifies its rules to reform the interstate access charge and universal service support system for incumbent local exchange carriers (LECs) subject to rate of return regulation. Below are summaries of the collections imposed on telecommunications carriers based on rules adopted in the Report and Order: a. Projected Revenue Requirements: In order to enable the Administrator to calculate per-line amounts of Interstate Common Line Support, rate-of-return carriers other than average schedule companies shall report to the Administrator their projected common line revenue requirement for each study area in which they operate. (No. of respondents: 769; hours per response: 2 hours; total annual burden: 1538 hours). In order to enable the Administrator to begin distributing Interstate Common Line Support to carriers on July 1, 2002, rate-of-return carriers will be required to submit to the Administrator projected common line revenue requirements for July 1, 2002, to June 30, 2003, by March 31, 2002. Consistent with carrier access tariff filing obligations and NECA's current procedures for the filing of revenue requirements by members of the carrier common line pool, the Commission will permit carriers to submit to the Administrator corrections of their projected common line revenue requirements until April 10, 2002. After April 10, 2002, any corrections to projected common line revenue requirements shall be made in the form of true ups, described below, using actual cost data. Rate-of-return carriers will be required to submit to the Administrator projected common line revenue requirements for subsequent years on the same schedule. (No. of respondents: 531; hours per response: 2 hours; total annual burden: 1062 hours). b. True Ups: On July 31st of each year, rate-of-return carriers will be required to submit actual interstate common line cost data to the Administrator for the preceding calendar year. The first date for filing actual cost data shall be July 31, 2003. The Administrator shall adjust a rate-of-return carrier's monthly per-line Interstate Common Line support in the following calendar year (i.e., January 1, 2004 through December 31, 2004) to the extent of any difference between the carrier's projected common line revenue requirement and its actual cost data. Because the July 1, 2003, filing will only include cost data for the first six months that Interstate Common Line Support is available (July 1, 2002, through December 31, 2002), trued-up support amounts distributed in the calendar year 2004 will be based on a pro-rated share of the 2002 annual cost data (i.e., 50 percent of the 2002 actual costs will be attributed to the final six months of 2002). Trued-up support amounts distributed in subsequent calendar years will be based on complete funding year cost data. (No. of respondents: 769; hours per response: 4 hours; total annual burden: 3076 hours). In order to provide rate-of-return carriers with opportunities to true up support amounts on a more frequent basis, the Commission will permit carriers to file updated cost data with the Administrator on a quarterly basis. Quarterly true ups will enable carriers that experience unforeseen costs to qualify for increased Interstate Common Line Support amounts. Quarterly true ups also will reduce risks associated with receiving Interstate Common Line Support based on a projected common line revenue requirement. Carriers wishing to submit cost data on a quarterly basis will file such data in accordance with the schedule provided in section 36.612 of the rules. (No. of respondents: 100; hours per response: 2 hours; total annual burden: 200 hours).

c. Line Counts: Consistent with rules adopted in the Rural Task Force Order, rate-of-return carriers will file their line counts, by disaggregation zone and customer class, in accordance with the schedule in sections 36.611 and 36.612 of our rules. Line count data for rural rate-of-return carrier study areas in which a competitive eligible telecommunications carrier has not begun providing service will be filed on an annual basis. Line count data will be filed on a regular quarterly basis upon competitive entry in rural rate-of-return carrier study areas. (No. of respondents: 1300; hours per response 6 hours: total annual burden: 7800 hours). Competitive eligible telecommunications carriers will file their line counts, by disaggregation zone and customer class on a quarterly basis, in accordance with the schedule in section 54.307 of our rules. (No. of respondents: 10; hours per response: 6 hours; total annual burden: 60 hours). d. Disaggregation Plans: Consistent with section 254 of the Act, we conclude that the plan for the geographic disaggregation and targeting of portable high-cost universal service support below the study area level recently adopted in the Rural Task Force Order will also apply to Interstate Common Line Support. To ensure the portability and predictability of support, rate-of-return carriers that elect to disaggregate and target support will be required to submit maps to the Administrator in which the boundaries of the designated disaggregation zones are clearly specified. The Administrator will make such maps available for public inspection by competitors and other interested parties. When submitting information in support of Path Three self-certification, incumbent carriers must provide the Administrator with publicly available information that allows competitors to verify and reproduce the algorithm used to determine zone support levels (Self-

Certification of Disaggregation Plan). Similarly, carriers electing Path One must submit to the Administrator a copy of certifications to a state commission or appropriate regulatory authority that they will not disaggregate and target support (Notification to State of Change in Disaggregation Methodology). Carriers selecting Path Two must submit a copy to the Administrator of the order by the state commission or appropriate regulatory authority approving the disaggregation plan submitted, along with a copy of the disaggregation plan itself (Targeting Plan to State). The Commission extends until May 15, 2002, the date by which carriers will be required to select a disaggregation path for high-cost loop, LTS, LSS, and Interstate Common Line Support mechanisms. (No. of respondents: 100; hours per response: 1 hour; total annual burden 100 hours) e. Section 254(e) Certifications: Section 254(e) provides that a carrier receiving universal service support must use that support ''only for the provision, maintenance, and upgrading of facilities and service for which the support is intended.'' In the Rural Task Force Order, the Commission sets forth rules requiring a state that wishes to receive federal universal service high-cost support for rural carriers within its territory to file a certification with the Commission stating that all federal high-cost funds flowing to rural carriers in such state will be used in a manner consistent with section 254(e). In addition, in the Interstate Access Support Order, the Commission adopted certification rules for the receipt of interstate access support. In the Rural Task Force Order, the Commission addressed federal universal service support for intrastate rates and the Commission required states to file a certification of section 254(e) compliance with the Commission because states have jurisdiction over rates for intrastate services. In this Order, the Commission addresses federal support for interstate rates, a matter over which the Commission has jurisdiction. Thus, to ensure that carriers receiving Interstate Common Line Support and LTS will use that support in a manner consistent with section 254(e), the Commission shall require carriers seeking such support to file a certification with the Commission and the Administrator. This requirement is consistent with rules adopted in the Interstate Access Support Order. This certification requirement will be applicable to rate-of-return carriers and eligible telecommunications carriers seeking support from our Interstate Common Line Support mechanism. The certification shall be filed with the Commission and the Administrator on March 31, 2002, at the same time a carrier files its first set of line count data with the Administrator. Such certification shall be filed in CC Docket No. 96–45 annually thereafter on June 30th. The certification may be filed in the form of a letter and must state that the carrier will use its Interstate Common Line Support and LTS only for the provision, maintenance, and upgrading of facilities and service for which support is intended. In the event that a certification is filed untimely, the carrier will not become eligible for support until the second calendar quarter after the certification is filed. Failure to file a certification will preclude a carrier from receiving Interstate Common Line Support or LTS. Carriers that fail to abide by their certification, or otherwise violate section 254(e), shall be subject to enforcement action by the Commission. (No. of respondents: 1300; hours per response: 2 hours; total annual burden: 2600 hours). f. Required tariff filings: All rate-of-return carriers are required to modify their access tariffs to comply with the new Subscriber Line Charge (SLC) caps, to become effective on January 1, 2002, and on July 1, 2002, and July 1, 2003 subject to a cost review study for price cap carriers. Rate-of-return carriers also must file tariffs to recover through a separate end-user charge the costs of ISDN line ports and line ports associated with other services that exceed the costs of a line port used for basic analog service. (No. of respondents: 116; hours per response: 69.9 hours (avg.); total annual burden: 8110 hours). g. Optional Line Port Cost Study: Rate-of-return carriers may use 30 percent of local switching costs as a proxy in shifting line port costs to the common line category, or may conduct a cost study based on geographically-averaged costs to be submitted in support of the tariff filing relying on the cost study. A carrier may rely on a cost study for subsequent tariff filings. (No. of respondents: 12; hours per response 40 hours; total annual burden: 480 hours). h. Establishment of TIC Caps: NECA is required to establish for carriers that participated in the NECA pool during the tariff year ending June 30, 2001, an individual carrier dollar limit based on its traffic volumes and the TIC rate for the twelve-month period ending June 30, 2001. Each carrier that was not in the pool during the tariff year ending on June 30, 2001, must determine its TIC limit and report it to NECA for purposes of administering future pool membership changes. (No. of respondents: 1186; hours per response: .13 hours; total annual burden: 2.6 hours). i. Optional tariff filings: Rate-of-return carriers may, at their option, establish the following local switching and transport rate elements: a flat charge for dedicated trunk port costs; a flat charge for the costs of DS1/voice grade multiplexers associated with terminating dedicated trunks at analog switches; a per-minute charge for shared trunk ports and any associated DS1/voice grade multiplexer costs; a flat charge for the costs of trunk ports used to terminate dedicated trunks on the serving wire center side of the tandem switch; individual charges for multiplexer costs associated with tandem switches; and a per-message call setup charge. (No. of respondents: 12; hours per response: 93 hours; total annual burden: 1116 hours). j. GSF allocation: Beginning July 1, 2002, rate-of-return carriers that use general purpose computers to provide non-regulated billing and collection services are required to allocate a portion of their general purpose computer costs to the billing and collection category, which will require them to determine general purpose computer investment. Carriers may use the general purpose computer investment amount they develop for a period of three years. (No. of respondents: 600; hours per response: 20 hours; total annual burden: 12,000 hours). The Commission will use the information collected to determine whether and to what extent non-price cap or rate-of-return carriers providing the data are eligible to receive universal service support. The Commission will use the tariff data to make sure that rates are just and reasonable, as required by section 201(b) of the Act. Obligation to respond: Mandatory. Public reporting burden for the collection of information is as noted above. Send comments regarding the burden estimate or any other aspect of the collections of information, including suggestions for reducing the burden to Performance Evaluation and Records Management, Washington, DC 20554.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. 02–377 Filed 1–7–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted to OMB for Review and Approval

December 19, 2001.

SUMMARY: The Federal Communications Commissions, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before February 7, 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 Les Smith, Federal Communications Commission, Room 1–A804, 445 12th Street, SW., Washington, DC 20554 or via the Internet to *lesmith@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at *lesmith@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0649.

Title: Sections 76.1601, Deletion or Repositioning of Broadcast Signals; 76.1617, Initial Must-Carry Notice; 76.1607 and 76.1708, Principal Headend.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities; Individuals or households; Not-for-profit institutions; and State, local, or tribal government.

Number of Respondents: 10,400.

Estimated Time per Response: 0.5 to 1.0 hours.

Frequency of Response: On occasion reporting requirement; Third party disclosure.

Total Annual Burden: 2,200 hours.

Total Annual Costs: None.

Needs and Uses: Under 47 CFR Sections 76.1601, 76.1607, 76.1617, and 76.1708 of FCC rules cable television system operators must provide various notification requirements—to provide written notice to any broadcast television station at least 30 days prior to deleting from carriage or repositioning the station; to provide written notice by certified mail to all stations carried on its system pursuant to the ''must-carry'' rules at least 60 days prior to any change in its principal headend designation; to notify all qualified non-commercial and educational stations of its principal headed within 60 days of system activation; and to maintain for public inspection the designation and location of its principal headend, including in this file a record of all changes of the designated headend.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. 02–367 Filed 1–7–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than January 23, 2002..

A. Federal Reserve Bank of Atlanta (Cynthia C. Goodwin, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309–4470:

1. Jerry J. Williams, Naples, Florida; to retain voting shares of FirstBancorp, Inc., Naples, Florida, and thereby indirectly retain voting shares of Gulf Coast National Bank, Naples, Florida.

B. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Douglas and Mary Kapnick, Mary E. Kapnick Trust, Douglas L. Kapnick Trust, Adrian, Michigan; to acquire additional voting shares of Lenawee Bancorp, Inc., Adrian, Michigan, and thereby indirectly acquire additional voting shares of Bank of Lenawee, Adrian, Michigan, and Bank of Washtenaw, Saline, Michigan. In addition, the Elmer L. Kapnick Trust, Adrian, Michigan; has applied to retain voting shares of Lenawee Bancorp, Inc., Adrian, Michigan, and acquire additional voting shares of Bank of Lenawee, Adrian, Michigan, and Bank of Washtenaw, Saline, Michigan.

C. Federal Reserve Bank of San Francisco (Maria Villanueva, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105–1579:

1. William R. Peeples, Santa Barbara, California; Ardyce M. Peeples, Santa Barbara, California; Melissa Peeples, Bronx, New York; Melanie D. Peeples, Davis, California; Michael F. Peeples, Sauh City, Wisconsin; Judith Ransom, Black River Falls, Wisconsin; Robert M. Peeples, Jr., Baton Rouge, Louisiana; Mary Ann Wander, Bradenton, Florida; Robert and Kathleen Peeples, Slidell, Louisiana; Daniel and Ardyce Acher, West Allis, Wisconsin; Shalla Acher, Haupen, Wisconsin; Michaela Moy, Madison, Wisconsin; Daniel Acher, West Allis, Wisconsin; all to retain voting shares of Community West Bancshares, Goleta, California, and thereby indirectly retain voting shares of Goleta National Bank, Goleta, California.

Board of Governors of the Federal Reserve System, January 3, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–474 Filed 1–7–02; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes

and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 1, 2002.

A. Federal Reserve Bank of Kansas City (Susan Zubradt, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. Citizens Bancshares, Inc., ESOP, Edmond, Oklahoma; to become a bank holding company by acquiring up to 30 percent of the voting shares of Citizens Bancshares, Inc., Edmond, Oklahoma, and thereby indirectly acquire voting shares of Citizens Bank of Edmond, Edmond, Oklahoma.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. Pubco Bancshares, Inc., Slaton, Texas; to acquire 100 percent of the voting shares of Shamrock Bancshares, Inc., Shamrock, Texas, and thereby indirectly acquire voting shares of Shamrock Delaware Financial, Inc., Dover, Delaware, and First National Bank, Shamrock, Texas.

Board of Governors of the Federal Reserve System, January 3, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–473 Filed 1–7–02; 8:45 am]

BILLING CODE 6210–01–S

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0262]

Submission for OMB Review; Comment Request Entitled Identification of Products With Environmental Attributes

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Notice of request for extension to previously approved OMB Clearance (3090–0262).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the General Services Administration (GSA), Office of Acquisition Policy has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement concerning the Identification of Products with Environmental Attributes.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of contracts, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

A request for public comments was published at 66 FR October 29, 2001. No comments were received.

DATES: Comment Due Date: February 7, 2002.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: Ed Springer, GSA Desk Officer, OMB, Room 10236, NEOB, Washington, DC 20503, and a copy to Stephanie Morris, General Services Administration, Acquisition Policy Division, 1800 F Street, NW., Room 4035, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Beverly Cromer, Office of Acquisition Policy (202) 208–6750.

SUPPLEMENTARY INFORMATION:

A. Purpose

The General Service Administration is requesting the Office of Management and Budget (OMB) to review and approve information collection, 3090–0262, concerning the Identification of Products with Environmental Attributes. The GSA requires contractors submitting Multiple Award Schedule Contracts to identify in their GSA price lists those products that they market commercially that have environmental attributes. The identification of these products will enable Federal agencies to maximize the use of these products to meet the responsibilities expressed in statutes and executive orders.

B. Annual Reporting Burden

Respondents: 9,200.
Annual Responses: 9,200.
Burden Hours: 46,000.
Obtaining Copies of Proposals: Requester may obtain a copy of the proposal from the General Services Administration, Regulatory Secretariat (MVP), 1800 F Street, NW., Room 4035, Washington, DC 20405, telephone (202) 501–4744. Please cite OMB Control No. 3090–0262, Identification of Products with Environmental Attributes.

Dated: December 31, 2001.

Al Matera,

Director, Acquisition Policy Division.

[FR Doc. 02–441 Filed 1–7–02; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Airborne Exposure Limits for Chemical Warfare Agents GA (Tabun), GB (Sarin), and VX

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services.

ACTION: Notice of proposed revisions to CDC recommendations for protection of public health and safety during disposal or transport of chemical warfare agents GA (tabun), GB (sarin), and VX through revision of worker and general population airborne exposure limits.

Purpose

CDC presents proposed recommendations for airborne exposure limits for the chemical warfare agents GA (tabun or ethyl N,N-dimethyl-phosphoramidocyanidate, CAS 77–81–6); GB (sarin or O-isopropyl-methylphosphonofluoridate, CAS 107–44–8); and VX (O-ethyl-S-(2-diisopropylaminoethyl)-

methylphosphonothiolate, CAS 50782–69–9).

Before these recommendations are finalized, CDC requests comments from the public, all interested parties, environmental and health regulators, the Department of Defense (DOD), and other organizations involved in handling, transporting, or demilitarizing chemical warfare agents. More specifically, CDC seeks scientifically and professionally defensible data or information that would persuade CDC to alter its recommendations to be more or less conservative.

SUMMARY: CDC's recommendations are based on comments by scientific experts at a public meeting convened by CDC on August 23–24, 2000, in Atlanta, Georgia; the latest available technical reviews; and the latest available risk assessment approach frequently used by regulatory agencies and other organizations (1). Airborne exposure limits for chemical warfare agents GA (tabun), GB (sarin), and VX were re-evaluated by using a conventional risk assessment methodology for developing airborne exposure limits described by the U.S. Environmental Protection Agency (EPA). This methodology is considered conservative; however, the calculated exposure limits are not numerically precise and do not define precise thresholds of potential human toxicity.

Note: There is no indication that the current exposure limits, as implemented by the U.S. Army Program Manager for Chemical Demilitarization, have been less than fully protective of human health. This may be due to rigorous exposure prevention efforts in recent years as well as the conservative implementation of the existing limits.

Proposed Airborne Exposure Limits for GB: CDC proposes a worker population limit (WPL) value of 3×10^{-5} mg/m^3, expressed as an 8-hour time-weighted average (TWA). Additionally, CDC recommends a short-term excursion limit (STEL) of 1×10^{-4} mg/m^3 to be used in conjunction with the WPL. Exposures above the WPL up to the STEL should not be longer than 15 minutes and should not occur more than 4 times per day, and there should be at least 60 minutes between successive exposures in this range. The STEL should not be exceeded during the work day, even if the cumulative exposure over the 8-hour TWA is not exceeded. CDC proposes a decrease in the general population limit (GPL) to 1×10^{-6} mg/m^3. These WPL, STEL, and GPL values are approximately threefold lower than the values recently recommended by the U.S. Army. An immediately dangerous to life or health (IDLH) value of 0.1 mg/m^3 is proposed for GB.

Proposed Airborne Exposure Limits for GA: Although not as well-studied as GB, GA is approximately equal in potency to GB. Therefore, CDC proposes the same exposure limits for GA as for GB.

Proposed Airborne Exposure Limits for VX: CDC proposes that the VX WPL, expressed as an 8-hour time-weighted average, should be decreased to 1×10^{-6} mg/m^3. Additionally, CDC proposes a VX STEL of 4×10^{-6} mg/m^3. These proposed WPL and STEL exposure limits are a factor of 10 lower than the U.S. Army's recommendation. CDC proposes that the GPL for VX should be decreased to 6×10^{-7} mg/m^3 (a factor of 2 higher than the Army's recommendation). An IDLH value of 0.003 mg/m^3 is proposed for VX. Acknowledging the gaps in the data base for this agent, CDC considers the proposed VX exposure limits subject to re-evaluation in 3 years. New VX toxicity studies, which are anticipated to be completed within 3 years, have been recommended recently by the EPA National Advisory Committee for Acute Exposure Guideline Levels for Hazardous Substances (NAC/AEGL Committee). CDC agrees that new toxicity studies may be helpful in setting VX exposure limits.

DATES: Submit comments within 60 days following the date of this publication in the **Federal Register**.

ADDRESSES: Comments may be sent to the following:

1. By mail. Submit your comments to Dr. Paul Joe, CDC, 4770 Buford Highway, Mail Stop F–16, Atlanta, Georgia 30341.

2. In person or by courier. Deliver your comments to Dr. Paul Joe, CDC, 4770 Buford Highway, Mail Stop F–16, Atlanta, Georgia 30341.

3. Electronically. You may submit your comments electronically by e-mail to Dr. Paul Joe at *pbj4@cdc.gov,* or you can submit a computer disk to Dr. Paul Joe, CDC, 4770 Buford Highway, Mail Stop F–16, Atlanta, Georgia 30341. Electronic documents will be accepted in WordPerfect or Microsoft Word.

FOR FURTHER INFORMATION CONTACT: Dr. Paul Joe, Centers for Disease Control and Prevention, 4770 Buford Highway, Mail Stop F–16, Atlanta, Georgia 30341, Telephone number: 770–488–7091, E-mail address: *pbj4@cdc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The nerve agents GA, GB, and VX are organophosphate esters that were designed specifically to cause incapacitation or death in military use. These agents are among the most potent of all chemical warfare agents and have extraordinarily high levels of acute toxicity. In vapor or aerosol form, the nerve agents can be inhaled or absorbed through the skin or the eyes. As a liquid, they can be absorbed through the skin, conjunctiva, and upper gastrointestinal tract. The agents' toxicity is related primarily to their ability to inhibit acetylcholinesterase, which is a critical enzyme needed for nerve function (2). Health symptoms can include runny nose, tightness in the chest, dimness of vision and pinpointing of eye pupils, difficulty in breathing, drooling and excessive sweating, nausea, vomiting, cramps, involuntary defecation and urination, twitching, staggering, headache, confusion, drowsiness, coma, and convulsions. The signs and symptoms can be followed by cessation of breathing and death (3). At superlethal doses, GB caused delayed neuropathy in antidote-protected chickens. VX has not been shown to cause delayed neuropathy in animals or humans. The health effects from low-dose chronic (long-term) exposure have not been demonstrated clearly.

Studies of genotoxicity, carcinogenicity, developmental, and reproductive toxicity associated with GB and VX have been primarily negative (2,4).

GA, GB, and VX no longer are manufactured in the United States; however, they are stored currently at eight locations in the continental United States by the DOD. Section 1412 of Public Law 99–145 [50 U.S.C. 1521] mandates that the present stockpile of chemical warfare agents be destroyed. Public Law 91–121 and Public Law 91–441 [50 U.S.C. 1512] mandate that the Department of Health and Human Services (DHHS) review DOD plans for transporting and/or disposing of chemical warfare agents and make recommendations for protecting human health and safety. DHHS delegated this authority to CDC.

In 1987, CDC requested public comments on recommendations for protecting human health and the environment from potential adverse effects of long-term exposure to low-airborne doses of agents GA, GB, VX, mustard, and lewisite (L). CDC incorporated public comments, including comments from scientific experts outside CDC, and in 1988 recommended worker and general population airborne exposure limits for GA, GB, VX, mustard (H, HD, HT), and L. (See Table 1.) The U.S. Army adopted these airborne exposure limits in 1990.

TABLE 1.—CURRENT CDC-RECOMMENDED AIRBORNE EXPOSURE LIMITS*

[All values expressed as milligrams per cubic meter air [mg/m3]]

Agent	General population limit (GPL)	Worker population limit (WPL)
GA, GB	0.000003 (3×10^{-6})	0.0001 (1×10^{-4}).
VX	0.000003 (3×10^{-6})	0.00001 (1×10^{-5}).
H, HD, HT	0.0001 (1×10^{-4})	0.003 (3×10^{-3}).
L	0.003 (3×10^{-3})	0.003 (3×10^{-3}).
Averaging Time	72 hours	8 hours.

*Referred to as ''Control Limits'' in Federal Register, Volume 53, No. 50, March 15, 1988, pp. 8504–07.

The GPL is the maximum concentration to which members of the general population may be continually exposed 24 hours per day, 7 days per week. The GPL is intended for application to the entire general population, including all ages and medical conditions (e.g., infants, elderly, infirm, and healthy). Historically, the GPL for VX did not reflect a tenfold reduction from GB GPL as was the case for the WPLs. The primary reason for the difference was the technical inability to conduct VX air monitoring at such low concentrations. The analytical limitations are reflected further in the 72-hour averaging period rather than a more conventional 24-hour period.

The WPL is intended to be assessed as a time-weighted average for a conventional 8-hour workday and a 40-hour week. This WPL represents a concentration to which it is believed that virtually all workers may be repeatedly exposed, day after day, without adverse effect. CDC recommends that the WPLs be implemented in conjunction with the medical surveillance provisions and other requirements defined in Department of Army Pamphlets 40–173 and 40–8 or successive documents (5,6).

Note: The proposed risk assessment methodology derives exposure limits below concentrations where any acute or chronic effects would be expected to occur. The existing and proposed exposure limits are intended to protect workers and the public from potentially adverse effects from short-term or long-term exposure to GA, GB, and VX. The existence of potential adverse health effects resulting from long-term, low-dose exposure to these agents has not been demonstrated clearly.

Now, 13 years later, CDC is re-evaluating the limits for GA, GB, VX, and mustard based on the latest risk assessment models and any updated scientific data. On August 23–24, 2000, CDC convened a public meeting in Atlanta, Georgia, where outside scientists joined CDC scientists to discuss the exposure limits for GA, GB, and VX. The re-evaluation consisted of lengthy review of all available information about the agents, including some information previously classified by allied nations, and therefore, are unavailable for the open review process used by CDC in the past. A public meeting to discuss the exposure limits for mustard was held on September 11–12, 2001. The proposed mustard exposure limits will be presented in a separate **Federal Register** announcement. The L stockpile is relatively small and located at only one storage site; therefore, revisions to the exposure limits for L are not being considered at the present time.

II. Approach and Methodology

A. Purpose of the Public Meeting

The purpose of the public meeting was to discuss the airborne exposure limits for GA, GB, and VX recently proposed by the US Army. Attendees at the August 23–24, 2000, public meeting convened by CDC included risk assessors, toxicologists, physicians, a veterinarian, and several chemists. These experts were from universities, state environmental agencies, and non-CDC federal agencies. The scientific experts were asked whether or not there was a need to modify exposure limits to reflect current risk assessment methodologies and any newly available data. The meeting agenda included the following:

- Presentations on risk assessment models and scientific data and recommended modifications to existing exposure limits based on comments from individual scientific experts,
- Panel discussions by scientific experts, and
- Discussions of the technical feasibility to monitor at proposed modified exposure limits by air monitoring experts.

The meeting was not held as a federal advisory committee; therefore, CDC did not seek unanimity or consensus; take votes; or rely solely on the attendees to formulate federal policy. Statements by members of the working group, which are included in this **Federal Register** notice, represent only one part of the information considered by CDC. The experts attended the meeting solely to provide their individual expert advice to CDC and the public for consideration.

B. Method for Deriving Exposure Limit Criteria

The EPA risk assessment approach, which was used in this assessment, is used to extrapolate potential biological effects in humans at low-level exposures where such epidemiologic or toxicologic data are not directly available. This method for deriving exposure criteria has evolved over 30 years. This evaluation's approach was based on guidance described in an EPA publication (7). The derivation of a non-cancer exposure criteria involve the following:

- Defining the critical adverse effect (which is assumed protective for all other, often more serious, effects);
- Selecting the most appropriate animal or human study or studies, if more than one yields the same end point, to serve as the basis for a limit;
- Establishing a threshold dose below which adverse health effects are not expected to occur or are extremely unlikely; and
- Defining appropriate uncertainty factors (UFs) to apply to the threshold dose.

In selecting a study, a no-observed-effect-level (NOEL)—a product of concentration and time (Ct) at which subjects showed no detectable effects-or a no-observed-adverse-effect-level (NOAEL)—a Ct at which subjects showed no detectable harmful effects—is preferred over a lowest-observed-effect-level (LOEL) or a lowest-observed-adverse-effect-level (LOAEL)—the lowest Ct at which an effect or adverse effect was seen. Studies of human responses generally are preferred over studies on laboratory animals. Such preferences are not rigid; the number of subjects and technical aspects of how the study was conducted play an important role.

As many as five uncertainty factors and one modifying factor may be applied to the selected exposure dose, which is usually a NOAEL or LOAEL (7,8). They are UF_H (heterogeneity of susceptibility within human

populations), UF_A (animal to human extrapolation), UF_S (subchronic to chronic exposure extrapolation), UF_L (LOAEL to NOAEL extrapolation), UF_D (database incomplete), and MF (modifying factors). By convention, these factors assume values of 1, 3, or 10 and are multiplied together to yield an overall uncertainty factor. The observed Ct product (LOAEL or NOAEL) is divided by the overall UF and then adjusted for duration of exposure (40 hours per week for workers and 168 hours per week for the general population). This basic method was applied by EPA to many common toxicants to establish chronic reference doses for human exposure. In summary, the general equation for deriving the WPL would be as follows:

$$\mathrm{WPL} = \frac{\mathrm{LOAEL}_{\mathrm{inhal}} \times \mathrm{Resp}_{\mathrm{exptl}} \times \mathrm{Exp}_{\mathrm{exptl}}}{\mathrm{Resp}_{\mathrm{occup}} \times \mathrm{Exp}_{\mathrm{occup}}} \times \frac{1}{\mathrm{UFs} \times \mathrm{MF}}$$

WPL = Worker population limit
$LOAEL_{inhal}$= Lowest observed adverse effect level (if available, use no observed adverse effect level)
$Resp_{exptl}$ = Experimental subject minute volume
$Resp_{occup}$ = Occupational minute volume
Exp_{occup} = Occupational exposure time (480 minutes/day x 5 days)
Exp_{exptl} = Experimental exposure time
UFs = Uncertainty factors
MF = Modifying factor

The GPL would be derived in an analogous manner, adjusting for continuous exposure, differences in assumed respiratory rates, and possible differences in application of certain UFs.

The exposure criteria resulting from this risk assessment approach should be evaluated in context with the uncertainties and default assumptions used in the risk assessment approach. One of the uncertainties that needs to be considered is the ''order-of-magnitude'' imprecision associated with the exposure criteria estimate (8). From a purely mathematical standpoint, this refers to a $\log_{10}$ interval around the exposure criteria estimate (i.e., approximately threefold above and below). It is important to recognize that this imprecision includes only the statistical uncertainty in interpreting the underlying data. Uncertainties inherent in the choice of the model to conduct the extrapolation are potentially far larger and cannot be quantified easily. Research into specific areas of uncertainty associated with the EPA methodology has been reported. Most studies support the belief that the uncertainty factors described above provide estimates that are protective or err toward lower limits (9). That is, the composite uncertainty factor tends to result in an estimate of the dose (or exposure limit) that is likely not to cause adverse health effects.

III. Presentations at the Public Meeting

A. U.S. Army Proposal

The U.S. Army completed reviews of exposure limits for G-agents and VX and suggested lowering the GPL for one of the agents (10,11). (See Table 2.) The Army's proposals decreased the GPL for VX by one order of magnitude, from 3×10^{-6} milligrams per cubic meter air (mg/m^3) to 3×10^{-7} mg/m^3, and decreased the averaging time from 72 hours to 24 hours.

TABLE 2.—U.S. ARMY-PROPOSED EXPOSURE LIMITS

[All values expressed as milligrams per cubic meter air [mg/m^3]]

Agent		General population limit (GPL)	Worker population limit (WPL)	Short-term exposure limit (STEL) ‡	Immediately dangerous to life and Health (IDLH) ‡
GA, GB	Proposed	0.000003 ($3x10^{-6}$) †	0.0001 ($1x10^{-4}$)	0.0004 ($4x10^{-4}$)**	0.1 ($1x10^{-1}$).
VX	Proposed	0.0000003 ($3x10^{-7}$)†	0.00001 ($1x10^{-5}$)	0.00004 ($4x10^{-5}$)	0.01 ($1x10^{-2}$).
GD	Proposed	0.000001 ($1x10^{-6}$)†	0.00003 ($3x10^{-5}$)	0.001 ($1x10^{-3}$)**	0.05 ($5x10^{-2}$).
GF	Proposed	0.000001 ($1x10^{-6}$)†	0.00003 ($3x10^{-5}$)	0.001 ($1x10^{-3}$)**	0.05 ($5x10^{-2}$).
Averaging time	24 hours	8 hours	15 min, 4x/day	30 miyn..	

†24-hour time-weighted average.
** 8-hour time-weighted average worker limit may not be exceeded.

The U.S. Army proposed exposure limits for agents GD (Soman, O-pinacolyl-methylphosphonofluoridate, CAS 96–64–0) and GF (O-cyclohexyl-methylphosphonofluoridate, CAS 329–99–7). These agents are not part of the U.S. stockpile, and neither transportation nor open-air testing is being considered for these agents. Therefore, they fall outside the scope of the DHHS/CDC mandate and were not considered in this process.

The U.S. Army-proposed WPL for GB, expressed as an 8-hour time-weighted average, is identical to the existing WPL but was derived from a different source. The proposed WPL was based on a human study conducted in 1949 by McKee and Woolcott, which yielded a LOAEL of 0.06 mg/m^3, 20 minutes/day for 4 days per week (12). Proposed uncertainty factors were $UF_H = 1$, $UF_A = 1$, $UF_S = 10$, $UF_L = 3$, $UF_D = 1$, MF = 1 for an overall uncertainty factor of 30. Adjusting for differences in breathing rates and exposure durations yielded 3.3×10^{-5} mg/m^3, expressed as an 8-hour time-weighted average. This differs from the existing limit, 1×10^{-4} mg/m^3 by a factor of 3. The U.S. Army authors concluded that the methodology was not sufficiently precise to warrant a change from the existing limit to the newly calculated limit and proposed leaving the current limit unchanged. The same study was used as a basis for a GPL of 1.1×10^{-6} mg/m^3, which differed from the present GPL (3×10^{-6} mg/m^3) by a factor of 3 and was deemed within an acceptable uncertainty range.

The Army proposed a STEL of 0.0004 mg/m^3 for GB. The STEL is defined as a 15-minute time-weighted average exposure that should not be exceeded during the workday, even if the 8-hour WPL is not exceeded. Exposures up to the STEL should not be longer than 15 minutes and should not occur more than 4 times a day, and there should be at least 60 minutes between successive exposures in this range. The proposed STEL would have the effect of permitting four, 15-minute exposures per day up to 0.0004 mg/m^3 of GB or GA

with the added requirement that the 8-hour WPL may not be exceeded.

The Army proposed a value of 0.1 mg/m^3 as the immediately dangerous to life or health (IDLH) concentration for GB. The GB IDLH was based on an acute human toxicity study, and the value was calculated in accordance with National Institute for Occupational Safety and Health (NIOSH) guidance (10). The Army adjusted the IDLH down by a factor of 2 to address the female occupational worker population, which is potentially more sensitive than the male occupational worker population to GB vapor.

There are limited data on VX compared to some of the other G-agents, but the WPL recommendation was based on a relative potency estimate of 10 for pupillary constriction; so the Army-proposed WPL for VX is 1/10 of the corresponding value for GB or 1×10^{-5} mg/m^3, and the Army-proposed GPL is 3×10^{-7} mg/m^3. A STEL of 4×10^{-5} mg/m^3 for VX was proposed. The value was based ultimately on the WPL, such that four exposures per day at the STEL would not cause the WPL to be exceeded. The Army-proposed VX IDLH of 0.01 mg/m^3 was also determined using a relative potency estimate of 10.

B. Airborne Exposure Limits for GB

1. WPL for GB

The U.S. Army document served as the starting point for discussion at the public meeting (10). The expert panel members differed in their assessment of how best to derive limits from the available data. Most of the members thought that limits for GB should be based on the McKee and Woolcott study, which yielded a LOAEL of 0.06 mg/m^3 (12). However, one member was concerned about deriving long-term exposure limits from short-term experimental data, particularly when little long-term toxicity data are available.

One member noted that application of an interspecies uncertainty factor greater than 1 is unjustified when evidence suggests that the species studied is as sensitive or more sensitive than man. A calculation based on the Weimer animal data using an interspecies uncertainty factor of 1 would yield a GB WPL of 5×10^{-5} mg/m^3 (13). However, this member also thought that human studies should be given more weight and joined others in recommending a limit based on the McKee and Woolcott report (12). Another member argued for a limit of 4×10^{-6} mg/m^3 based on uncertainty factors of 10 for short-term to long-term extrapolation and 3 for interindividual variability. Yet another member argued that studies by Harvey and Johns would be better critical studies to utilize (14, 15). Working from these data would yield a 15-minute STEL of 0.008 mg/m^3 and a WPL for GB of 2.5×10^{-6} mg/m^3 after an eightfold adjustment for time of exposure and a tenfold adjustment for cumulative effect.

Four members recommended that if the U.S. Army-proposed derivation were used, CDC should accept the calculated exposure limit value (3.3×10^{-5} mg/m^3) rather than utilizing the rounded-up value 1×10^{-4} mg/m^3 that was recommended by the Army.

Several members speculated that information concerning human exposures during manufacture and disposal of GB could be more relevant than the studies cited. Unfortunately, records of environmental conditions from the time period GB was manufactured are not adequate to support such analysis. Conversely, worker and environmental monitoring records for recent GB demilitarization activities are well documented. However, engineering controls to prevent exposure have been rigorous; therefore, GB exposures have been very rare, have occurred primarily during maintenance operations, and have been minimal. Consequently, these data are not useful for developing exposure limits.

2. STEL for GB

The U.S. Army-proposed STEL was based on the WPL, such that four exposures per day at the STEL would not result in the WPL being exceeded. At the public meeting, the proposed STEL elicited considerable discussion. Several members of the expert panel thought that the Army-proposed STEL was too low numerically because of the method used to calculate it. Using the critical effect LOAEL, several experts recalculated a new value—a Temporary Excursion Limit (TEL). The TEL for GB was calculated to be 0.01 mg/m^3 for a 5-minute exposure not more than once per day.

3. General Population Limit for GB

The Army-proposed GPL for GB was based on the same study and the same method used for deriving the WPL. The GPL was calculated by adjusting for the longer time of exposure and greater population variability. The uncertainty factors were as follows: 10 for short-term to long-term extrapolation, 10 for variability among individuals, and 3 for low-effect to no-effect extrapolation. Three members of the working group thought the Army-proposed GPL was adequate. One thought that the proposed limits were probably at least tenfold lower than needed to protect public health. That is, the GPL could be at least tenfold greater and still be protective. The member who proposed a WPL of 2.5×10^{-5} mg/m^3 advised adding an uncertainty factor of 3 for variation within the population and an uncertainty factor of 3 for extrapolating from low-effect to no-effect yielding the proposed value 3×10^{-6} mg/m^3 but by a different line of reasoning. One member argued for a GPL of 1×10^{-6} mg/m^3, noting that using the lower value incorporated an uncertainty factor of 3 for variability within population. It was noted that the Johns data indicate that doses causing a given degree of pupillary constriction generally range over a factor of less than 2.0 from the geometric mean (that is, from about half the geometric mean to about twice the geometric mean), providing at least some evidence for small variability within human populations to this particular low-dose effect (15).

C. Airborne Exposure Limits for VX

Exposure limits for VX were more difficult for the experts to address because the experimental VX data were considered inadequate and do not form a good basis for VX exposure limits. Nonetheless, one of the working group members noted that the VX studies by Bramwell and Crook argue for a VX WPL of 4×10^{-7} mg/m^3 and 3×10^{-9} mg/m^3, respectively (16, 17). However, several panel members had scientific concerns about these studies. Regarding the Bramwell study, some panel members were concerned that benzene, which was used as a solvent in the VX generation, could alter the exposure characteristic of VX. As for the Crook study, the accuracy of the VX vapor concentrations was questioned.

Because the available experimental VX data were considered inadequate, the derivation of the exposure limit was based on the relative potency of VX as compared to GB. The exposure limits proposed by the Army are based on a tenfold difference (relative potency) in the ability of VX to cause miosis compared to GB. This tenfold potency difference was questioned because some publications stated that the potency difference may be twelvefold to thirty-threefold or higher, especially at low concentrations (18,19).

The Army's publication proposing VX exposure limits included little detail used in deriving the tenfold potency factor (11). However, discussion in a previous U.S. Army study indicated that recovery from the miosis effects of VX is about four times as fast as recovery from the effects of GB (19). According to

this publication, if VX potency is about twenty-five times greater than GB but the effective recovery is four times greater, the relative VX potency for continuous exposure would be approximately 25/4 that of GB. The overall factor of 10 is a approximation (rounding) of 25/4. Compared to GB, VX does not undergo a second, irreversible, reaction known as aging as quickly when it reacts with acetylcholinesterase; this may be one reason that the biological effects of VX exposure recover more quickly when compared to GB.

CDC notes that the EPA NAC/AEGL committee for VX recently proposed a relative potency of 12 with application of a modification factor of 3 for the incomplete VX data set. The potency factor of 12 was based on a 1971 British study that measured the ability of VX to cause 90% pupil constriction in rabbits (18). The application of a relative potency of 12 with a modifying factor of 3 for the inadequate VX data base effectively resulted in a relative potency of 36 (3×12) (20).

All experts would have preferred better, VX-specific data and would have preferred avoiding the use of relative potency, but four of the experts concurred with the use of an overall tenfold difference in relative potency for extrapolating from GB to VX. Given the preference of several experts for a GB WPL of 3×10^{-5} mg/m^3, that would call for a WPL of 3×10^{-6} mg/m^3 for VX rather than the 1×10^{-5} mg/m^3 that was proposed by the Army. Accordingly, preference by several experts for a GB GPL of 1×10^{-6} mg/m^3 would suggest a VX GPL of 1×10^{-7} mg/m^3.

D. CDC's Proposed Recommendations

1. Airborne Exposure Limits for GB

Noting the opinions of the experts at the public meeting, CDC proposes a change from the present exposure limit to the lower exposure limit derived from the McKee and Woolcott studies (12). CDC believes that the calculated WPL value of 3×10^{-5} mg/m^3, expressed as an 8-hour time weighted average, will protect workers from short-term or long-term health effect exposures for a working lifetime. The CDC-proposed WPL value, consistent with the calculation from this risk assessment, is approximately threefold lower than the Army-recommended value of 1×10^{-4} mg/m^3. CDC recognizes that the risk assessment methodology is imprecise, and quantitative differences in risk between exposure concentrations of less than an order of magnitude generally are not discernable. However, CDC could not identify relevant examples from other risk assessments where such rounding-up had been conducted. Additionally, since the ''calculated'' WPL was thought to be technically feasible and four experts at the public meeting recommended using the ''calculated'' values from the risk assessment, CDC proposes the 3×10^{-5} mg/m^3 as the WPL for GB.

In addition to the WPL, CDC recommends a STEL of 1×10^{-4} mg/m^3 to be used in conjunction with the WPL. The STEL is defined as a 15-minute time-weighted average exposure that should not be exceeded during the workday, even if the 8-hour WPL is not exceeded. Exposures up to the STEL should not be longer than 15 minutes and should not occur more than 4 times a day, and there should be at least 60 minutes between successive exposures in this range. The purpose of this value is to provide a reasonable limit to excursions over the WPL. The value associated with the STEL is numerically identical to the existing 8-hour time-weighted worker exposure limit.

CDC proposes 1×10^{-6} mg/m^3 as the GB GPL, expressed as a 24-hour time-weighted average. This GPL value, which is consistent with the calculation from the risk assessment, is threefold lower than the Army-recommended value and the current GPL. CDC believes current analytical methods can be modified to monitor at this new concentration.

The expert panel members did not focus on, or object to, the Army-proposed immediately dangerous to life or health (IDLH) value of 0.1 mg/m^3 for GB (10). Accordingly, CDC proposes an IDLH of 0.1 mg/m^3.

2. Airborne Exposure Limits for GA

Although not as well-studied, GA is approximately equal in potency to GB. The Army proposed, and members of the expert groups agreed, that it would be reasonable to use the same exposure limits for both. CDC proposes the same exposure limits (WPL, STEL, GPL, and IDLH) for GA as those recommended for GB.

3. Airborne Exposure Limits for VX

Since the toxicity data for VX are inadequate, CDC proposes derivation of the VX WPL, STEL, and GPL from the calculated exposure limits for GB, using a relative potency of 12 compared to GB and application of a modifying factor of 3 for the incomplete VX data set. This approach, which effectively results in a relative potency of 36, is the same as that recently proposed by the EPA NAC/AEGL committee (20). CDC proposes that the WPL for VX should be decreased to 1×10^{-6} mg/m^3 (a factor of 10 lower compared to the current value and the U.S. Army's recommendation). Additionally, CDC proposes VX STEL of 4×10^{-6} mg/m^3.

CDC proposes a VX GPL of 6×10^{-7} mg/m^3, expressed as a 24-hour time-weighted average. The VX GPL, derived from the GB GPL to which the relative potency of 12 and a modifying factor of 3 was applied, was initially calculated as 3×10^{-8} mg/m^3. However, currently available monitoring methods are unable to reliably detect VX at this concentration. CDC believes that reliable monitoring is a crucial aspect for implementing the exposure limits and therefore proposes to increase the GPL to a concentration that can reliably be monitored. The CDC proposes 6×10^{-7} mg/m^3 for the VX GPL, a value that is both protective and technically feasible to monitor.

The proposed VX GPL of 6×10^{-7} mg/m^3, used in conjunction with the existing perimeter montoring programs, will be protective because long-term releases of VX are unlikely. Routine maintenance and monitoring procedures implemented for worker safety near the potential sources of releases (where concentrations potentially would be higher than at the perimeter) prevent long-term releases. At demilitarization sites, perimeter monitoring results for 12-hour samples are typically available within 72 hours. Detections of chemical agent above the action level result in (1) an investigation to determine the source of the vapor and (2) corrective action to eliminate the source. In the derivation of the GPL in accordance with EPA methodology, the exposure period of the critical study is adjusted for a continuous 7-day exposure for the general population. The perimeter monitoring results at demilitarization sites are obtained within 72 hours (3 days) following sampling. To correct the assumption of continuous exposure for 7 days, a factor of 3 days potential exposure per 7 days was applied to the calculated VX GPL of 3×10^{-8} mg/m^3. Additionally, in the derivation of the GPL, an uncertainty factor of 10 was applied to extrapolate from sub-chronic to chronic exposures. Since a chronic exposure is unlikely, this extrapolation would not be needed. These calculations result in adjusting the initially calculated VX GPL of 3×10^{-10} mg/m^3 to 6×10^{-7} and support the conclusion that the proposed GPL of 6×10^{-7} is protective of human health. This adjustment of the VX GPL was made in acknowledgment of the technical limitations of current air monitoring methods, while assuring that the GPL would be protective of public health.

The expert group members did not object to the Army-proposed IDLH values for VX (0.01 mg/m^3), although there was little specific discussion among the panel. In accordance with relative potency approach used for WPL and GPL (potency factor of 12 with a modifying factor of 3), CDC proposes a VX IDLH of 0.003 mg/m^3.

4. Proposed Implementation of the VX GPL

Current data suggest that air monitoring at the proposed VX GPL concentration is on the fringe of technical feasibility for current methods. CDC investigated this issue with representatives from NIOSH, the U.S. Army, and other independent consultants. CDC representatives heard compelling evidence that current VX air monitoring methods may need further development. At the proposed VX GPL, the mass of other ambient organic materials normally found in the air (background chemicals) will greatly exceed the mass of VX to be measured. These background materials cause analytical problems in discerning and quantifying VX.

Halting disposal until improved monitoring methodology can be developed presents at least three grave problems:

a. There is greater cumulative risk from continued storage compared to continued disposal under the existing exposure limits.

b. The desired level of sensitivity and selectivity may not be easily attainable.

c. The United States has treaty obligations to complete the disposal within a specified time.

Inasmuch as delay in disposal presents an unacceptable risk to public health and safety, CDC proposes the following interim measures regarding monitoring at the proposed VX GPL:

a. CDC proposes a multifaceted research program to look at commercially available systems that have the potential to improve air monitoring at the proposed VX GPL. Further, CDC recommends that the Army use one or more Ph.D.-level analytical chemist(s) who have air monitoring experience to direct this program.

b. CDC proposes suspension of the 20% action level for the VX GPL until the monitoring methodology can be improved.

c. For all demilitarization sites handling VX, CDC proposes that all qualitative responses above a 3:1 signal-to-noise ratio for VX from perimeter stations be evaluated (i.e., those that are below the limit of quantification for VX). When VX is qualitatively detected, action should be taken to investigate the possible sources of these responses.

E. Summary of Proposed Recommendations

CDC's foremost concern is protecting human health and safety. This concern requires a carefully considered balance of utilizing best possible risk analysis while considering technical feasibility and avoiding unintended consequences of recommendations that could increase total risk. CDC's recommendations are made with this balance in mind.

CDC proposes adjustments to the exposure limits for GA, GB, and VX to the values shown in Table 3.

TABLE 3.—DC CURRENT AND PROPOSED AIRBORNE EXPOSURE LIMITS

[All values expressed as milligrams per cubic meter air [mg/m^3]

Agent	General population limit* (GPL)		Worker population limit** (WPL)	Worker short-term exposure limit*** (STEL)	Immediately dangerous to life or health*** (IDLH)
GA, GB	Current proposed	3×10^{-6}	1×10^{-4}		
		1×10^{-6}	†3×10^{-5}	1×10^{-4}	0.1
VX	Current proposed	3×10^{-6}	1×10^{-5}		
		6×10^{-7}	‡1×10^{-6}	4×10^{-6}	0.003

* 24-hour time-weighted average. For the VX GPL, analyses of sample results within 72 hours is required.
** 8-hour time-weighted average.
† To be implemented in conjunction with the GB STEL.
‡ To be implemented in conjunction with a VX STEL.
*** Not previously considered by CDC.

Acknowledging the gaps in the database for VX, CDC considers the proposed VX exposure limits subject to re-evaluation in 3 years. New VX toxicity studies, which are anticipated to be completed within 3 years, have been recommended recently by the EPA NAC/AEGL Committee. CDC agrees that additional toxicity studies could be helpful in the derivation of exposure limits for VX.

CDC does not specifically recommend the use of these airborne exposure limits for uses other than transportation, demilitarization, or general population protection. For example, the 8-hour WPL value historically has been used for the Army-designated 3X decontamination, surveillance activities of leakers in storage, and charcoal unit mid-beds. CDC believes that the WPL is not necessarily applicable to all these activities, and the specific technical and safety requirements for each activity need to be considered individually.

The allowable limits for stack emissions were not discussed at the meeting. The allowable stack concentration (ASC) is a ceiling value that serves as a source emission limit and not as a health standard. It is used for monitoring the furnace ducts and common stack. The ASC provides an early indication of an upset condition and must be measurable in a timely manner. Modeling of worst-case credible events and conditions at each installation should confirm that the GPL monitoring level is not exceeded at the installation boundary as a consequence of a release at or below the ASC. Lowering the GPL might have the effect of lowering the stack concentration limit; therefore, modeling will need to be conducted to determine if the existing ASCs continue to be appropriate.

Dated: January 2, 2002.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–10001]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare and Medicaid Services.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA)), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* HIPAA Nondiscrimination Provisions; *Form No.:* CMS–10001 (OMB# 0938–0827); *Use:* Self-funded nongovernmental plans are required to give individuals who were previously discriminated against an opportunity to enroll, including notice of an opportunity to enroll; *Frequency:* Once; *Affected Public:* Business or other for-profit, not-for-profit institutions, Individuals or households, State, local, or tribal government; *Number of Respondents:* 583; *Total Annual Responses:* 583; *Total Annual Hours:* 200.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS's Web Site address at *http://www.hcfa.gov/regs/prdact95.htm*, or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@hcfa.gov*, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the CMS Paperwork Clearance Officer designated at the following address: CMS, Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards, Attention: Julie Brown, CMS 10001, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: December 20, 2001.

Julie E. Brown,

Acting Reports Clearance Officer, Security and Standards Group, Division of CMS Enterprise Standards.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–P–0015SPA, CMS–250 through 254, CMS–10008, and CMS–287]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare and Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA)), Department of Health and Human Services, is publishing the

following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

(1) *Type of Information Collection Request:* New Collection; *Title of Information Collection:* Medicare Current Beneficiary Survey—Supplement on Patient Activation; *Form No.:* CMS–P–0015SPA (OMB# 0938–NEW); *Use:* A primary theme of the NMEP education efforts has been to help Medicare beneficiaries make choices. Simply providing uniform information to an undifferentiated audience is not sufficient. CMS needs to know whether beneficiaries have the communication skills, motivation and basic knowledge of their own health status to be partners in their own health care. The purpose of this survey supplement is to assess the degree to which Medicare beneficiaries participate actively in their own health care decisions; *Frequency:* Annually; *Affected Public:* Individuals or Households; *Number of Respondents:* 16,000; *Total Annual Responses:* 16,000; *Total Annual Hours:* 2,666.

(2) *Type of Information Request:* Revision of a currently approved collection; *Title of Information Collection:* Medicare Secondary Payer Information Collection and Supporting Regulations in 42 CFR 411.25, 489.2, and 489.20; *Form Number:* CMS–250 through CMS–254 (OMB# 0938–0214); *Use:* Medicare Secondary Payer (MSP) is essentially the same concept known in the private insurance industry as coordination of benefits and refers to those situations where Medicare does not have primary responsibility for paying the medical expenses of a Medicare beneficiary. CMS contracts with health insuring organizations, herein referred to as intermediaries and carriers, to process Medicare claims. CMS charges its Medicare intermediaries and carriers with various tasks to detect MSP cases; develops and disseminates tools to enable them to better perform their tasks; and monitors their performance in achievement of their assigned MSP functions. Because intermediaries and carriers are also marketing health insurance products that may have liability when Medicare is secondary, the MSP provisions create the potential for conflict of interest. Recognizing this inherent conflict, CMS has taken steps to ensure that its intermediaries and carriers process claims in accordance with the MSP provisions, regardless of what other insurer is primary.

These information collection requirements describe the MSP requirements and consist of the following:

1. Initial enrollment questionnaire;

2. MSP claims investigation, which consists of first claim development, trauma code development, self-reporting MSP liability development, notice to responsible third party development (411.25 notice), secondary claims development, and ''08'' development (involving claims where information cannot be obtained from the beneficiary);

3. Provider MSP development, which requires the provider to request information from the beneficiary or representative during admission and other encounters; *Frequency:* On occasion; *Affected Public:* Individuals or households, Business or other for-profit, and Not-for-profit institutions; *Number of Respondents:* 867,867,540; *Total Annual Responses:* 867,863,540; *Total Annual Hours Requested:* 2,926,254.

(3) *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Recognition of Pass-Through Payment for Drugs and Biologicals Under the Outpatient Prospective Payment System and Supporting Regulations in 42 CFR, Section 419.43 formerly known as ''Recognition of New Technology/Pass-Through Items Under the Prospective Payment System for Hospital Outpatient Services''; *Form No.:* CMS–10008 (OMB# 0938–0802); *Use:* This information is necessary to determine items eligible for payment as new technology within the ambulatory payment classification (APC) system as well as items eligible for the transitional pass-through payment provision as required by section 201 of the BBRA. This collection will enable CMS to implement those special payment provisions; *Frequency:* On Occasion; *Affected Public:* Business or other for-profit; *Number of Respondents:* 55; *Total Annual Responses:* 55; *Total Annual Hours:* 193.

(4) *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Home Office Cost Statement and Supporting Regulations in 42 CFR 413.17 and 413.20; *Form No.:* CMS–287 (OMB# 0938–0202); *Use:* Medicare law permits components of chain organizations to be reimbursed for certain costs incurred by the chain home offices. The Home Office Cost Statement is required by the fiscal intermediary to verify Home Office Costs claimed by the components. *Frequency:* Annually; *Affected Public:* Not-for-profit institutions and Business or other for-profit; *Number of Respondents:* 1,231; *Total Annual Responses:* 1,231; *Total Annual Hours Requested:* 573,646.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS's Web site address at *http://www.hcfa.gov/regs/prdact95.htm,* or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@hcfa.gov,* or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the CMS Paperwork Clearance Officer designated at the following address: CMS, Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards, Attention: Dawn Willinghan, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: December 20, 2001.

Julie Brown,

Acting, Reports Clearance Officer, Security and Standards Group, Division of CMS Enterprise Standards.

[FR Doc. 02–423 Filed 1–7–02; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–R–283]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare and Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA)), Department of Health and Human Services, is publishing the following summary of proposed

collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* Market Survey of Fraud, Waste and Abuse Detection Software; *Form No.:* CMS–R–0283 (OMB# 0938–0783); *Use:* This information collection tool is essential to providing the Centers for Medicare and Medicaid Services (CMS) a vehicle to ascertain cutting edge fraud, waste, and abuse detection products. CMS and its contractors presently use a number of these tools, as do other segments of government, the health care industry, and industry generally. New products taking advantage of new technologies are in continuous development. This completely voluntary survey will ensure that CMS is vigilant in identifying new advances to help fight the scourge of Medicare fraud and abuse; *Frequency:* Annually; *Affected Public:* Business or other for profit, and Not for profit institutions; *Number of Respondents:* 200; *Total Annual Responses:* 250; *Total Annual Hours:* 500.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the CMS Paperwork Clearance Officer designated at the following address: CMS, Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards, Attention: Julie Brown, CMS 10001, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: December 20, 2001.

Julie Brown,

Acting Reports Clearance Officer, Security and Standards Group, Division of CMS Enterprise Standards.

[FR Doc. 02–424 Filed 1–7–02; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–R–273 and CMS–2088]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare and Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency=s functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

(1) *Type of Information Collection Request:* Revision of a currently approved collection. *Title of Information Collection:* Site Visit Assessment Tool (previously known as Community Mental Health Center Site Visit Assessment Tool) and Supporting Regulations in 42 CFR 410.2. *Form No.:* CMS–R–0273 (OMB# 0938–0770). *Use:* This information collection tool is essential for CMS to ensure that new and existing Community Mental Health Centers (CMHC) are in compliance with Medicare provider requirements, as well as applicable Federal and State requirements. This revision is requested to implement the collection of information required by the Benefit Improvement and Protection Act of 2000 regarding the CMHC's provision of pre-admission screening to State mental health facilities and to expand the collection tool's use into other program areas as a means to screen applicants, enrollees, and existing providers/suppliers to ensure their legitimacy to participate in the Medicare program. *Frequency:* Upon initial application or re-enrollment into the Medicare program. *Affected Public:* Business or other for profit, Not for profit institutions, and state, local, or tribal Government. *Number of Respondents:* 4,550; *Total Annual Responses:* 4,550. *Total Annual Hours:* 17,400.

(2) *Type of Information Collection Request:* Extension of a currently approved collection. *Title of Information Collection:* Outpatient Rehabilitation Cost Report and Supporting Regulations in 42 CFR 413.20 and 413.24. *Form No.:* CMS–2088. *Use:* This form is used by Outpatient Rehabilitation Facilities to report their health care costs to determine the amount reimbursable for services furnished to Medicare beneficiaries. *Frequency:* Annually. *Affected Public:* Business or other for-profit, Not-for-profit institutions, and state, local or tribal government. *Number of Respondents:* 716. *Total Annual Responses:* 716. *Total Annual Hours:* 71,600.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web site address at *http://www.hcfa.gov/regs/prdact95.htm*, or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@hcfa.gov,* or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Allison Herron Eydt, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: December 20, 2001.

Julie Brown,

Acting, CMS Reports Clearance Officer, CMS Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards.

[FR Doc. 02–425 Filed 1–7–02; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–R–0148]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare and Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection. *Title of Information Collection:* Limitation on Provider-Related Donations and Health Care-Related Taxes; Limitations on Payments to Disproportionate Share Hospitals; Medicaid and Supporting Regulations in 42 CFR 433.68, 433.74, 447.74 and 447.272; *Form No.:* HCFA–R–148 (OMB#0938–0618); *Use:* These information collection requirements specify limitations on the amount of Federal financial participation available for medical assistance expenditures in a fiscal year. States receive donated funds from providers and revenues are generated by health care related taxes. These donations and revenues are used to fund medical assistance programs; *Frequency:* Quarterly; *Affected Public:* State, Local, or Tribal Government; *Number of Respondents:* 50; *Total Annual Responses:* 40; *Total Annual Hours:* 2,880.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web Site address at *http://www.hcfa.gov/regs/prdact95.htm,* or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@hcfa.gov*, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Brenda Aguilar, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: December 27, 2001.

Julie Brown,

Acting CMS Reports Clearance Officer, CMS Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards.

[FR Doc. 02–426 Filed 1–7–02; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Library of Medicine Special Emphasis Panel, Site Visit MMR B J2.

Date: January 6–8, 2002.

Time: January 6, 2002, 7 pm to 9 pm.

Agenda: To review and evaluate grant applications (Pre-Site Visit Meeting).

Place: Univ. of Florida Doubletree Hotel & Conf. Center, 1714 SW 34th Street, Gainesville, FL 32607.

Time: January 7, 2002, 7 am to 5 pm.

Agenda: To review and evaluate grant applications.

Place: University of Florida, Gainesville, FL 32610.

Time: January 7, 2002, 7 am to 8 pm.

Agenda: To review and evaluate grant applications (Post-Site Visit Meeting).

Place: Univ. of Florida Doubletree Hotel & Conf. Center, 1714 SW 34th Street, Gainesville, FL 32607.

Time: January 8, 2002, 8 am to 12 pm.

Agenda: To review and evaluate grant applications (Post-Site Visit Meeting).

Place: Univ. of Florida Doubletree Hotel & Conf. Center, 1714 SW 34th Street, Gainesville, FL 32607.

Contact Person: Merlyn M. Rodrigues, MD, PhD, Medical Officer/SRA, National Library of Medicine, Extramural Programs, 6705 Rockledge Drive, Suite 301, Bethesda, MD 20894.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: December 28, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–475 Filed 1–7–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

National Park Service

Record of Decision; Final Environmental Impact Statement; General Management Plan; Washita Battlefield National Historic Site, Oklahoma

Introduction

The Department of the Interior, National Park Service (NPS), has prepared this Record of Decision (ROD) on the Final General Management Plan/Environmental Impact Statement for Washita Battlefield National Historic Site, Oklahoma. This ROD includes a statement of the decision made, synopses of other alternatives considered, the basis for the decision, a description of the environmentally preferable alternative, a discussion of impairment of park resources or values, a listing of measures to minimize environmental harm, and an overview of public involvement in the decision-making process.

Decision (Selected Action)

The National Park Service will implement the preferred alternative as described in the Final General Management Plan/Environmental Impact Statement issued in August 2001. Under the selected action, park managers will make several changes to in order to provide a better visitor experience and protect the resource values at Washita Battlefield National Historic Site. The site will be zoned to ensure that resources are protected and opportunities exist to provide a quality

visitor experience. Most of the site (about 90%) will be restored to native vegetation as directed by the site's enabling legislation. A new loop trail system will allow visitors to access the site. At the US Forest Service's Black Kettle National Grassland ranger station a shared administrative, maintenance, visitor facility will be constructed. The existing overlook will be redesigned to provide a better interpretive experience for the visitor.

Other Alternatives Considered

Three other alternatives for managing Washita Battlefield National Historic Site were evaluated in the draft and final environmental impact statements.

The no-action alternative provides a baseline for evaluating the changes and impacts of the three action alternatives. Under the no-action alternative, park managers would continue to manage the park as it is currently managed, relying on the interim plans and other related existing plans. No new construction or major changes would take place, except for previously approved developments. All of the park's existing facilities would continue to be operated and maintained as they are currently.

Alternative A would provide a new administrative, maintenance and visitor facility at the US Forest Service's Black Kettle National Grassland. There would not be any trail access down onto the site. However, the overlook would be redesigned to provide for better interpretation of the site.

Alternative B would provide visitors with an onsite learning experience with an administrative, maintenance, and visitor facility on site. A loop trail would cross the river and return to the visitor area. The overlook would also be redesigned under this alternative.

Basis for Decision

The Organic Act established the National Park Service in order to ''promote and regulate the use of parks.* * *'' The Organic Act defined the purpose of the national parks as ''to conserve the scenery and natural and historic objects and wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.'' The Organic Act provides overall guidance for the management of Washita Battlefield National Historic Site.

In reaching its decision to select the preferred alternative, the National Park Service considered the purposes for which Washita Battlefield National Historic Site was established, and other laws and policies that apply to lands at Washita Battlefield National Historic Site, including the Organic Act, National Environmental Policy Act, and the NPS Management Policies. The National Park Service also carefully considered public comments received during the planning process.

Each alternative in the General Management Plan presents a different framework for managing Washita Battlefield National Historic Site. As a result, each alternative would have different impacts on park resources and visitors.

Compared to all of the alternatives considered, the preferred alternative (selected action) best accomplishes protection of park resources while providing of a range of quality visitor experiences. The preferred alternative would have both beneficial and adverse impacts on the park's resources, but most of the adverse impacts would be minor and localized. The new management zones would help ensure that opportunities exist for experiencing education and solitude for the visitor while protecting the site's cultural and natural resource values.

The preferred alternative provides the visitors with a better experience than Alternative A by allowing trail access down onto the site.

Compared to alternative B, the preferred alternative would result in far fewer adverse impacts on the cultural and natural resources of the site by having the major facility located off site. Unlike the preferred alternative, under Alternative B there would be the potential for moderate adverse impacts to the park resource values.

Environmentally Preferable Alternative

Records of decision are required under Council on Environmental Quality regulations to identify the environmentally preferable alternative. Environmentally preferable is defined as ''the alternative that will promote the national environmental policy as expressed in section 101 of the National Environmental Policy Act. Section 101 states that ''* * * it is the continuing responsibility of the Federal Government to * * * (1) fulfill the responsibilities of each generation as trustee of the environment for succeeding generations; (2) assure for all Americans safe, healthful, productive, and aesthetically and culturally pleasing surroundings; (3) attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences; (4) preserve important historic, cultural, and natural aspects of our national heritage, and maintain, wherever possible, an environment which supports diversity, and variety of individual choice; (5) achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and (6) enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.''

The environmentally preferable alternative is the NPS preferred alternative in the Final Washita Battlefield National Historic Site General Management Plan/ Environmental Impact Statement because it surpasses the other alternatives in realizing the full range of national environmental policy goals in section 101. This alternative provides a high level of protection of natural and cultural resources while concurrently providing for a wide range of neutral and beneficial uses of the environment. The alternative maintains an environment that supports a diversity and variety of individual choices. Also it integrates resource protection with an appropriate range of visitor uses.

The no-action alternative does not provide as much resource protection as the preferred alternative. Adverse visitor experience impacts also would likely increase under this alternative. Thus, compared to the preferred alternative, the no-action alternative is not as effective at meeting national environmental policy goals 3 (attain the widest range of beneficial uses of the environment without degradation), 4 (preserve important cultural and natural aspects and maintain an environment that supports diversity and variety of individual choice), 5 (achieve a balance between population and resource use), and 6 (enhance the quality of renewable resources).

Although alternative A provides a higher level of resource protection than the preferred alternative, it restricts visitor experiences and thus does not fully achieve goals 3 (providing the widest range of beneficial uses of the environment without degradation) and 5 (achieving a balance between population and resource use)—alternative A does not realize these national environmental policy goals to the same extent as the preferred alternative.

Alternative B does provide for more localized visitor experiences and access to the site. However, there would be a higher potential for adverse impacts to cultural and natural resources under this alternative compared to the preferred alternative. Thus, alternative B does not meet policy goals 3 (attain the widest range of beneficial uses without degradation), 4 (preserve important cultural and natural aspects), and 6

(enhance the quality of renewable resources) to the same degree as the preferred alternative.

Findings on Impairment of Park Resources and Values

The National Park Service may not allow the impairment of park resources and values unless directly and specifically provided for by legislation or proclamation establishing the park. Impairment that is prohibited by the NPS Organic Act and the General Authorities Act is an impact that, in the professional judgment of the responsible NPS manager, would harm the integrity of park resources or values, including the opportunities that otherwise would be present for the enjoyment of those resources or values. In determining whether an impairment would occur, park managers examine the duration, severity and magnitude of the impact; the resources and values affected; and direct, indirect, and cumulative effects of the action. According to NPS policy, ''An impact would be more likely to constitute an impairment to the extent that it affects a resource or value whose conservation is: (a) Necessary to fulfill specific purposes identified in the establishing legislation or proclamation of the park; (b) Key to the natural or cultural integrity of the park or to opportunities for enjoyment of the park; or (c) Identified as a goal in the park's general management plan or other relevant NPS planning documents.''

This policy does not prohibit all impacts to park resources and values. The National Park Service has the discretion to allow impacts to park resources and values when necessary and appropriate to fulfill the purposes of a park, so long as the impacts do not constitute an impairment.

Moreover, an impact is less likely to constitute an impairment if it is an unavoidable result, which cannot be further mitigated, of an action necessary to preserve or restore the integrity of park resources or values.

After analyzing the environmental impacts described in the Final General Management Plan/Environmental Impact Statement and public comments received, the National Park Service has determined that implementation of the preferred alternative will not constitute an impairment to Washita Battlefield National Historic Site's resources and values. The actions comprising the preferred alternative are intended to protect and enhance the park's natural and cultural resources, and provide for high-quality visitor experiences. Overall, the alternative would have minor, beneficial effects on such resources as cultural landscapes, ethnography and park collections; and a moderate, beneficial effect on visitor experience. From an overall, parkwide perspective, no major adverse impacts to the park's resources or the range of visitor experiences and no irreversible commitments of resources (other than a small loss of soil) would be expected. While the alternative would have some adverse effects on park resources and visitor experiences, most of these impacts would be site-specific, minor to moderate, short-term impacts.

Measures To Minimize Environmental Harm

Measures to avoid or minimize environmental harm that could result from implementation of the selected action have been identified and incorporated into the preferred alternative and are described in detail in the Final General Management Plan/ Environmental Impact Statement. Cultural and natural resource mitigation measures are described in the ''Alternatives'' chapter, the description of the preferred alternative, and in the analysis of environmental impacts. Measures to minimize environmental harm include, but are not limited to: tribal consultations; siting projects and facilities in previously disturbed or developed locations; employing erosion control measures, restoration of habitats using native plant materials; visitor education programs, ranger patrols, erecting barriers and signs to reduce or prevent impacts; allowing only the use of weed-free materials and equipment in the park; conducting visitor surveys and monitoring visitor use patterns; monitoring changes in the condition of natural and cultural resources; monitoring construction activities; and consulting with the Oklahoma Historical Society, office of the state historic preservation officer and U.S. Fish and Wildlife Service when appropriate.

Public Involvement

The National Park Service provided numerous opportunities for the public to participate in the Washita Battlefield National Historic Site general management planning process. The planning team primarily used newsletters and public meetings to solicit public comments and suggestions for the plan. During the course of the planning process two newsletters were sent to the site's mailing list, which consisted of over 400 names. Each of the newsletters provided the opportunity for feedback and comments from the public. The planning team held three sets of public meetings to gain public input during scoping, preliminary alternatives development and the draft plan public review. In addition, members of the planning team consulted with and sought the views of several agencies and governments, including the Southern Cheyenne and Arapaho tribes, Northern Cheyenne, Apache, Wichita tribes, the Bureau of Indian Affairs, U.S. Fish and Wildlife Service, US Forest Service, and the Oklahoma Historical Society.

The comment period on the draft plan initially ran from February 15, 2001, through May 20, 2001. A notice of availability was published in the March 20, 2001, **Federal Register**. The planning team held six public meetings on the draft environmental impact statement from March 27 through March 30, 2001. Meetings were held in Anadarko, Concho, Clinton, and Cheyenne, Oklahoma. About fifteen separate written responses were received during the comment period.

Two individuals commented on the Final General Management Plan/ Environmental Impact Statement during the 30-day no-action period. No new substantive issues were raised in the two comment letters.

The notice of availability for the final environmental impact statement was published in the September 21, 2001 **Federal Register**. The 30-day ''no action'' period ended on October 15, 2001.

Conclusion

Among the alternatives considered, the preferred alternative best protects the diversity of park resources while also maintaining a range of quality visitor experiences, meets NPS purposes and goals for managing Washita Battlefield National Historic Site, and meets national environmental policy goals. The preferred alternative would not result in the impairment of park resources and would allow the National Park Service to conserve park resources and provide for their enjoyment by visitors. The officials responsible for implementing the selected alternative are the Director, Intermountain Region, and the Superintendent, Washita Battlefield National Historic Site.

Dated: November 6, 2001.

John T. Crowley,

Acting Director, Intermountain Region, National Park Service.

[FR Doc. 02–380 Filed 1–7–02; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Urban Park and Recreation Recovery Program

AGENCY: National Park Service, Interior.

ACTION: Notice of FY 2002 grant round—UPARR Rehabilitation grants.

SUMMARY: This notice announces the availability of grant funds under the Rehabilitation phase of the Urban Park and Recreation Recovery (UPARR) Program and provides information on the application process including eligible recipients and deadlines for submission of proposals.

DATES: NPS will accept preapplications received on or before March 29, 2002.

ADDRESSES: See **SUPPLEMENTARY INFORMATION** section for NPS addresses.

FOR FURTHER INFORMATION CONTACT: Michael D. Wilson, Chief, Recreation Programs Division, or Wayne Strum, National Park Service, Department of the Interior, 1849 ''C'' Street, NW., Washington, DC 20240; (202) 565–1200.

SUPPLEMENTARY INFORMATION: For Fiscal Year 2002, $28,900,000 is available for funding of Rehabilitation projects under the Urban Park and Recreation Recovery Act of 1978 (Pub. L. 95–625). NPS will consider proposals for funding projects with a dollar limit of $1 million (Federal share of total project cost). Grants made in any one State shall not exceed in the aggregate 15 percent of the total available ($4,335,000). Preapplications must be received by the appropriate NPS field office by no later than March 29, 2002.

In order to minimize errors and to clarify program requirements, potential applicants are strongly encouraged to consult with the NPS field office during preparation of their proposals and to submit their preapplications prior to the above deadline.

Rehabilitation grants will be targeted to rehabilitate existing neighborhood recreation areas and facilities that have deteriorated to the point where health and safety are endangered or the community's range of quality recreation service is impaired. Proposals must be designed to provide recreation services within a specified area identified by the applicant. Proposals may identify improvements at multiple sites or facilities, each of which must be individually addressed. Grants may be used to remodel, rebuild, or develop existing outdoor or indoor recreation areas and facilities. Proposals that are entirely, or substantially oriented to expansion of existing facilities are not encouraged and will be closely scrutinized. If a UPARR project is part of a larger effort, the UPARR project, and its associated costs must be clearly separable and have a distinct budget for the UPARR portion of the effort.

Eligible Jurisdictions: Urban jurisdictions which have been determined eligible for the UPARR program are listed in 36 CFR part 72, appendix B. Eligible jurisdictions may compete for Rehabilitation grant funds if an approved Recovery Action Program (RAP) is on file with and approved by NPS. If a jurisdiction's RAP plan expired since FY 1995, the chief executive officer of that jurisdiction may submit either (1) a new or updated RAP for NPS review and approval, or (2) a letter of recertification. A letter of recertification must state that no significant changes have occurred in its assessment and action plan, and that the RAP remains current as a guide to community action and decision-making. In those cases where a jurisdiction has never submitted a RAP for participation in the UPARR program or its previously approved RAP plan expired prior to FY 1995, the chief executive officer of that jurisdiction may submit either (1) a new or updated RAP for NPS review and approval, or (2) copies of current budget, planning or other documents that reflect the jurisdiction's recreation priorities, policies, actions and decision-making processes; which when taken together, either satisfactorily update the pre-1995 RAP for the purposes of recertification or otherwise satisfies the RAP planning requirements for participation in the FY 2002 grant round. NPS may accept a recertification or approve the alternative RAP documentation through December 31, 2002, after which a new RAP is required. NPS may allow urban jurisdictions not on the list of eligibles to compete as a ''discretionary'' applicant if the jurisdiction is located in a Metropolitan Statistical Area and meets the criteria described in 36 CFR part 72, appendix A. All projects must be in accord with the priorities outlined in the recertified or approved RAP document.

Grant Implementation and Timing: Grantees must comply with all applicable Federal laws and regulations for the UPARR program, which includes completion of a final grant agreement within 120 days of a grant offer based on NPS evaluation of preapplications submitted for consideration.

Preapplication Requirements: The chief executive officer applying for a UPARR grant will be required to certify, in the preapplication, that the grantee will comply with all requirements of the UPARR program. Applicants must certify that they have adequate control and tenure over properties to be assisted through UPARR and must identify in their applications the type of control they have over those properties. Additional requirements are outlined in the ''UPARR Preapplication Handbook'' available from the NPS field offices (or on the internet at *http://www.nps.gov/uparr*).

Matching Requirements: UPARR Rehabilitation grants are awarded on a 70/30 (Federal/local) matching basis. As an incentive for state involvement in the program, the Federal Government will match, dollar for dollar, state contributions to the local share of the total project cost, up to 15 percent of the approved grant. The Federal share is limited to no more than 85 percent of the approved grant cost and the overall dollar limitations established above for Rehabilitation grants.

Pass-Through Funding: At the discretion of the applicant jurisdiction, grants may be transferred, in whole or in part, to independent general or special purpose local governments, private nonprofit agencies or community groups, and county or regional park authorities that provide recreation opportunities to the general population within the jurisdictional boundaries of the applicant jurisdiction. In such situations, the applicant jurisdiction will bear full legal responsibility and liability for passed-through funds.

Post-Completion Requirements: In accordance with section 1010 of the UPARR Act of 1978, assisted properties may not be converted to other than public recreation use without the prior approval of NPS and the replacement of the converted site or facility with one of reasonably equivalent usefulness and location. This provision applies to all Rehabilitation projects.

FOR FURTHER INFORMATION CONTACT: Interested jurisdictions should consult their NPS field office for further information including grant round schedule and for technical assistance in applying for funding. The NPS field offices are listed below:

Northeast

(CT, DC, DE, MA, MD, ME, NH, NJ, NY, PA, RI, VA, VT, WV)

Stewardship and Partnerships Team, Philadelphia Support Office, National Park Service, 200 Chestnut Street, 3rd Floor, Philadelphia, PA 19106, Tele: (215) 597–9195 (for all).

Southeast

(AL, FL, GA, KY, LA, MS, NC, PR, SC, TN, VI)

Recreation Programs Branch, Southeast Regional Office, National Park Service, Atlanta Federal Center, 1924 Building, 100 Alabama Street, SW., Atlanta, GA 30303, Tele: (404) 562–3175 (x530) (AL, FL, LA, MS, PR); (404) 562–3175 (x520) (GA, KY, TN); (404) 562–3175 (x519) (NC, SC).

Midwest

(AR, AZ, CO, IA, IL, IN, KS, MI, MN, MO, MT, ND, NE, NM, OH, OK, SD, TX, UT, WI, WY)

Partnerships—Grants, Midwest Regional Office, National Park Service, 1709 Jackson Street, Omaha, NE 68102–2571, Tele: (402) 221–7282 (AR, IL, MI); (402) 221–3292 (AZ, IN, OH); (402) 221–7283 (CO, MO, NE); (402) 221–3310 (IA, OK, TX); (402) 221–3205 (KS, MN, WI); (402) 221–3202 (MT, UT, WY); (402) 221–7270 (NM, ND, SD).

Pacific West

(AS, CA, CM, GU, HI, NV)

Planning and Partnerships Team, Pacific Great Basin Support Office, National Park Service, Suite 700, 1111 Jackson Street, Oakland, CA 94607, Tele: (510) 817–1445, 1324, 1454 (for all).

(AK, ID, OR, WA)

Partnerships Programs, Columbia Cascades Support Office, National Park Service, 909 First Avenue, Seattle, WA 98104–1060, Tele: (206) 220–4126 (for all).

Dated: December 11, 2001.

D. Thomas Ross,

Assistant Director, Recreation and Conservation.

[FR Doc. 02–382 Filed 1–7–02; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Announcement of Subsistence Resource Commission Meeting

AGENCY: National Park Service, Interior.

ACTION: Announcement of Subsistence Resource Commission meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770, 5 U.S.C. App. 1, section 10), notice is hereby given that the National Park Service will hold a public meeting of the Denali National Park Subsistence Resource Commission. The following agenda items will be discussed:

(1) Call to Order (Chairman).
(2) Roll Call: Confirmation of Quorum.
(3) Introduction of guests.
(4) Review Agenda.
(5) Review and approval of minutes from the last meeting.
(6) Superintendent's welcome and review of the Commission purpose.
(7) Commission membership status.
(8) Public and other agency comments.
(9) Old Business:
  a. Denali Backcountry Management Plan Status Report.
  b. Review comment on draft hunting plan recommendations.
(10) New Business:
  a. October 2001 Chairs Workshop Report.
  b. Federal Subsistence Board Report.
  1. Review Wildlife Proposals.
  2. Review Fisheries Proposals.
(11) Public and other agency comments.
(12) Subsistence Resource Commission Work Session.
(13) Set time and place of next Subsistence Resource Commission meeting.
(14) Adjourn meeting.

DATES: The meeting will begin at 9 a.m. on Friday, February 22, 2002 and conclude at approximately 5 p.m. The meeting will adjourn earlier if the agenda items are completed.

LOCATION: The Meeting will be held at the Cantwell Community Hall, Cantwell, Alaska, Telephone (907) 768–2122.

FOR FURTHER INFORMATION CONTACT: Hollis Twitchell, Subsistence Manager, Denali National Park and Preserve, P.O. Box 9 Denali Park, Alaska, 99755. Phone (907) 456–0595.

SUPPLEMENTARY INFORMATION: The Subsistence Resource Commissions are authorized under Title VIII, section 808, of the Alaska National Interest Lands Conservation Act, Public Law 96–487 and operate in accordance with the provisions of the Federal Advisory Committees Act.

In light of a recent attempt to relocate National Park Service administrative personnel and offices in Washington, DC, this notice may not be published at least 15 days prior to the meeting. The National Park Service regrets these events, but is compelled to hold the meeting as scheduled because of the significant sacrifice re-scheduling would require of commission members who have adjusted their schedules to accommodate the proposed meeting dates.

Draft minutes of the meeting will be available for public inspection approximately 6 weeks after the meeting at the Denali National Park and Preserve Office, PO Box 9, Denali Park, Alaska 99755.

Robert L. Arnberger,

Regional Director.

[FR Doc. 02–381 Filed 1–7–02; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Announcement of Subsistence Resource Commission Meeting

AGENCY: National Park Service, Interior.

ACTION: Announcement of Subsistence Resource Commission meeting.

SUMMARY: As required by the Federal Advisory Committee Act, the Superintendent of Lake Clark National Park and Preserve and the Chair of the Lake Clark Subsistence Resource Commission announce a forthcoming meeting of the Subsistence Resource Commission for Lake Clark National Park. The following agenda items will be discussed:

(1) Call to order.
(2) Roll call—Confirm Quorum.
(3) Introductions.
(4) Superintendent's Welcome.
(5) Additions, corrections and agenda approval.
(6) Approval of SRC meeting minutes.
(7) SRC Purpose and Role.
(8) Status of Membership.
(9) Park Subsistence Coordinator's Report.
(10) October 2001 Chairs Workshop Report.
(11) Status of Lake Clark Subsistence Management Plan.
(12) Federal Subsistence Board Actions/Proposals.
(13) Agency Reports and Public Comments.
(14) SRC Work Session—Prepare correspondence/recommendations.
(15) Set time and place of next meeting.
(16) Adjournment.

DATES: The meeting will begin at 10:00 a.m. on Thursday, February 21, 2002 and conclude around 4:30 p.m.

LOCATION: The meeting will be held at the Lake Clark National Park and Preserve Office in Port Alsworth, Alaska, Telephone (907) 781–2218.

FOR FURTHER INFORMATION CONTACT: Mary McBurney, Subsistence Manager, 2525 Gambell St., Anchorage, Alaska, 99503, Telephone (907) 257–2633.

SUPPLEMENTARY INFORMATION: The Subsistence Resource Commissions are authorized under Title VIII, Section 808, of the Alaska National Interest Lands

Conservation Act, Pub. L. 96–487, and operate in accordance with the provisions of the Federal Advisory Committees Act.

In light of a recent attempt to relocate National Park Service administrative personnel and offices in Washington, DC, this notice may not be published at least 15 days prior to the meeting. The National Park Service regrets these events, but is compelled to hold the meeting as scheduled because of the significant sacrifice re-scheduling would require of commission members who have adjusted their schedules to accommodate the proposed meeting dates.

Draft minutes of the meeting will be available for public inspection approximately 6 weeks after the meeting at the Lake Clark National Park and Preserve Office in Port Alsworth, Alaska, Phone (907) 781–2218.

Robert L. Arnberger,

Regional Director.

[FR Doc. 02–379 Filed 1–7–02; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Possession of the U.S. Department of the Interior, National Park Service, Natchez Trace Parkway, Tupelo, MS

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects in the possession of the U.S. Department of the Interior, National Park Service, Natchez Trace Parkway, Tupelo, MS.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the National Park Service unit that has control or possession of these Native American human remains. The Assistant Director, Cultural Resources Stewardship and Partnerships is not responsible for the determinations within this notice.

A detailed assessment of the human remains was made by National Park Service professional staff in consultation with representatives of the Absentee-Shawnee Tribe of Indians of Oklahoma; Alabama-Coushatta Tribes of Texas; Alabama-Quassarte Tribal Town, Oklahoma; Cherokee Nation, Oklahoma; Chickasaw Nation, Oklahoma; Chitimacha Tribe of Louisiana; Choctaw Nation of Oklahoma; Eastern Band of Cherokee Indians of North Carolina; Eastern Shawnee Tribe of Oklahoma; Jena Band of Choctaw Indians, Louisiana; Kialegee Tribal Town, Oklahoma; Miccosukee Tribe of Indians of Florida; Mississippi Band of Choctaw Indians, Mississippi; Muskogee (Creek) Nation, Oklahoma; Poarch Band of Creek Indians of Alabama; Seminole Nation of Oklahoma; Seminole Tribe of Florida, Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations; Thlopthlocco Tribal Town, Oklahoma; Tunica-Biloxi Indian Tribe of Louisiana; and United Keetoowah Band of Cherokee Indians of Oklahoma. The Shawnee Tribe, also known also as the ''Loyal Shawnee'' or ''Cherokee Shawnee,'' a nonfederally recognized Native American group at the time that they were consulted, has since been recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians under provisions of P.L. 106-568.

The 50 human remains and 5,257 associated funerary objects described below were recovered from 5 different sites.

In 1939, human remains representing 13 individuals were recovered from Alton's Chickasaw Village during a legally authorized National Park Service excavation. No known individuals were identified. The 2,174 associated funerary objects are 2,107 glass beads, 55 kettle fragments, 2 brass buckles, 2 ear plugs, 2 pieces of wood, 2 cloth fragments, 1 animal bone fragment, 1 bell, 1 iron hoe, and 1 metal spring.

In 1940, human remains representing 26 individuals were recovered from the Ackia Village site during a legally authorized National Park Service excavation to gather information on historic Chickasaw sites. No known individuals were identified. The 88 associated funerary objects are 28 musket balls, 17 metal spring fragments, 12 buttons, 7 pieces of worked bone, 5 gunflints, 4 flake tools, 2 glass beads, 2 projectile points, 2 knife fragments, 2 bracelets, 1 brass bell, 1 nail, 1 metal fragment, 1 stone biface, 1 scraper, 1 cup, and 1 tobacco pipe.

In 1940, human remains representing three individuals were recovered from the Beldin's Ridge site during a legally authorized National Park Service project. No known individuals were identified. The 977 associated funerary objects are 972 glass beads, 2 copper ornaments, 2 Wilson Plain-variety Oktibbeha ceramic vessel fragments, and 1 stone tool.

In 1947 and 1948, human remains representing seven individuals were recovered from the Bynum Mounds site during a legally authorized project. No known individuals were identified. The 2,014 associated funerary objects are 1,916 glass beads, 27 metal fragments, 9 silver spoons, 9 flintlock fragments, 6 cloth fragments, 5 metal files, 4 metal knives, 4 wire fragments, 4 copper earrings, 4 ornaments, 3 metal cups, 2 shell gorgets, 2 musket balls, 2 rivets, 2 blades, 2 utensils, 1 tobacco pipe, 1 gunflint, 1 whetstone, 1 silver brooch, 1 silver crown, 1 metal spike, 1 metal spring, 1 button, 1 snuffbox, 1 bell, 1 powder flask, 1 ground stone, 1 polishing stone, 1 basket fragment, 1 worked antler, 1 metal screw, and 1 unidentifiable object.

In 1955, human remains representing one individual were recovered from the site of the Futorian Furniture Company. The site, which is located off of park property, was legally excavated. No known individual was identified. No associated funerary objects are present.

Ackia Village, Alton's Chickasaw Village, Beldin's Ridge, and the Futorian Furniture Company sites are all located in the vicinity of Tupelo, MS, within the area known as ''Chickasaw Old Fields.'' In the early 18th century, the Chickasaw consolidated their settlements into this area. The locations of these villages are recorded on several historic maps. On the basis of historic maps and records, as well as the archeological data gathered during the excavations, the occupation of these sites has been dated to the first half of the 18th century (A.D. 1700-1750). Historical accounts also document that each of these sites was the location of a Chickasaw village and is within the historic homeland of the Chickasaw Nation.

The Bynum Mounds site is located south of Tupelo in Chickasaw County, MS. The site consists of a village and burial mound dating to the Woodland period (200-300 B.C.), and a historic period (A.D. 1750-1850) village occupation. On the basis of the artifacts associated with the burials, the human remains from the historic component are believed to date to the early 19th century (A.D. 1800-1830). The site is located within the historic homeland of the Chickasaw Nation.

Based on the above-mentioned information, the superintendent of Natchez Trace Parkway has determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of 50 individuals of Native American ancestry. The

superintendent of Natchez Trace Parkway also has determined that, pursuant to 43 CFR 10.2 (d)(2), the 5,257 objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of a death rite or ceremony. Lastly, the superintendent of Natchez Trace Parkway has determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects recovered from Ackia Village, Alton's Chickasaw Village, Beldin's Ridge, the historic component the Bynum Mounds, and the Futorian Furniture Company sites, and the Chickasaw Nation, Oklahoma.

This notice has been sent to officials of the Absentee-Shawnee Tribe of Indians of Oklahoma; Alabama and Coushatta Tribes of Texas; Alabama-Quassarte Tribal Town, Oklahoma; Cherokee Nation, Oklahoma; Chickasaw Nation, Oklahoma; Chitimacha Tribe of Louisiana; Choctaw Nation of Oklahoma; Eastern Band of Cherokee Indians of North Carolina; Eastern Shawnee Tribe of Oklahoma; Jena Band of Choctaw Indians, Louisiana; Kialegee Tribal Town, Oklahoma; Miccosukee Tribe of Indians of Florida; Mississippi Band of Choctaw Indians, Mississippi; Muskogee (Creek) Nation, Oklahoma; Poarch Band of Creek Indians of Alabama; Seminole Nation of Oklahoma; Seminole Tribe of Florida, Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations; Shawnee Tribe, Oklahoma; Thlopthlocco Tribal Town, Oklahoma; Tunica-Biloxi Indian Tribe of Louisiana; and United Keetoowah Band of Cherokee Indians of Oklahoma. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Wendell Simpson, Superintendent, Natchez Trace Parkway, 2680 Natchez Trace Parkway, Tupelo, MS 38803, telephone (662) 680-4005, before February 7, 2002. Repatriation of the human remains and associated funerary objects to the Chickasaw Nation, Oklahoma may begin after that date if no additional claimants come forward.

Dated: October 19, 2001.

John Robbins,

Assistant Director, Cultural Resources Stewardship and Partnerships.

[FR Doc. 02–385 Filed 1–7–02; 8:45 am]

BILLING CODE 4310–70–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Possession of the U.S. Department of the Interior, National Park Service, Natchez Trace Parkway, Tupelo, MS

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects in the possession of the U.S. Department of the Interior, National Park Service, Natchez Trace Parkway, Tupelo, MS.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the National Park Service unit that has control or possession of these Native American human remains. The Assistant Director, Cultural Resources Stewardship and Partnerships is not responsible for the determinations within this notice.

A detailed assessment of the human remains was made by National Park Service professional staff in consultation with representatives of the Absentee-Shawnee Tribe of Indians of Oklahoma; Alabama-Coushatta Tribes of Texas; Alabama-Quassarte Tribal Town, Oklahoma; Cherokee Nation, Oklahoma; Chickasaw Nation, Oklahoma; Chitimacha Tribe of Louisiana; Choctaw Nation of Oklahoma; Eastern Band of Cherokee Indians of North Carolina; Eastern Shawnee Tribe of Oklahoma; Jena Band of Choctaw Indians, Louisiana; Kialegee Tribal Town, Oklahoma; Miccosukee Tribe of Indians of Florida; Mississippi Band of Choctaw Indians, Mississippi; Muskogee (Creek) Nation, Oklahoma; Poarch Band of Creek Indians of Alabama; Seminole Nation of Oklahoma; Seminole Tribe of Florida, Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations; Thlopthlocco Tribal Town, Oklahoma; Tunica-Biloxi Indian Tribe of Louisiana; and United Keetoowah Band of Cherokee Indians of Oklahoma. The Shawnee Tribe, also known also as the ''Loyal Shawnee'' or ''Cherokee Shawnee,'' a nonfederally recognized Native American group at the time that they were consulted, has since been recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians under provisions of P.L. 106-568.

In 1951 and 1963, human remains representing 124 individuals were recovered from the Mangum site during authorized National Park Service survey and excavation projects. No known individuals were identified. There are no funerary objects associated with the one individual recovered in 1951. The 123 individuals recovered in 1963 are associated with 34 funerary objects: 12 ceramic vessel fragments, 7 projectile points, 3 shell ornaments, 3 stone tools, 2 stone artifacts, 1 ceramic frog effigy, 1 celt, 1 polished stone, 1 tobacco pipe, 1 dipper, 1 ceramic jar, and 1 cupreous metal fragment.

The Mangum site is a large hilltop cemetery located in Claiborne County, MS. Objects recovered from the burials indicate that the site was in use during the Mississippian period (A.D. 1000-1650). The principal investigator of the 1963 excavation states that the burials date to approximately A.D. 1500, or possibly even more recently. In 1540, the De Soto expedition likely encountered the Taënsa people in the vicinity of the Mangum site. In 1682, the de La Salle expedition documented the Taënsa and Tunica in the same area. In 1706, the Taënsa were driven from the area, migrating first to Bayogula, and then to Mobile, where they may have settled with the Choctaw. In 1764, the Taënsa again moved, first to the Red River in south Louisiana, and finally to the Bayou Boeuf area where they lived with the Chitimacha. Representatives of the Chitimacha Tribe of Louisiana have identified similarities between the burial practices observed at the Mangum site and those of the Chitimacha. Historical documentation also indicates that the Tunica buried individuals in hilltop cemeteries in open country, matching the burial practice observed on the Mangum site. Historical documentation indicates that some Taënsa may have married into the Alabama tribe, the descendants of whom now constitute the Alabama-Coushatta Tribes of Texas and the Alabama-Quassarte Tribal Town, Oklahoma.

Based on the above mentioned information, the superintendent of Natchez Trace Parkway has determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of 124 individuals of Native American ancestry. The superintendent of Natchez Trace Parkway also has determined that, pursuant to 43 CFR 10.2 (d)(2), the 34 objects listed above are reasonably believed to have been placed with or

near individual human remains at the time of death or later as part of a death rite or ceremony. Lastly, the superintendent of Natchez Trace Parkway has determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these Native American human remains and associated funerary objects recovered and the Alabama-Coushatta Tribes of Texas; Alabama-Quassarte Tribal Town, Oklahoma; Chitimacha Tribe of Louisiana; Choctaw Nation of Oklahoma; Mississippi Band of Choctaw Indians; Jena Band of Choctaw Indians, Louisiana; and Tunica-Biloxi Indian Tribe of Louisiana.

This notice has been sent to officials of the Absentee-Shawnee Tribe of Indians of Oklahoma; Alabama-Coushatta Tribes of Texas; Alabama-Quassarte Tribal Town, Oklahoma; Cherokee Nation, Oklahoma; Chickasaw Nation, Oklahoma; Chitimacha Tribe of Louisiana; Choctaw Nation of Oklahoma; Eastern Band of Cherokee Indians of North Carolina; Eastern Shawnee Tribe of Oklahoma; Jena Band of Choctaw Indians, Louisiana; Kialegee Tribal Town, Oklahoma; Miccosukee Tribe of Indians of Florida; Mississippi Band of Choctaw Indians, Mississippi; Muskogee (Creek) Nation, Oklahoma; Poarch Band of Creek Indians of Alabama; Seminole Nation of Oklahoma; Seminole Tribe of Florida, Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations; Shawnee Tribe, Oklahoma; Thlopthlocco Tribal Town, Oklahoma; Tunica-Biloxi Indian Tribe of Louisiana; and United Keetoowah Band of Cherokee Indians of Oklahoma. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Wendell Simpson, Superintendent, Natchez Trace Parkway, 2680 Natchez Trace Parkway, Tupelo, MS 38803, telephone (662) 680-4005, before February 7, 2002. Repatriation of the human remains and associated funerary objects to Alabama-Coushatta Tribes of Texas; Alabama-Quassarte Tribal Town, Oklahoma; Chitimacha Tribe of Louisiana; Choctaw Nation of Oklahoma; Mississippi Band of Choctaw Indians; Jena Band of Choctaw Indians, Louisiana; and Tunica-Biloxi Indian Tribe of Louisiana may begin after that date if no additional claimants come forward.

Dated: October 19, 2001.

John Robbins,

Assistant Director, Cultural Resources Stewardship and Partnerships.

[FR Doc. 02–386 Filed 1–7–02; 8:45 am]

BILLING CODE 4310–70–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Possession of the U.S. Department of the Interior, National Park Service, Natchez Trace Parkway, Tupelo, MS

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects in the possession of the U.S. Department of the Interior, National Park Service, Natchez Trace Parkway, Tupelo, MS.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the National Park Service unit that has control or possession of these Native American human remains. The Assistant Director, Cultural Resources Stewardship and Partnerships is not responsible for the determinations within this notice.

A detailed assessment of the human remains was made by National Park Service professional staff in consultation with representatives of the Absentee-Shawnee Tribe of Indians of Oklahoma; Alabama-Coushatta Tribes of Texas; Alabama-Quassarte Tribal Town, Oklahoma; Cherokee Nation, Oklahoma; Chickasaw Nation, Oklahoma; Chitimacha Tribe of Louisiana; Choctaw Nation of Oklahoma; Eastern Band of Cherokee Indians of North Carolina; Eastern Shawnee Tribe of Oklahoma; Jena Band of Choctaw Indians, Louisiana; Kialegee Tribal Town, Oklahoma; Miccosukee Tribe of Indians of Florida; Mississippi Band of Choctaw Indians, Mississippi; Muskogee (Creek) Nation, Oklahoma; Poarch Band of Creek Indians of Alabama; Seminole Nation of Oklahoma; Seminole Tribe of Florida, Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations; Thlopthlocco Tribal Town, Oklahoma; Tunica-Biloxi Indian Tribe of Louisiana; and United Keetoowah Band of Cherokee Indians of Oklahoma. The Shawnee Tribe, also known also as the ''Loyal Shawnee'' or ''Cherokee Shawnee,'' a nonfederally recognized Native American group at the time that they were consulted, has since been recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians under provisions of P.L. 106-568.

In 1984 and 1985, human remains representing eight individuals were recovered from the Mayberry site during an authorized National Park Service contract with the University of Tennessee. No known individuals were identified. The eight associated funerary objects are four archeological field bags of limestone slab fragments believed to have been intentionally placed with the human remains to line the grave, three ceramic trowels, and one celt.

The Mayberry site is located in Hickman County, TN, on the southern river terrace of the Duck River. The human remains and associated funerary objects were excavated from five ''box burials'' and one bell-shaped burial discovered at the site. Box burials are characterized by placement of the flexed body into a limestone-, sandstone-, or pottery-lined pit. Artifacts associated with the human remains indicate that these individuals were buried during the Mississippian cultural period (A.D. 900-1650). The box burial practice was common in an area generally bounded by the Tennessee, Missouri, and Ohio Rivers. It appears to be most commonly practiced on the Cumberland Plateau, around Nashville, TN, during the Mississippian period. Box graves in this region are attributed to the Middle Cumberland Culture. Descendants of this prehistoric group have never been firmly established. One account of Delaware burial practice from the 18th century does closely match one burial from the Mayberry site. However, at the time of first sustained European contact in the 17th century, the tribes of the Delaware confederacy were located along the Atlantic slope in the present-day States of Pennsylvania, New Jersey, New York, and Delaware. Another early historic account links box burials with burial practices of the widespread Shawnee bands whose aboriginal range did extend into the area of the Mayberry site. The area is considered part of the traditional hunting lands of Cherokee and Chickasaw tribes, and -- according to Chickasaw representatives consulted on June 28, 2001 -- may have been part of the Chickasaw's traditional homelands during the Mississippian cultural period. The first documented long-term contact between Europeans and Native Americans in the area

occurred around A.D. 1700 when a French trader, Charles Charleville, began trading with the Shawnee at French Lick in what is now Nashville, TN. The Mayberry site is located within the area ceded to the United States by the Cherokee on January 7, 1807, and by the Chickasaw on September 20, 1816.

Based on the above-mentioned information, the superintendent of Natchez Trace Parkway has determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of eight individuals of Native American ancestry. The superintendent of Natchez Trace Parkway also has determined that, pursuant to 43 CFR 10.2 (d)(2), the eight objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of a death rite or ceremony. Lastly, the superintendent of Natchez Trace Parkway has determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these Native American human remains and associated funerary objects and the Absentee-Shawnee Tribe of Indians of Oklahoma; Eastern Shawnee Tribe of Oklahoma; Shawnee Tribe, Oklahoma, Cherokee Nation of Oklahoma; Eastern Band of Cherokee Indians of North Carolina; United Keetoowah Band of Cherokee Indians of Oklahoma; and the Chickasaw Nation.

This notice has been sent to officials of the Absentee-Shawnee Tribe of Indians of Oklahoma; Alabama and Coushatta Tribes of Texas; Alabama-Quassarte Tribal Town, Oklahoma; Cherokee Nation of Oklahoma; Chickasaw Nation, Oklahoma; Chitimacha Tribe of Louisiana; Choctaw Nation of Oklahoma; Delaware Tribe of Indians; Delaware Nation; Eastern Band of Cherokee Indians of North Carolina; Eastern Shawnee Tribe of Oklahoma; Jena Band of Choctaw Indians, Louisiana; Kialegee Tribal Town, Oklahoma; Miccosukee Tribe of Indians of Florida; Mississippi Band of Choctaw Indians, Mississippi; Muskogee (Creek) Nation, Oklahoma; Poarch Band of Creek Indians of Alabama; Seminole Nation of Oklahoma; Seminole Tribe of Florida, Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations; Shawnee Tribe, Oklahoma; Stockbridge-Munsee Community of Mohican Indians of Wisconsin; Thlopthlocco Tribal Town, Oklahoma; Tunica-Biloxi Indian Tribe of Louisiana; and United Keetoowah Band of Cherokee Indians of Oklahoma. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Wendell Simpson, Superintendent, Natchez Trace Parkway, 2680 Natchez Trace Parkway, Tupelo, MS 38803, telephone (662) 680-4005, before February 7, 2002. Repatriation of the human remains and associated funerary objects to the Absentee-Shawnee Tribe of Indians of Oklahoma; Eastern Shawnee Tribe of Oklahoma; Shawnee Tribe, Oklahoma; Cherokee Nation of Oklahoma; Eastern Band of Cherokee Indians of North Carolina; United Keetoowah Band of Cherokee Indians of Oklahoma; and Chickasaw Nation may begin after that date if no additional claimants come forward.

Dated: October 19, 2001.

John Robbins,

Assistant Director, Cultural Resources Stewardship and Partnerships.

[FR Doc. 02–387 Filed 1–7–02; 8:45 am]

BILLING CODE 4310–70–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Possession of the U.S. Department of the Interior, National Park Service, Natchez Trace Parkway, Tupelo, MS

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects in the possession of the U.S. Department of the Interior, National Park Service, Natchez Trace Parkway, Tupelo, MS.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the National Park Service unit that has control or possession of these Native American human remains. The Assistant Director, Cultural Resources Stewardship and Partnerships is not responsible for the determinations within this notice.

A detailed assessment of the human remains was made by National Park Service professional staff in consultation with representatives of the Absentee-Shawnee Tribe of Indians of Oklahoma; Alabama-Coushatta Tribes of Texas; Alabama-Quassarte Tribal Town, Oklahoma; Cherokee Nation, Oklahoma; Chickasaw Nation, Oklahoma; Chitimacha Tribe of Louisiana; Choctaw Nation of Oklahoma; Eastern Band of Cherokee Indians of North Carolina; Eastern Shawnee Tribe of Oklahoma; Jena Band of Choctaw Indians, Louisiana; Kialegee Tribal Town, Oklahoma; Miccosukee Tribe of Indians of Florida; Mississippi Band of Choctaw Indians, Mississippi; Muskogee (Creek) Nation, Oklahoma; Poarch Band of Creek Indians of Alabama; Seminole Nation of Oklahoma; Seminole Tribe of Florida, Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations; Thlopthlocco Tribal Town, Oklahoma; Tunica-Biloxi Indian Tribe of Louisiana; and United Keetoowah Band of Cherokee Indians of Oklahoma. The Shawnee Tribe, also known also as the ''Loyal Shawnee'' or ''Cherokee Shawnee'' a nonfederally recognized Native American group at the time they were consulted, has since been recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians under provisions of P.L. 106-568.

In 1981, human remains representing five individuals were recovered from the Rock Creek site during a legally authorized excavation by Memphis State University under contract with the National Park Service. No known individuals were identified. The 77 associated funerary objects are fragments of ceramic jars and bowls.

The Rock Creek site is an open-air village and midden located in Colbert County, AL. All of human remains were found buried beneath the floor of living areas or immediately adjacent to dwellings, possibly in some sort of ceremonial structure. Ceramic fragments found associated with the human remains include examples of the Mississippi Plain and Dallas Noded pottery types.

On the basis of the objects recovered during the excavations, the Rock Creek site is believed to have been occupied during the late Mississippian period (A.D. 1400-1750). The Rock Creek site falls within the area thought to have been occupied by the Chickasaw when DeSoto camped near Tupelo, MS, in A.D. 1540-1541. Burial of human remains beneath the floor of living areas is a known Chickasaw practice. John Adair also identifies the Shawnee as traveling through the area in the A.D. 1700-1740 period. The Dallas ceramic tradition has been associated with ancestral Cherokee peoples.

Based on the above mentioned information, the superintendent of Natchez Trace Parkway has determined that, pursuant to 43 CFR 10.2 (d)(1), the

human remains listed above represent the physical remains of five individuals of Native American ancestry. The superintendent of Natchez Trace Parkway also has determined that, pursuant to 43 CFR 10.2 (d)(2), the 77 objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of a death rite or ceremony. Lastly, the superintendent of Natchez Trace Parkway has determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these Native American human remains and associated funerary objects and the Absentee-Shawnee Tribe of Indians of Oklahoma; Cherokee Nation of Oklahoma; Chickasaw Nation, Oklahoma; Eastern Band of Cherokee Indians of North Carolina; Eastern Shawnee Tribe of Oklahoma; Shawnee Tribe, Oklahoma; and United Keetoowah Band of Cherokee Indians of Oklahoma.

This notice has been sent to officials of the Absentee-Shawnee Tribe of Indians of Oklahoma; Alabama and Coushatta Tribes of Texas; Alabama-Quassarte Tribal Town, Oklahoma; Cherokee Nation, Oklahoma; Chickasaw Nation, Oklahoma; Chitimacha Tribe of Louisiana; Choctaw Nation of Oklahoma; Eastern Band of Cherokee Indians of North Carolina; Eastern Shawnee Tribe of Oklahoma; Jena Band of Choctaw Indians, Louisiana; Kialegee Tribal Town, Oklahoma; Miccosukee Tribe of Indians of Florida; Mississippi Band of Choctaw Indians, Mississippi; Muskogee (Creek) Nation, Oklahoma; Poarch Band of Creek Indians of Alabama; Seminole Nation of Oklahoma; Seminole Tribe of Florida, Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations; Shawnee Tribe, Oklahoma; Thlopthlocco Tribal Town, Oklahoma; Tunica-Biloxi Indian Tribe of Louisiana; and United Keetoowah Band of Cherokee Indians of Oklahoma. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Wendell Simpson, Superintendent, Natchez Trace Parkway, 2680 Natchez Trace Parkway, Tupelo, MS 38803, telephone (662) 680-4005, before February 7, 2002. Repatriation of the human remains and associated funerary objects to the Absentee-Shawnee Tribe of Indians of Oklahoma; Cherokee Nation, Oklahoma; Chickasaw Nation, Oklahoma; Eastern Band of Cherokee Indians of North Carolina; Eastern Shawnee Tribe of Oklahoma; Shawnee Tribe, Oklahoma; and United Keetoowah Band of Cherokee Indians of Oklahoma.

Dated: October 19, 2001.

John Robbins,

Assistant Director, Cultural Resources Stewardship and Partnerships.

[FR Doc. 02–388 Filed 1–7–02; 8:45 am]

BILLING CODE 4310–70–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Possession of the Oregon State Museum of Anthropology, Eugene, OR

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects in the possession of the Oregon State Museum of Anthropology, Eugene, OR.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations within this notice.

A detailed assessment of the human remains was made by Oregon State Museum of Anthropology professional staff in consultation with representatives of the Klamath Indian Tribe of Oregon; the Burns Paiute Tribe of the Burns Paiute Indian Colony of Oregon; the Confederated Tribes of the Warm Springs Reservation of Oregon; the Confederated Tribes of the Grande Ronde Community of Oregon; and the Confederated Tribes of the Siletz Reservation, Oregon.

In 1940, human remains representing one individual were donated to the Oregon State Museum of Anthropology by a person whose name is withheld. No known individual was identified. No associated funerary objects are present.

Museum records note that a former museum director, L. S. Cressman, attributed the remains to ''Klamath Country.'' It is unknown at the present time whether ''Klamath Country'' refers to the Klamath people or to a geographic locality.

Based on skeletal evidence, these remains are determined to be Native American. The reference in the museum records to ''Klamath Country'' suggests that the remains were removed from south-central Oregon or northeastern California. Historical documents, ethnographic sources, and oral history indicate that the Klamath-Modoc, Northern Paiute, and Shasta peoples have occupied these areas since precontact times.

Based on the above-mentioned information, officials of the Oregon State Museum of Anthropology have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of one individual of Native American ancestry. Officials of the Oregon State Museum of Anthropology also have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these Native American human remains and the Klamath Indian Tribe of Oregon; the Burns Paiute Tribe of the Burns Paiute Indian Colony of Oregon; the Confederated Tribes of the Warm Springs Reservation of Oregon; the Confederated Tribes of the Grande Ronde Community of Oregon; and the Confederated Tribes of the Siletz Reservation, Oregon.

This notice has been sent to officials of the Klamath Indian Tribe of Oregon; the Burns Paiute Tribe of the Burns Paiute Indian Colony of Oregon; the Confederated Tribes of the Warm Springs Reservation of Oregon; the Confederated Tribes of the Grande Ronde Community of Oregon; and the Confederated Tribes of the Siletz Reservation, Oregon. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains should contact C. Melvin Aikins, Oregon State Museum of Anthropology, 1224 University of Oregon, Eugene, OR 97403-1224, telephone (541) 346-5115, before February 7, 2002. Repatriation of the human remains to the Klamath Indian Tribe of Oregon; the Burns Paiute Tribe of the Burns Paiute Indian Colony of Oregon; the Confederated Tribes of the Warm Springs Reservation of Oregon; the Confederated Tribes of the Grande Ronde Community of Oregon; and the Confederated Tribes of the Siletz Reservation, Oregon may begin after that date if no additional claimants come forward.

Dated: November 14, 2001.

Robert D. Stearns,

Manager, National NAGPRA Program

[FR Doc. 02–383 Filed 1–7–02; 8:45 am]

BILLING CODE 4310–70–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Possession of the U.S. Department of the Interior, National Park Service, Western Archeological and Conservation Center, Tucson, AZ

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects in the control of the U.S. Department of the Interior, National Park Service, Western Archeological and Conservation Center, Tucson, AZ.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the National Park Service unit that has control or possession of these Native American human remains. The Manager, National NAGPRA Program is not responsible for the determinations within this notice.

A detailed assessment of the human remains and associated funerary objects was made by National Park Service professional staff in consultation with representatives of the Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; Tohono O'odham Nation of Arizona; and Zuni Tribe of the Zuni Reservation, New Mexico. Members of the Ak-Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona, were contacted, but did not attend the consultation meeting and were represented by members of the Gila River Indian Community of the Gila River Indian Reservation, Arizona.

In 1959-1960, human remains representing 13 individuals were recovered from 4 sites during legally authorized excavations under the direction of National Park Service archeologist Wesley L. Bliss. The four sites were located along a linear transect through Cibola and McKinley Counties, NM, and Apache County, AZ, as part of the Transwestern Pipeline Project. No known individuals were identified.

Human remains representing two individuals were recovered from the TRW PPL L-WR-32 site. The three associated funerary objects are a Puerco black-on-white bowl, and a bowl and sherd of the White Mound black-on-white ceramic type. Diagnostic artifacts found associated with the burials indicate that the human remains were buried during the Basketmaker III-Pueblo I phases (A.D. 500-950).

Human remains representing nine individuals were recovered from the TRW PPL L-WR-39 site. The six associated funerary objects are a Gallup black-on-white pitcher and bowl, Escavada black-on-white pitcher and bowl, Red Mesa black-on-white duck-shaped pitcher, and a corrugated style ceramic jar. Diagnostic artifacts found associated with the burials indicate that the human remains were buried during the Pueblo II-III phases (A.D. 1100-1300).

Human remains representing one individual were recovered from the TRW PPL L-WR-43 site. The one associated funerary object is a Puerco black-on-red bowl. The diagnostic artifact found associated with the burials indicates that the human remains were buried during the Pueblo III phase (A.D. 1250-1300).

Human remains representing one individual were recovered from the TRW PPL L-WR-47 site. Osteological documentation of the remains shows cranial deformation. No associated funerary objects are present.

Similarities in site architecture, ceramics, and other items recovered from the sites in Cibola and McKinley Counties, NM, and Apache County, AZ, indicate a single, socially integrated early group lasting from the Basketmaker III phase through Pueblo III phase (A.D. 500-1300). The archeological literature refers to this community as a local variant of the widespread Anasazi cultural tradition. Cranial deformation is common to many Anasazi remains and is believed to reflect their widespread use of cradleboards to carry infants. A combination of less bountiful environment, changes in the social structure of the community, and drought are believed to have precipitated rapid migration out of this area in the late 1200s. Most researchers who have worked in the area have concluded that these populations moved to Zuni and Acoma. Some of the populations from the western portion of the area may have moved to Hopi.

Based on the above-mentioned information, the manager of the Western Archeological and Conservation Center has determined that, pursuant to 43 CFR 10 (d)(1), the human remains listed above represent the physical remains of 13 individuals of Native American ancestry. The manager of the Western Archeological and Conservation Center also has determined that, pursuant to 43 CFR 10.2 (d)(2), the 10 objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of a death rite or ceremony. Lastly, the manager of the Western Archeological and Conservation Center has determined that, pursuant to 43 CFR 10.2 (e) there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Hopi Tribe of Arizona; Pueblo of Acoma, New Mexico, Pueblo of Santa Ana, New Mexico; Pueblo of Zia, New Mexico; and Zuni Tribe of the Zuni Reservation, New Mexico.

This notice has been sent to officials of the Ak-Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Pueblo of Acoma, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Zia, New Mexico; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; Tohono O'odham Nation of Arizona; and Zuni Tribe of the Zuni Reservation, New Mexico. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact George Teague, Manager, Western Archeological and Conservation Center, National Park Service, 1415 North 6th Avenue, Tucson, AZ 85705, telephone (520) 670-6501, extension 235, before February 7, 2002. Repatriation of the human remains and associated funerary objects may begin after that date if no additional claimants come forward.

Dated: November 30, 2001.

Robert Stearns,

Assistant Director, Cultural Resources Stewardship and Partnerships.

[FR Doc. 02–384 Filed 1–7–02; 8:45 am]

BILLING CODE 4310–70–S

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Information Collection Activities; Proposed Collection; Comment Request

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces that the Bureau of Reclamation (Reclamation) intends to seek approval of the following proposed new information collection form LS–924 entitled Summary of Water Requirements for Crops on Eligible Land. Before submitting the information collection request to the Office of Management and Budget for approval, Reclamation is soliciting comments on specific aspects of that form.

DATES: Comments on this notice must be received by March 11, 2002.

ADDRESSES: Address all comments concerning this notice to Bureau of Reclamation, Northern California Area Office, Attention: Donald A. Bultema, PO Box 988, Willows, California 95988.

FOR FURTHER INFORMATION CONTACT: For further information or a copy of the proposed collection of information form, contact Rita F. Hoofard at (530) 934–7069.

SUPPLEMENTARY INFORMATION: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of Reclamation's functions, including whether the information will have practical use; (b) the accuracy of Reclamation's estimated time and cost burdens of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, use, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including increased use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Title: Summary of Water Requirements for Crops on Eligible Land.

Abstract: Reclamation developed Form LS–924, Summary of Water Requirements for Crops Grown on Eligible Land, to facilitate and standardize the submission of data from the Sacramento River settlement contractors that divert water from Sacramento River sources. The information requested is required to ensure the proper implementation of 43 CFR 426.15 and the commingling provisions in the Sacramento River settlement contracts.

Description of respondents: There are approximately 44 Sacramento River settlement contractors (individuals/districts) that are required to file Form LS–924 for the purpose of contract administration.

Frequency: Annually.

Estimated completion time: An average of 60 minutes per respondent.

Annual responses: 44 respondents.

Annual burden hours: 44.

Public Comments

Our practice is to make comments, including names and home addresses of respondents, available for public review. Individual respondents may request that we withhold their home address from public disclosure, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold a respondent's identity from public disclosure, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public disclosure in their entirety.

Dated: December 7, 2001.

Murlin H. Coffey,

Manager, Property and Office Services.

[FR Doc. 02–397 Filed 1–7–02; 8:45 am]

BILLING CODE 4310–MN–M

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Information Collection Activities; Proposed Collection; Comment Request; Extension

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces that the Bureau of Reclamation (Reclamation) intends to submit for approval the following Reinstatement of an information collection. Rights-of-Use Applications. Before submitting the information collection request for the Office of Management and Budget for approval, Reclamation is soliciting comments on specific aspects of the information collection.

DATES: Comments on this notice must be received by March 11, 2002.

ADDRESSES: Address all comments concerning this notice to the Bureau of Reclamation, Office of Policy, Attention: Diane Trujillo (D–5300), PO Box 25007, Denver, CO 80225–0007.

FOR FURTHER INFORMATION CONTACT: Diane Trujillo, 303–445–2914.

SUPPLEMENTARY INFORMATION: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of Reclamation's functions, including whether the information will have practical use; (b) the accuracy of Reclamation's estimated time and costs burdens of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, use, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including increased use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Title: Rights-of-Use Applications.

OMB No.: 1006–0003.

Abstract: Reclamation is responsible for over 8 million acres of land in the 17 western States. Parties wishing to use any of that land must submit a Right-of-Use application. Reclamation will review the application and determine whether the granting of the right-of-use is compatible with the future uses of the land. After preliminary review of the application, the applicant will be advised of the estimated administrative costs for processing the application. In addition to the administrative costs, the applicant will also be required to pay a land use fee based on the fair market value for such land use, as determined by Reclamation. If the Right-of-Use application is for a bridge, building, or other types of major structure, Reclamation may require that all plans and specifications be signed and sealed by a professional engineer licensed by the State where the work is proposed. Linear facilities such as roads, pipelines, and transmission lines require a centerline survey of defining of limits of the requested right-of-use.

Description of respondents: Individuals, corporations, companies, and State and local entities that desire to use Reclamation lands.

Frequency: Each time a Right of Use is requested.

Estimated completion time: An average of 2 hours per respondent.

Annual responses: 500 respondents.

Annual burden hours: 1,000.

Our practice is to make comments, including names and home addresses of respondents, available for public review. Individual respondents may request that we withhold their home address from public disclosure, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold a respondent's identity from public disclosure, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public disclosure in their entirety.

Dated: December 3, 2001.

Elizabeth Cordova-Harrison,

Deputy Director, Office of Policy.

[FR Doc. 02–398 Filed 1–7–02; 8:45 am]

BILLING CODE 4310–94–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–932 (Final)]

Certain Folding Metal Tables and Chairs From China

AGENCY: United States International Trade Commission.

ACTION: Scheduling of the final phase of an antidumping investigation.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping investigation No. 731–TA–932 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of less-than-fair-value imports from China of certain folding tables and chairs, provided for in subheadings 9401.71.00, 9401.79.00, and 9403.20.00 of the Harmonized Tariff Schedule of the United States.[1]

For further information concerning the conduct of this phase of the investigation, hearing procedures, and rules of general application, consult the Commission's rules of practice and procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

EFFECTIVE DATE: December 3, 2001.

FOR FURTHER INFORMATION CONTACT: Olympia DeRosa Hand (202–205–3182), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS-ON-LINE) at *http://dockets.usitc.gov/eol/public.*

SUPPLEMENTARY INFORMATION:

Background

The final phase of this investigation is being scheduled as a result of an affirmative preliminary determination by the Department of Commerce that imports of certain folding metal tables and chairs from China are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigation was requested in a petition filed on April 27, 2001, by MECO Corporation, Greeneville, TN.

Participation in the Investigation and Public Service List

Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigation need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of this investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigation. A party granted access to BPI in the preliminary phase of the investigation need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff Report

The prehearing staff report in the final phase of this investigation will be placed in the nonpublic record on April 10, 2002, and a public version will be issued thereafter, pursuant to § 207.22 of the Commission's rules.

[1] For purposes of this investigation, the Department of Commerce has defined the subject merchandise as assembled and unassembled folding tables and folding chairs made primarily or exclusively from steel or other metal, as described below:

(1) Assembled and unassembled folding tables made primarily or exclusively from steel or other metal (''folding metal tables''). Folding metal tables include square, round, rectangular, and any other shapes with legs affixed with rivets, welds, or any other type of fastener, and which are made most commonly, but not exclusively, with a hardboard top covered with vinyl or fabric. Folding metal tables have legs that mechanically fold independently of one another, and not as a set. The subject merchandise is commonly, but not exclusively, packed singly, in multiple packs of the same item, or in five piece sets consisting of four chairs and one table. Specifically excluded from the scope of folding metal tables are the following: Lawn furniture; Trays commonly referred to as ''TV trays'' Side tables; Child-sized tables; Portable counter sets consisting of rectangular tables 36″ high and matching stools; and Banquet tables. A banquet table is a rectangular table with a plastic or laminated wood table top approximately 28″ to 36″ wide by 48″ to 96″ long and with a set of folding legs at each end of the table. One set of legs is composed of two individual legs that are affixed together by one or more cross-braces using welds or fastening hardware. In contrast, folding metal tables have legs that mechanically fold independently of one another, and not as a set.

(2) Assembled and unassembled folding chairs made primarily or exclusively from steel or other metal (''folding metal chairs''). Folding metal chairs include chairs with one or more cross-braces, regardless of shape or size, affixed to the front and/or rear legs with rivets, welds or any other type of fastener. Folding metal chairs include: those that are made solely of steel or other metal; those that have a back pad, a seat pad, or both a back pad and a seat pad; and those that have seats or backs made of plastic or other materials. The subject merchandise is commonly, but not exclusively, packed singly, in multiple packs of the same item, or in five piece sets consisting of four chairs and one table. Specifically excluded from the scope of folding metal chairs are the following: Folding metal chairs with a wooden back or seat, or both; Lawn furniture; Stools; Chairs with arms; and Child-sized chairs.

Hearing

The Commission will hold a hearing in connection with the final phase of this investigation beginning at 9:30 a.m. on April 23, 2002, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before April 15, 2002. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on April 18, 2002, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by §§ 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written Submissions

Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is April 17, 2002. Parties may also file written testimony in connection with their presentation at the hearing, as provided in § 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of § 207.25 of the Commission's rules. The deadline for filing posthearing briefs is April 30, 2002; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before April 30, 2002. On May 16, 2002, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before May 20, 2002, but such final comments must not contain new factual information and must otherwise comply with § 207.30 of the Commission's rules. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of § 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.21 of the Commission's rules.

Issued: January 2, 2002.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 02–393 Filed 1–7–02; 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, 28 CFR 50.7, notice is hereby given that a consent decree in *United States and State of Marine* v. *A&S Motors, Inc., et al.,* Civil Nos. 01–238–B, was lodged on November 30, 2001 with the United States District Court for the district of Maine.

The proposed consent decree embodies an agreement with 60 potentially responsible parties, pursuant to section 107 of CERCLA, 42 U.S.C. 9607, to pay $155,281, in aggregate, in reimbursement of past response costs at the Hows Corner Superfund Site in Plymouth, Maine. A total of $128,748 of these amounts will be paid to the United States and the balance will be paid to the State of Maine.

The monies paid by the settling defendants under the consent decree is to reimburse past and future costs incurred and to be incurred at the Site. The consent decree provides the settling defendants with releases for civil liability for EPA's and the State's past and future response costs at the Site.

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, U.S. Department of Justice, PO Box 7611, Washington, DC 20044–7611, and should refer to *United States and State of Maine* v. *A&S Motors, Inc., et al., DOJ Ref. No. 90–11–3–1733/2.*

The proposed consent decree may be examined at the Office of the United States Attorney, 99 Franklin Street, 2nd Floor, Bangor, ME 04401, and at the Region I Office of the Environmental Protection Agency, Region I records Center, 1 Congress Street, Suite 1100, Boston, MA 02114–2023. A copy of the proposed consent decree may be obtained by mail from the Consent Decree Library, PO Box 7611, Washington, DC 20044–7611. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $22.00 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Ronald G. Gluck,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 02–363 Filed 1–7–02; 8:45 am]

BILLING CODE 44410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with the Departmental Policy, 28 CFR 50.7 and section 122(d) of the Comprehensive Environmental Response, Compensation and Liability Act (''CERCLA''), notice is hereby given that a Consent Decree in *United States* v. *Cytec Industries, Inc., Ford Motor Company, SPS Technologies, Inc. and TI Automotive Systems Corp.,* Civil Action No. 01–CV–6109, was lodged with the United States District Court for the Eastern District of Pennsylvania on December 6, 2001. This Consent Decree resolves certain claims of the United States' against Cytec Industries, Inc., Ford Motor Company, SPS Technologies, Inc., and TI Automotive Systems Corp. (''Settling Defendants'') under sections 106 and 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act (''CERCLA''), 42 U.S.C. 9606 and 9607(a). The Consent Decree requires the Settling Defendants to perform remedial work at the Site consisting of all Operable Unit 2 response activities (as defined in the Decree) and to reimburse the Superfund for past response costs in the amount of $7 million and to pay future response costs for the Boarhead Farms Superfund Site

located in Bridgeton Township, Pennsylvania.

The Department of Justice will accept written comments on the proposed Consent Decree for thirty (30) days from the date of publication of this notice. Please address comments to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, PO Box 7611, Ben Franklin Station, Washington, DC 20044 and refer to *United States* v. *Cytec Industries, Inc., Ford Motor Company, SPS Technologies, Inc., and TI Automotive Systems Corp.,* DOJ # 90–11–2–06036/2.

Copies of the proposed Consent Decree may be examined at the Office of the United States Attorney, Eastern District of Pennsylvania, 615 Chestnut Street, Philadelphia, PA 19106 and at EPA Region III, 1650 Arch Street, Philadelphia, PA 19103. A copy of the proposed Consent Decree may be obtained by mail from the U.S. Department of Justice, Consent Decree Library, PO Box 7611, Washington, DC 20044–7611. When requesting a copy of the proposed Consent Decree, please enclose a check to cover the twenty-five cents per page reproduction costs payable to the ''Consent Decree Library'' in the amount of $23.25 (for Decree without appendices) or $29.00 (for Decree with appendices), and please reference *United States* v. *Cytec Industries, Inc., Ford Motor Company, SPS Technologies, Inc., and TI Automotive Systems Corp.,* DOJ No. 90–11–2–06036/2.

Catherine McCabe,

Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division, Department of Justice.

[FR Doc. 02–364 Filed 1–7–02; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Phillips Petroleum Company, et al.*, No. 3:00–CV–620–J–25c (M.D. Fla.) was lodged on November 19, 2001, with the United Stated District Court for the Middle District of Florida. The consent decree settles the United States' claims against numerous defendants, as well as counterclaims and third party claims against the United States, under sections 107 and 113 of the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. 9607 and 9613, for past response costs incurred in connection the Bill Johns Waste Oil Superfund Site in Jacksonville, Florida. Under the proposed decree the defendants, and the United States as a counter defendant, would reimburse the Superfund $1,450,000.00 out of $2,611,662.86 in past costs. The contribution of the settling federal agencies is $140,184.00.

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 the *United States* v. *Phillips Petroleum Company et al.,* No. 3:00–CV–620–J–25c (M.D. Fla.) and DOJ# 90–11–3–07139.

The proposed consent decree may be examined at the office of the United States Attorney, Middle District of Florida 200 W. Forsyth Street, Suite 700 Jacksonville, Florida 32201 and the Region 4 Office of the Environmental Protection Agency, 61 Forsyth Street, SW., Atlanta, GA 30303. A copy of the proposed consent decree may also be obtained by mail from the Consent Decree Library, PO Box 7611, Washington, DC 20044–7611. In requesting a copy please refer to the referenced case and enclose a check in the amount of $7.00 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Ellen M. Mahan,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 02–360 Filed 1–7–02; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Resource Conservation and Recovery Act (''RCRA'')

Consistent with Departmental policy, 28 CFR 50.7, notice is hereby given that on December 20, 2001, a proposed Consent Decree in *United States et al.* v. *Precision Fabricating and Cleaning Co. Inc.,* Civil Action No. 6:99–CF–1529–ORL–22DAB was lodged with the United States District Court for the Middle District of Florida.

In this action the United States sought injunctive relief and penalties against Precision Fabricating and Cleaning Co., Inc. (''PFC'') pursuant to the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (''RCRA'') section 7003, 42 U.S.C. 6973; and the Safe Drinking Water Act (''SDWA'') section 1431, 42 U.S.C. 300i. The United States sought to enjoin PFC to comply with an Administrative Order issued by EPA on September 30, 1996, in order to abate an imminent and substantial endangerment to public health, welfare, and the environment connected with the contamination of soil and groundwater at PFC's Facility at 3975 East Railroad Avenue, Sharpes, Brevard County, Florida. The United States also sought civil penalties for Defendant's violations of the Administrative Order pursuant to section 7003(b) of RCRA, 42 U.S.C. 6973(b), and section 1431 of the SDWA, 42 U.S.C. 300i.

The Complaint was amended to include claims by the State of Florida which sought to enjoin Defendant to comply with Consent Orders OGC No. 89–0257 (dated September 8, 1989) and No. 91–0825 (dated December 12, 1991) and to comply with Postclosure permit No. HF05–214090 (dated May 20, 1999).

The proposed Consent Decree, which settles the liability of PFC, for violations alleged in the Amended Complaint, provides that PFC will perform the environmental remedy at the Site estimated to cost $1.1 to $1.4 million, as set forth in the Remedial Measures Plan incorporated by reference in and attached to the Decree. Under the Decree, PFC will also pay to the United States a penalty of $75,000.

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, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *Precision Fabricating and Cleaning Co.,* D.J. Ref. 90–7–1–891.

The proposed Consent Decree may be examined at the Office of the United States Attorney, 400 North Tampa Street, Suite 3200, Tampa, Florida 33602, and at the U.S. EPA Region IV, 61 Forsyth Street, Atlanta, Georgia 30303. A copy of the proposed Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611. In requesting a copy, please enclose a check in the amount of $52.00 (25 cents per page reproduction cost) payable to the Consent Decree Library. In requesting a copy exclusive of exhibits,

please enclose a check in the amount of $16.75 payable to the Consent Decree Library.

Walker B. Smith,

Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 02–365 Filed 1–7–02; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Rentokil Initial Environmental Services, et al.*, No. 00–0395–BH–S (S.D. Ala.) was lodged on December 21, 2001, with the United States District Court for the Southern District of Alabama. The consent decree settles claims against Rentokil Initial Environmental Services, Inc. (''Rentokil''), Saraland Apartments, Ltd., The Roar Company, The Estate of Robert S. Coit (deceased) and Meador Contracting Company under section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. 9607, in connection with the Redwing Carriers, Inc., (Saraland) Superfund Site located Saraland, Alabama (the ''Site''). The consent decree requires Rentokil to perform the remedial action at the Site and the settling defendants will contribute, in cash or through the performance of the remedy, at least $9.26 million of $10.9 in total Site costs. The consent decree also resolves the United States' claims for treble punitive damages and fines against Rentokil and Saraland Apartments, Ltd. pursuant to section 107(c)(3), 42 U.S.C. 9607(c)(3) and section 106(b), 42 U.S.C. 9606(b). Finally, the consent decree provides for full payment of Saraland's debt, secured by the Site, to the United States Department of Housing and Urban Development (HUD); provided the payment does not exceed $500,000. The settling defendants are also settling claims among themselves through the consent decree.

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. *Rentokil Initial Environmental Services, et al.*, No. 00–0395–BH–S (S.D. Ala.) and DOJ# 90–11–2–635/1.

The proposed consent decree may be examined at the office of the United States Attorney, Southern District of Alabama 63 Royal Street, Suite 600, Mobile, Alabama 36602 and the Region 4 Office of the Environmental Protection Agency, 61 Forsyth Street, SW., Atlanta, GA 30303. A copy of the proposed consent decree may also be obtained by mail from the Consent Decree Library, PO Box 7611, Washington, DC 20044–7611. In requesting a copy please refer to the referenced case and enclose a check in the amount of $45.25 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Ellen M. Mahan,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 02–361 Filed 1–7–02; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Departmental policy and 28 CFR 50.7, notice is hereby given that a Consent Decree in *United States* v. *Square D Co.,* Civ. A. 01–CV–6048, was lodged on December 4, 2001 with the United States District Court for the Eastern District of Pennsylvania. The Consent Decree resolves the claims of the United States under section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act against Square D Co. for reimbursement of $138,193, one hundred percent of outstanding response costs incurred in responding to contamination at the Rodale Manufacturing Superfund Site (''the Site'') located in the Borough of Emmaus, Lehigh County, Pennsylvania. The Commonwealth of Pennsylvania is also a party to the Consent Decree, which will reimburse the Commonwealth for all its past and future response costs.

The Consent Decree also requires Square D Co. to pay all future response costs not inconsistent with the National Contingency Plan and to finance and to perform remedial work at the Site.

The Department of Justice will receive, for a period of not less than 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. *Square D. Co.* (01–CV–6048), DOJ Ref. #90–11–2–06943.

The Consent Decree may be examined at the Office of the United States Attorney, 615 Chestnut Street, Suite 1250, Philadelphia, PA, 19106, and at the Region III Office of the Environmental Protection Agency, 1650 Arch Street, Philadelphia, Pennsylvania 19103. A copy of the proposed Consent Decree may be obtained by mail from the Consent Decree Library, Department of Justice, PO Box 7611, Washington, DC 20044–7611. In requesting a copy from the Consent Decree Library, please refer to the referenced case and enclose a check in the amount of $23.25 (25 cents per page reproduction cost), payable to the Consent Decree Library.

Robert Brook,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division, United States Department of Justice, PO Box 7611, Washington, DC 20044–7611.

[FR Doc. 02–362 Filed 1–7–02; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated March 14, 2001, and published in the **Federal Register** on April 4, 2001, (66 FR 17930), Noramco of Delaware, Inc., 500 Old Swedes Landing Road, Wilmington, Delaware 19801, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Opium, raw (9600)	II
Poppy Straw Concentrate (9670)	II

The firm intends to import the listed controlled substances for the bulk manufacture of other controlled substances.

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Noramco of Delaware, Inc. to import the listed controlled substances is consistent with the public interest and with United States obligations under international treaties,

conventions, or protocols in effect on May 1, 1971, at this time. DEA has investigated Noramco of Delaware, Inc., on a regular basis to ensure that the company's continued registration is consistent with the public interest. These investigations have included inspection and testing of the company's physical security systems, audits of the company's records, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to Section 1008(a) of the Controlled Substances Import and Export Act and in accordance with Title 21, Code of Federal Regulations, Section 1301.34, the above firm is granted registration as an importer of the basic classes of controlled substances listed above.

Dated: December 21, 2001

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 02–416 Filed 1–7–02; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on May 1, 2001, OraSure Technologies, Inc., 1745 Eaton Avenue, Bethlehem, Pennsylvania 18018, made application by letter to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Alphamethadol (9605)	I
Benzoylecgonine (9180)	II
Morphine (9300)	II

The firm plans to bulk manufacture the listed controlled substances to be used in-house to manufacture other controlled substances.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than March 11, 2002.

Dated: December 21, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 02–420 Filed 1–7–02; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on April 10, 2001, Polaroid Corporation, 1265 Main Street, Building W6, Waltham, Massachusetts 02454, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of 2, 5-dimethoxyamphetamine (7396), a basic class of controlled substance listed in Schedule I.

The firm plans to manufacture bulk 2, 5-dimethoxyamphetamine for conversion into a non-controlled substance.

Any other such applicant and any person who is presently registered with DEA to manufacture such substance may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than March 11, 2002.

Dated: December 21, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 02–421 Filed 1–7–02; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By notice dated August 9, 2001, and published in the **Federal Register** on August 10, 2001, (66 FR 42240), Sigma Aldrich Research Biochemicals, Inc., Attn: Richard Milius, 1–3 Strathmore Road, Natick, Massachusetts 01760, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Cathinone (1235)	I
Methcathinone (1237)	I
Aminorex (1585)	I
Alpha-Ethyltryptamine (7249)	I
Lysergic acid diethylamide (7315).	I
Tetrahydrocannabinols (7370)	I
4-Bromo-2, 5-dimethoxyamphetamine (7391).	I
4-Bromo-2, 5-dimethoxyphenethylamine (7392).	I
2, 5-Dimethoxyamphetamine (7396).	I
3, 4-Methylenedioxyamphetamine (7400).	I
N-Hydroxy-3, 4-methylenedioxyamphetamine (7402).	I
3, 4-Methylenedioxy-N-ethylamphetamine (7404).	I
3, 4-Methylenedioxymethampheta-mine (7405).	I
1-[(2-Thienyl) cyclohexyl]piperidine (7470).	I
Heroin (9200)	I
Normorphine (9313)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Phenylcyclohexylamine (7460)	II
Phencyclidine (7471)	II
Cocaine (9041)	II
Codeine (9050)	II
Diprenorphine (9058)	II
Benzoylecogonine (9180)	II
Levomethorphan (9210)	II
Levorphanol (9220)	II
Meperidine (9230)	II
Metazocine (9240)	II
Methadone (9250)	II
Morphine (9300)	II
Thebaine (9333)	II
Canfentanil (9773)	II
Levo-alphacetylmethadol (LAAM) (9648).	II
Fentanyl (9801)	II

The firm plans to manufacture the listed controlled substances for laboratory reference standards and neurochemicals.

DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Sigma Aldrich Research Biochemicals, Inc. to manufacture the listed controlled substances is consistent with the public interest at this time. DEA has investigated Sigma Aldrich Research Biochemicals, Inc. on a regular basis to ensure that the company's continued registration is consistent with the public interest.

These investigations have included inspection and testing of the company's physical security systems, audits of the company's records, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823 and 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: December 28, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 02–415 Filed 1–7–02; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Bureau of Justice Statistics; Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of information collection under review: Annual Parole Survey, Annual Probation Survey, and Annual Probation Survey (Short Form).

The Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. This proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until March 11, 2002.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Lauren Glaze, (202) 305–9628, or via facsimile at (202) 307–1463, Bureau of Justice Statistics, Office of Justice Programs, U.S. Department of Justice, 810 7th Street, NW, Washington, DC 20531.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the variety of the methodology and assumptions used;

(3) Enhance the quality, utility and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of information collection:* Revision of currently approved collection.

(2) *The title of the Form/Collection:* Annual Parole Survey, Annual Probation Survey, and Annual Probation Survey (Short Form).

(3) *The agency form number and the applicable component of the Department sponsoring the collection:* Forms: CJ–7; CJ–8; and CJ–8A. Corrections Statistics, Bureau of Justice Statistics, Office of Justice Programs, United States Department of Justice.

(4) *Affected public who will be asked to respond, as well as a brief abstract:* Primary: State Departments of Corrections or State probation and Parole authority. Others: The Federal Bureau of Prisons, city and county courts and probation officers for which a central reporting authority does not exist. For the CJ–7 form, 54 central reporters (two State jurisdictions in California and one each from the remaining States, the District of Columbia, the Federal Bureau of Prisons, and one local authority) responsible for keeping records on parolees will be asked to provide information for the following categories:

(a) As of January 1, 2002 and December 31, 2002, the number of adult parolees under their jurisdiction;

(b) The number of adults entering parole during 2002 through discretionary release from prison, mandatory release from prison, or reinstatement of parole;

(c) The number of adults released from parole during 2002 through successful completion, incarceration, transfer to another parole jurisdiction, or death;

(d) Whether adult parolees supervised out of State have been included in the total number of parolees on December 31, 2002, and the number of adult parolees supervised out of State;

(e) As of December 31, 2002, the number of male and female parolees under their jurisdiction;

(f) As of December 31, 2002, the number of white (not of Hispanic origin), black (not of Hispanic origin), Hispanic or Latino, American Indian or Alaska Native, Asian or Pacific Islander, or additional categories in their information systems;

(g) As of December 31, 2002, the number of adult parolees under their jurisdiction with a sentence of more than one year, or a year or less;

(h) As of December 31, 2002, the number of adult parolees under their jurisdiction who were active, inactive, absconders, or supervised out of state;

(i) As of December 31, 2002, the number of adult parolees under their jurisdiction who were supervised following a discretionary release, a mandatory release, a special conditional release, or other type of release from prison;

(j) Whether the parole authority operated an intensive supervision program, a program involving electronic monitoring, or had any parolees enrolled in a program that approximates a bootcamp, and the number of adult parolees in each of the programs as of December 31, 2002; and

(k) Of the adult parolees who died between January 1 and December 31, 2002, the number of deaths by gender and the number of deaths by race.

For the CJ–8 form, 333 reporters (one from each State, the District of Columbia, and the Federal Bureau of Prisons; and 295 from local authorities) responsible for keeping records on probations will be asked to provide information for the following categories:

(a) As of January 1, 2002 and December 31, 2002, the number of adult probationers under their jurisdiction;

(b) The number of adults entering probation during 2002 with and without a sentence to incarceration;

(c) The number of adults discharged from probation during 2002 through successful completion, incarceration, a detainer or warrant, transfer to another parole jurisdiction, and death;

(d) Whether adult parolees supervised out of State have been included in the total number of parolees on December 31, 2002, and the number of adult parolees supervised out of State;

(e) As of December 31, 2002, the number of male and female probationers under their jurisdiction;

(f) As of December 31, 2002, the number of white (not of Hispanic origin), black (not of Hispanic origin), Hispanic or Latino, American Indian or

Alaska Native, Asian or Pacific Islander, or additional categories in their information system;

(g) As of December 31, 2002, the number of adult probationers under their jurisdiction who were sentenced for a felony, misdemeanor, or other offense type;

(h) As of December 31, 2002, the number of adult probationers who had as their most serious offense a drug law violation, driving while intoxicated, other traffic offense, or domestic violence offense.

(i) Whether the probation authority supervised any probations held in local jails, prisons, or an INS holding facility, and the number of adult probationers held in each on December 31, 2002;

(j) As of December 31, 2002, the number of adult probationers under their jurisdiction who had entered probation with a direct sentence to probation, a split sentence to probation, a suspended sentence to incarceration, or a suspended imposition of sentence;

(k) As of December 31, 2002, the number of adult probationers under their jurisdiction who were active, inactive, absconders, or supervised out of state; and

(l) Whether the probation authority operated an intensive supervision program, a program involving electronic monitoring, or had any probationers enrolled in a program that approximates a bootcamp, and the number of adult probationers in each of the programs as of December 31, 2002.

(m) Whether the probation authority contracted out to a private agency for supervision, and the number of probationers supervised by a private agency that were included in the total population on December 31, 2002.

For the CJ–8A form, 150 reporters (from local authorities) responsible for keeping records on probationers will be asked to provide information for the following categories:

(a) As of January 1, 2002 and December 31, 2002, the number of adult probationers under their jurisdiction;

(b) The number of adults entering probation and discharged from probation during 2002;

(c) As of December 31, 2002, the number of male and female probationers under their jurisdiction; and

(d) As of December 31, 2002, the number of adult probationers under their jurisdiction who were sentenced for a felony, misdemeanor, or other offense type. The Bureau of Justice Statistics uses this information in published reports and for the U.S. Congress, Executive Office of the President, practitioners, researchers, students, the media, and others interested in criminal justice statistics.

(5) An estimate of the total number of respondents and the amount of time needed for an average respondent to respond: Five hundred and thirty-seven respondents each taking an average 1.17 hours to respond.

(6) An estimate of the total public burden (in hours) associated with the collection: Six hundred and fifty six annual burden hours.

If additional information is required contact: Mrs. Brenda E. Dyer, Deputy Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 1600, 601 D Street, NW, Washington, DC 20530, or via facsimile at (202) 514–1590.

Dated: December 31, 2001.

Brenda E. Dyer,

Department Deputy Clearance Officer, United States Department of Justice.

[FR Doc. 02–427 Filed 1–7–02; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importation of Controlled Substances; Notice of Application

Pursuant to section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with § 1301.34 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on August 17, 2001, Cerilliant Corporation, 14050 Summit Drive, Suite 121, PO Box 80189, Austin, Texas 78708–0189, made application by renewal to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Cathinone (1235)	I
Methcathinone (1237)	I
N-Ethylamphetamine (1475)	I
Gamma hydroxybutyric acid (2010).	I
Ibogaine (7260)	I
Tetrahydrocannabinols (7370)	I
Mescaline (7381)	I
4-Bromo-2, 5-dimetnoxyamphetamine (7391).	I
4-Bromo-2, 5-dimethoxyphenethylamine (7392).	I
4-Methyl-2, 5-dimethoxyamphetamine (7395).	I
2, 5-Dimethoxyamphetamine (7396).	I
3, 4-Methylenedioxyamphetamine (7400).	I
3, 4-Methylenedioxy-N-ethylamphetamine (7404).	I
3, 4-Methylenedioxymethamphetamine (7405).	I
4-Methoxyamphetamine (7411)	I
Psilocybin (7437)	I
Psilocyn (7438)	I
Heroin (9200)	I
Pholcodine (9314)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Amobarbital (2125)	II
Pentobarbital (2270)	II
Cocaine (9041)	II
Codeine (9050)	II
Etorphine (9056)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Benzoylecgonine (9180)	II
Ethylmorphine (9190)	II
Meperidine (9230)	II
Methadone (9250)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273).	II
Morphine (9300)	II
Thebaine (9333)	II
Levo-alphacetylmethadol (9648)	II
Oxymorphone (9652)	II

The firm plans to import small quantities of the listed controlled substances for the manufacturer of analytical reference standards.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of these basic classes of controlled substances may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.43 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than February 7, 2002.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1301.34(b), (c), (d), (e), and (f). As noted

in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import the basic classes of any controlled substances in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1301.34(a), (b), (c), (d), (e), and (f) are satisfied.

Dated: December 21, 2001.

Laura M. Nagel,

Deputy Assistant Adminstrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 02–419 Filed 1–7–02; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated July 31, 2001, and published in the **Federal Register** on August 10, 2001, (66 FR 42239) Chattem Chemicals, Inc., 3801 St. Elmo Avenue, Building 18, Chattanooga, Tennessee 37409, made applications by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Methamphetamine (1105)	II
Phenylacetone (8501)	II

The firm plans to import the phenylacetone to manufacture methamphetamine and amphetamine and to import racemic methamphetamine for resolution into the d- and 1- steroisomers.

No comments or objections have been received regarding these controlled substances. DEA has considered the factors in Title 21, United States Code, section 823(a) and determined that the registration of Chattem Chemicals, Inc. is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. DEA has investigated Chattem Chemicals, Inc. on a regular basis to ensure that the company's continued registration is consistent with the public interest. These investigations have included inspection and testing of the company's physical security systems, audits of the company's records, verification of the company's compliance with state and local laws, and a review of the company's background and history.

Therefore, pursuant to section 1008(a) of the Controlled Substances Import and Export Act and in accordance with Title 21, Code of Federal Regulations, § 1301.34, the above firm is granted registration as an importer of the basic classes of controlled substances listed above.

Dated: December 21, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 02–417 Filed 1–7–02; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated May 14, 2001, and published in the **Federal Register** on May 30, 2001, (66 FR 29344), Mallinckrodt, Inc., Mallinckrodt & Second Streets, St. Louis, Missouri 63147, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Tetrahydrocannabinols (7370)	I
Dihydromorphine (9145)	I
Amphetamine (1100)	II
Methylphenidate (1724)	II
Cocaine (9041)	II
Codeine (9050)	II
Diprenorphine (9058)	II
Etorphine Hydrochloride (9059)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Diphenoxylate (9170)	II
Hydrocodone (9193)	II
Levorphanol (9220)	II
Meperidine (9230)	II
Methadone (9250)	II
Methadone-intermediate (9254)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273).	II
Morphine (9300)	II
Thebaine (9333)	II
Opium extracts (9610)	II
Opium fluid extract (9620)	II
Opium tincture (9630)	II
Opium powdered (9639)	II
Opium granulated (9640)	II
Levo-alphacetylmethadol (9648)	II
Oxymorphone (9652)	II
Noroxymorphone (9668)	II
Alfentanil (9737)	II
Sulfentanil (9740)	II
Fentanyl (9801)	II

The firm plans to manufacture the controlled substances for distribution as bulk products to its customers.

No comments or objections were received. DEA has considered the factors in Title 21, United States Code, section 823(a) and determined that the registration of Mallinckrodt, Inc. to manufacture listed controlled substances is consistent with the public interest at this time. DEA has investigated a Mallinckrodt, Inc. on a regular basis to ensure that the company's continued registration is consistent with the public interest. These investigations have included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823 and 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of the controlled substances listed above is granted.

Dated: December 21, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 02–418 Filed 1–7–02; 8:45 am]

BILLING CODE 4410–09–M

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 Wednesday, January 16, 2002, and Thursday, January 17, 2002, 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 January 16, and at 9 a.m. on January 17.

Topics for discussion include: Should Medicare payments take into account other payers' behavior?; assessing payment adequacy and updating Medicare payments for physician services, outpatient dialysis services, inpatient and outpatient hospital services, skilled nursing facility care, and home health services, measuring changes in input prices in traditional Medicare; Medicare+Choice; adjusting for local differences in resident training

costs, and assessing the Medicare benefit package.

Agendas will be mailed on January 8, 2002. 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. 02–368 Filed 1–7–02; 8:45 am]

BILLING CODE 6820–BW–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (02–002)]

Notice of Agency Report Forms Under OMB Review

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of Agency report forms under OMB review.

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (Public Law 104–13, 44 U.S.C. 3506(c)(2)(A)). This information collection provides records of accountability, responsibility, transfer, location, and disposition of radioactive materials.

DATES: Comments on this proposal should be received within 30 calendar days from the date of this publication.

ADDRESSES: All comments should be addressed to Desk Officer for NASA; Office of Information and Regulatory Affairs; Office of Management and Budget; Room 10236; New Executive Office Building; Washington, DC, 20503.

FOR FURTHER INFORMATION CONTACT: Ms. Nancy Kaplan, NASA Reports Officer, (202) 358–1372.

Title: Radioactive Material Transfer Receipt.

OMB Number: 2700–0007.

Type of review: Extension.

Need and Uses: NASA Johnson Space Center is required by federal law to keep records of the receipt, transfer, and disposal of radioactive items and information on accountability, responsibility, transfer, disposition, and location.

Affected Public: Business or other for-profit; Federal Government, state, local or tribal government.

Number of Respondents: 25.

Responses Per Respondent: 2.

Annual Responses: 50.

Hours Per Request: Approximately ½ hr.

Annual Burden Hours: 29.

Frequency of Report: On occasion.

David B. Nelson,

Deputy Chief Information Officer, Office of the Administrator.

[FR Doc. 02–378 Filed 1–7–02; 8:45 am]

BILLING CODE 7510–01–P

NUCLEAR REGULATORY COMMISSION

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law 97–415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from December 7, 2001, through December 27, 2001. The last biweekly notice was published on December 26, 2001 (66 FR 64461).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments may be examined at the NRC Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By February 7, 2002 , the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to

intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available 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 Document Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html*. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Branch, or may be delivered to the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor) Rockville, Maryland, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor) Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm./adams.html*. Persons who 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 e-mail to *pdc@nrc.gov.*

Calvert Cliffs Nuclear Power Plant, Inc., Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of amendments request: November 19, 2001.

Description of amendments request: The proposed amendments would change the Loss of Feedwater Flow analysis in the Updated Final Safety Analysis Report (UFSAR). The current analysis contained several non-conservative assumptions, which would be corrected by the reanalysis. These corrections include: incorporating a single-failure of the Auxiliary Feedwater System, including steam generator blowdown, accounting for the change in density of water once the feedwater flow has stopped, and assuming sludge deposition in the steam generators. Also assumed in the analysis is the installation of a modification to isolate steam generator blowdown on an auxiliary feedwater actuation signal and an operator action to adjust the auxiliary feedwater flow after the event initiation.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below:

1. Does the amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

No. The proposed amendments would modify several assumptions in the UFSAR Loss of Feedwater Flow analysis to more accurately reflect the plant response to the event. The significant changes to the accident include the addition of an operator action to increase auxiliary feedwater (AFW) flow and the implementation of an automatic steam generator blowdown isolation following the event initiation. These changes do not affect any accident initiators or precursors because they only alter the operation of the plant following the accident initiation. Thus, the proposed amendments do not increase the probability of occurrence of any previously analyzed accidents. In addition, besides the aforementioned changes, the proposed amendments would not alter any design parameter, condition, equipment configuration, or manner in which Calvert Cliffs Units 1 and 2 are operated. Furthermore, the proposed modifications do not alter or prevent the ability of existing structures, systems, or components to perform their intended safety or accident-mitigating functions depicted in the UFSAR. The proposed modifications to the analysis account for a single-failure and update the assumptions to more recent standards. With these changes, the plant continues to meet the current acceptance criteria. Therefore, the proposed amendments do not involve a significant increase in the consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

No. The proposed amendments alter the design function of the steam generator blowdown valves to isolate upon receipt of an auxiliary feedwater actuation system signal. The isolation of the steam generator blowdown will not create the possibility of a new or a different kind of accident because blowdown isolation already occurs on a high radiation signal or a containment spray actuation signal. The operator action to increase AFW flow only alters the operation of the AFW in the conservative direction. The other changes to the accident analysis do not alter any design parameter, condition, equipment configuration, or manner in which the units are operated. Furthermore, none of the changes alter or prevent the ability of structures, systems, or components to perform their intended safety or accident mitigating functions. Accordingly, the proposed amendment does not create any new or different kind of accident from any accident previously evaluated.

3. Does the change involve a significant reduction in a margin of safety?

No. The proposed amendments do not change any design parameter, safety limit, or acceptance criteria. However, the amendments do change an analysis methodology. This change, performed with the objective of imposing conservative assumptions on the accident analysis, keeps the accident within the acceptance criteria for anticipated operational occurrences. Therefore, operation in accordance with the proposed amendment will not involve a significant reduction in a margin of safety.

Based on the NRC staff's review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the proposed amendment involves no significant hazards consideration.

Attorney for licensee: Jay E. Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Section Chief: L. Raghavan, Acting.

Calvert Cliffs Nuclear Power Plant, Inc., Docket No. 50–318, Calvert Cliffs Nuclear Power Plant, Unit No. 2, Calvert County, Maryland

Date of amendment request: November 19, 2001.

Description of amendment request: The proposed amendment would provide a one-time extension, from 10 to 14 days, of the allowed outage time (AOT) for one train of the Control Room Emergency Ventilation System (CREVS) to be inoperable due to the emergency power supply being inoperable.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below:

1. Does the amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

No. The proposed amendment would allow a one-time extension of the AOT of one train of the CREVS. Since the CREVS is an accident mitigation system, the AOT extension would not affect any accident initiators or precursors. Therefore, the AOT extension would not increase the probability of an accident previously evaluated. Similarly, since the consequences of a design-basis accident coincident with a failure of the redundant CREVS train during a 14-day outage are the same as those during the already approved 10-day outage, the proposed change does not increase the consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

No. The proposed amendment does not affect accident initiators or precursors because the CREVS is not being modified nor will any unusual operator actions be required. The CREVS is not an accident initiator, but is an accident mitigator. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the change involve a significant reduction in a margin of safety?

No. The proposed amendment would allow a one-time extension of the AOT of one train of the CREVS from the currently allowed 10 days to 14 days. This action decreases the margin of safety. However, based upon the licensee's management of plant risk, the change increases the Core Damage Frequency (CDF) and Large Early Release Frequency (LERF) to less than the Regulatory Guide 1.174 criteria of 1E–6 per reactor year for CDF and 1E–07 per reactor year for LERF. Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

Based on the NRC staff's review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the proposed request involves no significant hazards consideration.

Attorney for licensee: Jay E. Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Section Chief: L. Raghavan, Acting.

Carolina Power & Light Company, et al., Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant (BSEP), Units 1 and 2, Brunswick County, North Carolina

Date of amendments request: November 26, 2001.

Description of amendments request: The proposed amendments will add Technical Specification 5.5.12.f, ''Programs and Manuals, Primary Containment Leakage Rate Testing Program.'' This addition will provide a one-time exception to the frequency of the performance-based leakage rate testing program.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed license amendments do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change to Technical Specification 5.5.12 provides a one-time extension to the testing frequency for containment integrated leakage rate (i.e., Type A) testing. The existing 10-year test interval is based on past test performance. The proposed Technical Specification change will extend the Type A testing frequency to 15 years, one month from the last Type A test for Unit 1 and to 15 years for Unit 2. The proposed Technical Specification change does not involve a physical change to the plant or a change in the manner in which the plant is operated or controlled. The primary containment is designed to provide an

essentially leak tight barrier against the uncontrolled release of radioactivity to the environment for postulated accidents. As such, the primary containment does not involve the prevention or identification of any precursors of an accident. Therefore, the proposed Technical Specification change does not involve a significant increase in the probability of an accident previously evaluated.

The proposed change involves only a one-time change to the interval between Type A containment leakage tests. Type B and C containment leakage testing will continue to be performed at the frequency currently required by the BSEP Technical Specifications. As documented in NUREG–1493, ''Performance-Based Containment Leakage-Test Program,'' industry experience has shown that Type B and C containment leakage tests have identified a very large percentage of containment leakage paths and that the percentage of containment leakage paths that are detected only by Type A testing is very small. In fact, an analysis of 144 integrated leak rate tests results, including 23 failures, found that no failures were due to containment liner breach. NUREG–1493 also concluded, in part, that reducing the frequency of Type A containment leakage rate testing to once per 20 years was found to lead to an imperceptible increase in risk. The BSEP, Unit 1 and 2 test history and risk-based evaluation of the proposed extension to the Type A test frequency supports this conclusion. The design and construction requirements of the primary containment, combined with the containment inspections performed in accordance with the American Society of Mechanical Engineers (ASME) Code, Section XI and the Maintenance Rule (i.e., 10 CFR 50.65) provide a high degree of assurance that the primary containment will not degrade in a manner that is detectable only by Type A testing. Therefore, the proposed Technical Specification change does not involve a significant increase in the consequences of an accident previously evaluated.

2. The proposed license amendments will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change to the Technical Specification 5.5.12 involves a one-time extension to the testing interval for Type A containment leakage rate testing. The primary containment and the testing requirements invoked to periodically demonstrate the integrity of the primary containment exist to ensure the ability to mitigate the consequences of an accident. The primary containment and its associated testing requirements do not involve the prevention or identification of any precursors of an accident. The proposed change to the Type A leakage rate testing frequency does not involve any physical changes being made to the facility. In addition, the proposed changes to the Type A leakage rate testing frequency [do] not change the operation of the plants such that a new failure mode involving the possibility of a new or different kind of accident from any accident previously evaluated is created. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed license amendments do not involve a significant reduction in a margin of safety.

The proposed extension to the Type A testing frequency will not significantly reduce the margin of safety. The NUREG–1493 generic study of the effects of extending containment leakage testing found that a 20-year extension for Type A leakage testing resulted in an imperceptible increase in risk to the public. NUREG–1493 found that, generically, the design containment leakage rate contributes a very small amount to the individual risk and that the decrease in Type A testing frequency would have a minimal [effect] on this risk since most potential leakage paths are detected by Type B and C testing. The proposed change involves only an extension of the frequency for Type A containment leakage testing; the overall primary containment leakage rate limit specified by Technical Specifications is being maintained. Type B and C containment leakage testing will continue to be performed at the frequency currently required by the BSEP Technical Specifications. The regular containment inspections being performed in accordance with the ASME, Section XI, and the Maintenance Rule (i.e., 10 CFR 50.65) provide a high degree of assurance that the containment will not degrade in a manner that is only detectable by Type A testing. In addition, the on-line containment monitoring capability that is inherit to [a] boiling water reactor using an inert containment atmosphere allows for the detection of gross containment leakage that may develop during power operation. The combination of these factors ensures that the margin of safety is maintained. Therefore, the proposed license amendments do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: William D. Johnson, Vice President and Corporate Secretary, Carolina Power & Light Company, Post Office Box 1551, Raleigh, North Carolina 27602.

NRC Section Chief: Richard P. Correia.

FirstEnergy Nuclear Operating Company, Docket No. 50–440, Perry Nuclear Power Plant, Unit 1, Lake County, Ohio

Date of amendment request: December 5, 2001.

Description of amendment request: The proposed amendment incorporates Technical Specification Task Force (TSTF) Standard Technical Specification Traveler, TSTF–364, Revision 0, ''Revision to Technical Specification Bases Control Program to Incorporate Changes to 10 CFR 50.59.'' The proposed change deletes reference to the term ''unreviewed safety question,'' and replaces it with the phrase ''requires NRC approval pursuant to 10 CFR 50.59.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change is consistent with the changes described in TSTF change TSTF–364, ''Revision to Technical Specification Bases Control Program to Incorporate Changes to 10 CFR 50.59.'' Specifically, the proposed change deletes the reference to the term ''unreviewed safety question'' as defined in 10 CFR 50.59 (pre-1999 revision) and replaces it with the phrase ''requires NRC approval pursuant to 10 CFR 50.59.'' The deletion of the definition of ''unreviewed safety question'' was approved by the NRC in the current revision of the 10 CFR 50.59 regulation (October 1999). Changes to the Technical Specification Bases will still be evaluated in accordance with the requirements of 10 CFR 50.59. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change is to an administrative program. The change does not involve any physical modifications to the facility nor add new equipment. The methods of plant operation have not been altered. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed change is administrative in nature, based upon the current version of 10 CFR 50.59 regulation. Changes to the Technical Specification Bases will still be evaluated by 10 CFR 50.59. The proposed change has no direct impact upon any plant safety analyses. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mary E. O'Reilly, Attorney,

FirstEnergy Corporation, 76 South Main Street, Akron, OH 44308

NRC Section Chief: Anthony J. Mendiola.

Nine Mile Point Nuclear Station, LLC, Docket No. 50–220, Nine Mile Point Nuclear Station, Unit No. 1, Oswego County, New York

Date of amendment request: October 19, 2001.

Description of amendment request: The proposed amendment would revise the Technical Specifications (TSs) by the following: (1) Implement programmatic controls for radiological effluent technical specifications in the Administrative Controls section of the TSs, (2) relocate existing procedural details to licensee-controlled documents or new programs to accommodate the incorporation of Generic Letter 89–01 and relevant portions of the Improved Standard Technical Specifications (NUREG–1433), and (3) update the references to current regulatory requirements such as those set forth in 10 CFR 20.1–20.262 and 10 CFR 20.1001–20.2402.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee provided its analysis of the issue of no significant hazards consideration. The NRC staff reviewed the licensee's analysis and has performed its own, which is presented below:

1. Does the amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

No. The proposed amendment does not affect accident initiators or precursors because it does not alter any design parameter, condition, equipment configuration, or manner in which the unit is operated. Furthermore, it does not alter or prevent the ability of existing structures, systems, or components to perform their intended safety or accident-mitigating functions depicted in the Updated Final Safety Analysis Report. The proposed amendment is administrative and it only alters the format and location of programmatic controls and procedural details. These changes will not prevent the unit to continue to comply with applicable regulatory requirements. As a result, the proposed amendment will not alter the conditions or assumptions used in previous accident analyses. Therefore, operation in accordance with the proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

No. The proposed amendment does not affect accident initiators or precursors because it does not alter any design parameter, condition, equipment configuration, or manner in which the unit is operated. Furthermore, it does not alter or prevent the ability of structures, systems, or components to perform their intended safety or accident mitigating functions. Accordingly, the proposed amendment does not create any new or different kind of accident from any accident previously evaluated.

3. Does the change involve a significant reduction in a margin of safety?

No. The proposed amendment does not change any design parameter, analysis methodology, safety limits or acceptance criteria. It is administrative as outlined above, with the objective to assure continued compliance with applicable regulatory requirements governing the radiation protection plan, radioactive effluents, radioactive sources, and radiological environmental monitoring. Therefore, operation in accordance with the proposed amendment will not involve a significant reduction in a margin of safety.

Based on the NRC staff's review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the proposed amendment involves no significant hazards consideration.

Attorney for licensee: Mark J. Wetterhahn, Esquire, Winston & Strawn, 1400 L Street, NW., Washington DC 20005–3502.

NRC Section Chief: L. Raghavan, Acting.

Nine Mile Point Nuclear Station, LLC, Docket No. 50–220, Nine Mile Point Nuclear Station, Unit No. 1 (NMP–1), Oswego County, New York

Date of amendment request: October 26, 2001.

Description of amendment request: Section 6.0 of the Technical Specifications (TSs) delineates the required administrative controls, including plant management responsibilities, station organization, staff qualifications and training, review and audit activities, procedures, reporting requirements, record retention, radiation area control, and various plant programs. The licensee proposed an amendment to revise Section 6.0 of the TSs to make it consistent with its counterpart, Section 5.0, of the Nine Mile Point Nuclear Station, Unit No. 2 (NMP–2) TSs. The NMP–2 TSs was fully converted to the format and style of the Improved Standard Technical Specifications (NUREG–1433 and NUREG–1434) by Amendment No. 91, dated February 15, 2000. While NMP–1 and NMP–2 are of different reactor designs, the administrative controls are, by necessity, either identical or very similar. Consistency of administrative controls between the two units is essential to avoid confusion and to improve efficiency.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis, and performed its own, which is presented below:

1. Does the amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

No. The proposed amendment is concerned only with administrative controls, and does not affect accident initiators or precursors because it does not alter any design parameter, condition, equipment configuration, or manner in which NMP–1 is operated. Furthermore, it does not alter or prevent the ability of existing structures, systems, or components to perform their intended safety or accident-mitigating functions depicted in the Updated Final Safety Analysis Report. The proposed amendment only affects the administrative controls in accordance with NUREG–1433 and NUREG–1434. These changes will not prevent NMP–1 to continue to comply with applicable regulatory requirements. As a result, the proposed amendment will not alter the conditions or assumptions used in previous accident analyses. Therefore, operation in accordance with the proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

No. The proposed amendment does not affect accident initiators or precursors because it does not alter any design parameter, condition, equipment configuration, or manner in which the unit is operated. Furthermore, it does not alter or prevent the ability of structures, systems, or components to perform their intended safety or accident mitigating functions. Accordingly, the proposed amendment does not create any new or different kind of accident from any accident previously evaluated.

3. Does the change involve a significant reduction in a margin of safety?

No. The proposed amendment does not change any design parameter, analysis methodology, safety limits or acceptance criteria. It is administrative as outlined above, with the objective to assure continued compliance with applicable regulatory requirements governing the various topics of administrative controls. Therefore, operation in accordance with the proposed amendment will not involve a significant reduction in a margin of safety.

Based on the NRC staff's review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the

proposed amendment involves no significant hazards consideration.

Attorney for licensee: Mark J. Wetterhahn, Esquire, Winston & Strawn, 1400 L Street, NW., Washington, DC 20005–3502.

NRC Section Chief: L. Raghavan (Acting).

Pacific Gas and Electric Company, Docket Nos. 50–275 and 50–323, Diablo Canyon Nuclear Power Plant (DCPP), Unit Nos. 1 and 2, San Luis Obispo County, California

Date of amendment requests: October 17, 2001.

Description of amendment requests: The proposed license amendments would modify Technical Specification 3.9.4, ''Containment Penetrations,'' to allow the equipment hatch, both personnel air lock doors and both emergency air lock doors to remain open, and penetration flow path(s) providing direct access from the containment atmosphere to the outside atmosphere to be unisolated under administrative control, during core alterations and movement of irradiated fuel assemblies. In addition, the amendments revise Technical Specification 1.1, ''Definitions,'' for Dose Equivalent I–131, to allow the use of the thyroid dose conversion factors, listed in the International Commission on Radiological Protection Publication 30, ''Limits for Intakes of Radionuclides by Workers.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change would allow the containment equipment hatch, Personnel Air Lock (PAL) doors, Emergency Air Lock (EAL) doors, and penetrations to remain open during fuel movement and core alterations. These penetrations are normally closed during this time period in order to prevent the escape of radioactive material in the event of a Fuel Handling Accident (FHA) inside containment. These penetrations are not initiators of any accident and the probability of a FHA is unaffected by the position of these penetrations.

The new FHA analysis with an open containment demonstrates the maximum offsite doses are well within (less than 25%) the limits specified in 10 CFR 100. These offsite dose values are also well within the acceptable limits provided in NUREG–0800, Section 15.7.4. This FHA analysis results in a maximum offsite dose of 60.62 Rem to the thyroid and 0.4281 Rem to the whole body. The calculated control room dose is also well below the acceptance criteria specified in General Design Criteria (GDC) 19. The analysis results in thyroid and whole body doses to the control room operator of 11.56 Rem and 0.0072 Rem, respectively. Although the offsite and control room dose values are increased by the proposed changes, the resulting values are still well within acceptable limits and do not significantly increase the consequences of a FHA.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change does not involve the addition or modification of any plant equipment. However, the proposed change does alter the containment closure configuration and method of operation of the plant during certain operational activities. The proposed change involves a change to the technical specification (TS) that would allow the equipment hatch door, the PAL doors, the EAL doors, and containment penetrations to be open during core alterations and fuel movement inside containment. This change only affects the containment barrier configuration of the plant during certain operational activities. Even allowing these doors and penetrations to be open, all of the resulting radiological consequences remain within acceptable limits and this configuration does not create the possibility of a new or different accident than previously evaluated.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

This proposed change creates the potential for increased dose in the control room and at the site boundary due to a FHA. However, the new analysis demonstrates that the resultant doses are well within the 10 CFR 100 limits and well below the GDC [General Design Criterion] 19 limits. In the case of the offsite dose values, they remain less than 25% of the 10 CFR 100 limits, which is considered acceptable in NUREG–0800 [Standard Review Plan], Section 15.7.4. Based on this, even though the dose values have increased from the previously calculated values, the margin of safety is not significantly reduced.

In the new analysis, the offsite and control room doses due to a FHA with an open containment have been evaluated using conservative assumptions, such as all airborne activity caused by the FHA in the containment is released instantaneously to the outside atmosphere, which ensures the calculation bounds the expected dose. The new analysis also assumes closure of the containment within two hours. As a result, requiring immediate initiation of the closure of the containment and completion of closure within approximately 30 minutes following a containment evacuation requirement from the FHA will reduce the potential offsite doses in the event of a FHA, and provides additional margin to the calculated offsite doses.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Attorney for licensee: Christopher J. Warner, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120.

NRC Section Chief: Stephen Dembek.

Pacific Gas and Electric Company, Docket Nos. 50–275 and 50–323, Diablo Canyon Nuclear Power Plant (DCPP), Unit Nos. 1 and 2, San Luis Obispo County, California

Date of amendment requests: November 13, 2001.

Description of amendment requests: The proposed license amendments would modify Technical Specifications 5.5.9, ''Steam Generator (SG) Tube Surveillance Program,'' and 5.6.10, ''SG Tube Inspection Report,'' of the Diablo Canyon Power Plant, Unit Nos. 1 and 2 Technical Specifications, to add new surveillance and reporting requirements associated with SG tube inspection and repair. The new requirements establish alternate repair criteria for axial primary water stress corrosion cracking at dented tube support plate intersections.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Examination of crack morphology for primary water stress corrosion cracking (PWSCC) at dented intersections has been found to show one or two microcracks well aligned with only a few uncorroded ligaments and little or no other inside diameter axial cracking at the intersection. This relatively simple morphology is conducive to obtaining good accuracy in nondestructive examination (NDE) sizing of these indications. Accordingly, alternate repair criteria (ARC) are established based on crack length and average and maximum depth within the thickness of the tube support plate (TSP).

The application of the ARC requires a Monte Carlo condition monitoring assessment to determine the as-found condition of the tubing. The condition

monitoring analysis described in WCAP–15573, Revision 1, is consistent with NRC Generic Letter 95–05 [''Voltage-Based Repair Criteria for Westinghouse Steam Generator Tubes Affected by Outside Diameter Stress Corrosion Cracking''] requirements.

The application of the ARC requires a Monte Carlo operational assessment to determine the need for tube repair. The repair bases are obtained by projecting the crack profile to the end of the next operating cycle and determining the burst pressure and leakage for the projected profile using Monte Carlo analysis techniques described in WCAP–15573, Revision 1. The burst pressure and leakage are compared to the requirements in WCAP–15573, Revision 1. Separate analyses are required for the total crack length and the length outside the TSP due to differences in requirements. If the projected end of cycle (EOC) requirements are satisfied, the tube will be left in service.

A steam generator (SG) tube rupture event is one of a number of design basis accidents that are analyzed as part of a plant's licensing basis. A single or multiple tube rupture event would not be expected in a SG in which the ARC has been applied. The ARC requires repair of any indication having a maximum crack depth greater than or equal to 40 percent outside the TSP, thus limiting the potential length of a deep crack outside the TSP at EOC conditions and providing margin against burst and leakage for free span indications.

For other design basis accidents such as a MSLB [main steam line break], MFLB [main feed line break], control rod ejection, and locked reactor coolant pump motor, the tubes are assumed to retain their structural integrity.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Implementation of the proposed SG tube ARC does not introduce any significant changes to the plant design basis. A single or multiple tube rupture event would not be expected in a SG in which the ARC has been applied. Both condition monitoring and operational assessments are completed as part of the implementation of ARC to determine that structural and leakage margin exists prior to returning SGs to service following inspections. If the condition monitoring requirements are not satisfied for burst or leakage, the causal factors for EOC indications exceeding the expected values will be evaluated. The methodology and application of this ARC will continue to ensure that tube integrity is maintained during all plant conditions consistent with the requirements of Regulatory Guide (RG) 1.121 [''Bases for Plugging Degraded PWR Steam Generator Tubes''] and Revision 1 of RG 1.83 [Inservice Inspection of Pressurized Water Reactor Steam Generator Tubes].

In the analysis of a SG tube rupture event, a bounding primary-to-secondary leakage rate equal to the operational leakage limits in the Technical Specifications (TS), plus the leak rate associated with the double-ended rupture of a single tube, is assumed. For other design basis accidents, the tubes are assumed to retain their structural integrity and exhibit primary-to-secondary leakage within the limits assumed in the current licensing basis accident analyses. MSLB leakage rates from the proposed PWSCC ARC are combined with leakage rates from other approved ARC (i.e., voltage-based ARC and W* ARC). The combined leakage rates will not exceed the limits assumed in the current licensing basis accident analyses.

The 40 percent maximum depth repair limit for free span indications provides a very low likelihood of free span leakage under design basis or severe accident conditions. Leakage from indications inside the TSP is limited by the constraint of the TSP even under severe accident conditions, and leakage behavior in a severe accident would be similar to that found acceptable by the NRC under approved ARC for axial outside diameter stress corrosion cracking (ODSCC) at TSP intersections. Therefore, even under severe accident conditions, it is concluded that application of the proposed ARC for PWSCC at dented TSP locations results in a negligible difference in risk of a tube rupture or large leakage event, when compared to current 40 percent repair limits or previously approved ARC.

Diablo Canyon Power Plant (DCPP) continues to implement a maximum operating condition leak rate limit of 150 gallons per day per SG to preclude the potential for excessive leakage during all plant conditions.

The possibility of a new or different kind of accident from any previously evaluated is not created because SG tube integrity is maintained by inservice inspection, condition monitoring, operational assessment, tube repair, and primary-to-secondary leakage monitoring.

3. The proposed change does not involve a significant reduction in a margin of safety.

Tube repair limits provide reasonable assurance that tubes accepted for continued service without repair will exhibit adequate tube structural and leakage integrity during subsequent plant operation. The implementation of the proposed ARC is demonstrated to maintain SG tube integrity consistent with the criteria of draft NRC RG 1.121. The guidelines of RG 1.121 describe a method acceptable to the NRC staff for meeting General Design Criteria (GDC) 2, 4, 14, 15, 31, and 32 by ensuring the probability or the consequences of SG tube rupture remain within acceptable limits. This is accomplished by determining the limiting conditions of degradation of SG tubing, for which tubes with unacceptable cracking should be removed from service.

Upon implementation of the proposed ARC, even under the worst-case conditions, the occurrence of PWSCC at the tube support plate elevations is not expected to lead to a SG tube rupture event during normal or faulted plant conditions. The ARC involves a computational assessment to be completed for each indication left in service ensuring that performance criteria for tube integrity and leak tightness are met until the next scheduled outage.

As discussed below, certain tubes are excluded from application of ARC. Existing tube integrity requirements apply to these tubes, and the margin of safety is not reduced. In addressing the combined loading effects of a loss-of-coolant (LOCA) and safe shutdown earthquake (SSE) on the SGs (as required by GDC 2), the potential exists for yielding of the TSP in the vicinity of the wedge groups, accompanied by deformation of tubes and a subsequent postulated in-leakage. Tube deformation could lead to opening of pre-existing tight through wall cracks, resulting in secondary to primary in-leakage following the event, which could have an adverse affect on the Final Safety Analysis Report (FSAR) results. Based on a DCPP analysis of LOCA and SSE, SG tubes located in wedge region exclusion zones are susceptible to deformation, and are excluded from application of ARC.

A DCPP tube stress analysis for MFLB/MSLB plus SSE loading determined that high bending stresses occur in certain SG tubes at the seventh TSP, because the stresses exceed the maximum imposed bending stress for existing test data (equal to approximately the lower tolerance limit yield stress). These tubes are located in rows 11 to 15 and 36 to 46, and are excluded from application of ARC.

Tube intersections that contain TSP ligament cracking are also excluded from application of ARC.

Based on the above, it is concluded that the proposed license amendment request does not result in a significant reduction in margin with respect to the plant safety analyses as defined in the FSAR or TS.

Therefore, the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Attorney for licensee: Christopher J. Warner, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120.

NRC Section Chief: Stephen Dembek.

Pacific Gas and Electric Company, Docket Nos. 50–275 and 50–323, Diablo Canyon Nuclear Power Plant (DCPP), Unit Nos. 1 and 2, San Luis Obispo County, California

Date of amendment requests: November 16, 2001.

Description of amendment requests: The proposed license amendments would modify Technical Specification 5.5.16, ''Containment Leakage Rate Testing Program,'' to allow a one-time extension of the ten-year interval for the performance-based leakage rate testing program for Type A tests as prescribed by Nuclear Energy Institute (NEI) Report NEI 94–01, Revision 0, ''Industry

Guideline for Implementing Performance-Based Option of 10 CFR part 50, Appendix J,'' and applied by 10 CFR part 50, Appendix J, Option B.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed extension to the Type A testing interval from 1-in-10 years to 1-in-15 years will not increase the probability of an accident previously evaluated. The determination of containment integrity is not an accident initiator. The containment Type A testing interval extension does not involve a plant modification and the testing interval extension is not of a type that could lead to equipment failure or accident initiation.

The proposed extension to the Type A testing interval does not involve a significant increase in the consequences of an accident. Research documented in NUREG–1493 has determined that Type B and C tests can identify the vast majority (approximately 97 percent) of all potential leakage paths. Experience at Diablo Canyon Power Plant (DCPP) demonstrates that excessive containment leakage paths are detected by Type B and C local leakage rate tests. Type B and C testing will identify any containment opening, such as a valve, that would otherwise be detected by the Type A tests.

NUREG–1493 concluded that increasing the Type A test interval to 1-in-20 years leads to an imperceptible increase in risk. A DCPP plant specific probabilistic risk assessment of the change in the Type A testing interval from 1-in-10 years to 1-in-15 years determined the total integrated risk of the associated specific accident sequences increases by 0.03 percent. This risk impact when compared to other severe accident induced risks is negligible. The increase in the Regulatory Guide (RG) 1.174 [An Approach for Using Probabilistic Risk Assessment in Risk-Informed Decisions on Plant-Specific Changes to the Licensing Basis] large early release fraction (LERF) figure-of-merit criteria resulting from a change in the Type A test interval from 1-in-10 years to 1-in-15 years is risk insignificant.

Testing and inspection provide a high degree of assurance that the containment will not degrade in a manner detectable only by Type A testing. The structural capability of the containment has been shown by the Type A testing results that have established that DCPP has had acceptable containment leakage rates with considerable margin. Inspections required by 10 CFR 50.65 and American Society of Mechanical Engineers code are performed in order to identify indications of containment degradation that could affect leak tightness. The results of containment concrete examination have concluded the containment concrete has had no loss of structural capacity and no areas of the concrete shell have experienced accelerated degradation or aging. The results of containment liner inspections have not identified any significant degradations that could adversely impact the containment structural integrity or leak tightness, such as through-holes in the containment liner. Due to the large containment leakage rate margin available, and no identified mechanism that would cause significant degradation of containment, a 5 year extension of the ILRT interval would not be expected to result in containment leakage above the acceptable limit.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed extension of the Type A testing interval will not create the possibility of a new or different type of accident from any previously evaluated. There are no physical changes being made to the plant and there are no changes in operation of the plant that could introduce a new failure mode, creating an accident.

The containment structure is passive. Under normal operating conditions, there is no significant environmental or operational stress present that would contribute to its degradation. Passive failures resulting in significant containment structural leakage are therefore extremely unlikely to develop between Type A tests.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed extension of the Type A testing interval will not significantly reduce the margin of safety. The NUREG–1493 generic study of the effects of extending containment leakage testing found that a 20-year interval in Type A leakage testing results in an imperceptible increase in risk to the public. NUREG–1493 found that, generically, the design containment leakage rate contributes about 0.1 percent to the individual risk and that the increase in the Type A testing interval would have a minimal effect on this risk because 97 percent of the potential leakage paths are detected by Type B and C testing.

A DCPP plant specific probabilistic risk assessment of the change in the Type A testing interval from 1-in-10 years to 1-in-15 years determined the total integrated risk of the associated specific accident sequences increases by 0.03 percent. This risk impact when compared to other severe accident induced risks is negligible. The increase in RG 1.174 LERF figure-of-merit criteria resulting from a change in the Type A test interval from 1-in-10 years to 1-in-15 years is risk insignificant.

Deferral of Type A testing for DCPP does not increase the level of risk to the public due to loss of capability to detect and measure containment leakage or loss of containment structural capability. Other containment testing methods and inspections will assure all limiting conditions of operation will continue to be met. The margin of safety inherent in existing accident analyses is maintained.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Attorney for licensee: Christopher J. Warner, Esq., Pacific Gas and Electric Company, PO Box 7442, San Francisco, California 94120.

NRC Section Chief: Stephen Dembek.

Pacific Gas and Electric Company, Docket Nos. 50–275 and 50–323, Diablo Canyon Nuclear Power Plant (DCPP), Unit Nos. 1 and 2, San Luis Obispo County, California

Date of amendment requests: November 16, 2001.

Description of amendment requests: The proposed license amendments would modify Technical Specification (TS) 1.1, ''Definitions, Dose Equivalent I–131,'' to allow the use of the thyroid dose conversion factors listed in the International Commission on Radiological Protection (ICRP) Publication 30, ''Limits for Intakes of Radionuclides by Workers,'' 1979, in the steam generator tube rupture and main steam line break radiological consequences analyses.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The revision of Technical Specification (TS) 1.1, Definitions, ''Dose Equivalent I–131,'' to allow use of the iodine thyroid dose conversion factors from the International Commission on Radiological Protection (ICRP) Publication 30, 1979, and the revised steam generator tube rupture (SGTR) and main steam line break (MSLB) radiological consequences analyses are used to determine post-accident dose. They are not related to any accident initiator. Therefore, this change cannot increase the probability of an accident.

The revised SGTR thermal and hydraulic analysis input assumptions are consistent with actual plant limits and parameters.

The revised MSLB offsite and control room radiological consequences analysis dose results are within 10 CFR Part 100 limits and

the NUREG–0800 Standard Review Plan (SRP) section 15.1.5 and section 6.4 guideline values.

The revised SGTR control room radiological consequences analysis dose results are within the SRP section 6.4 guideline values.

The revised SGTR offsite radiological consequences analysis dose results are within the 10 CFR part 100 dose limits. The SGTR offsite dose results also meet the SRP section 15.6.3 and section 6.4 guideline values, with the exception of the 2 hour Exclusion Area Boundary (EAB) thyroid dose. The calculated 2 hour EAB thyroid dose of 30.5 Rem is 1.5 percent above the SRP 15.6.3 guideline value of 30 Rem. The 2 hour EAB thyroid dose has been compared against the conservative thyroid dose SRP 15.6.3 guideline value of 30 Rem. The 2 hour EAB dose thyroid dose would be equivalent to a Regulatory Guide (RG) 1.183 methodology Total Effective Dose Equivalent (TEDE) of approximately 1.25 Rem, which is well below the RG 1.183 TEDE limit of 2.5 Rem for the accident-initiated iodine spike case. Therefore, the 2 hour EAB thyroid dose of 30.5 Rem is not considered to be a significant increase in dose.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The use of the iodine thyroid dose conversion factors from ICRP Publication 30 and the revised SGTR and main steam line break MSLB radiological consequences analyses do not involve any physical plant changes. The change does not involve changes in operation of the plant that could introduce a new failure mode for creating an accident or affect the mitigation of an accident.

Therefore, the proposed change does not create the possibility of a new or different accident from any previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The use of ICRP Publication 30 thyroid dose conversion factors to calculate the radiological consequences for a SGTR and MSLB accident is endorsed by RG 1.183, ''Alternative Radiological Source Terms for Evaluating Design Basis Accidents at Nuclear Power Reactors,'' US Nuclear Regulatory Commission, July 2000. Therefore, the revision of TS 1.1, Definitions, ''Dose Equivalent I–131,'' to allow use of the iodine thyroid dose conversion factors from ICRP Publication 30 does not result in a significant reduction in the margin provided by TS 1.1. The revised SGTR thermal and hydraulic analysis input assumptions are consistent with actual plant limits and parameters.

The revised MSLB offsite and control room radiological consequences analysis dose results are within 10 CFR part 100 limits and the NUREG–0800 SRP section 15.1.5 and section 6.4 guideline values.

The revised SGTR control room radiological consequences analysis dose results are within the SRP section 6.4 guideline values.

The revised SGTR radiological consequences analysis dose results are within the 10 CFR part 100 dose limits. The SGTR dose results also meet the SRP section 15.6.3 and section 6.4 guideline values, with the exception of the 2 hour EAB thyroid dose. The calculated 2 hour EAB thyroid dose of 30.5 Rem is 1.5 percent above the SRP 15.6.3 guideline value of 30 Rem. The 2 hour EAB dose thyroid dose would be equivalent to a RG 1.183 methodology TEDE of approximately 1.25 Rem, which is well below the RG 1.183 TEDE limit of 2.5 Rem for the accident-initiated iodine spike case. Therefore, the 2 hour EAB thyroid dose of 30.5 Rem is not a significant reduction in the margin of safety.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Attorney for licensee: Christopher J. Warner, Esq., Pacific Gas and Electric Company, PO Box 7442, San Francisco, California 94120.

NRC Section Chief: Stephen Dembek.

Southern California Edison Company, et al., Docket Nos. 50–361 and 50–362, San Onofre Nuclear Generating Station, Units 2 and 3, San Diego County, California

Date of amendment requests: December 11, 2001.

Description of amendment requests: The proposed amendments would revise Technical Specification (TS) 3.8.3, ''Diesel Fuel Oil, Lube Oil, and Starting Air,'' on the emergency diesel generators. The revisions would change (1) Conditions A and C of the Actions for Limiting Condition for Operation 3.8.3, and (2) Surveillance Requirement 3.8.3.1. The proposed amendments would change the minimum required diesel fuel oil storage to support (1) using California Diesel fuel rather than the existing Environmental Protection Agency (EPA) Clear diesel fuel, (2) revising the diesel generator load profile in reactor Modes 1 through 4, and (3) changing the units of the required diesel fuel oil storage. A ''greater than or equal to'' would also be changed to a ''greater than'' sign.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

This proposed change revises the minimum amount of stored diesel fuel. The change is required to (1) support the use of California Diesel fuel rather than the existing EPA Clear diesel fuel, and (2) reflect a change in the diesel generator load profile in Modes 1 through 4.

In addition, this proposed change revises the units for the minimum diesel fuel storage requirements from tank level to a minimum required volume of fuel in gallons. A ''greater than or equal to'' sign is revised to a ''greater than'' sign for consistency. These are administrative changes only.

Technical Specification (TS) 3.8.3, ''Diesel Fuel Oil, Lube Oil, and Starting Air,'' requires that each diesel generator have sufficient fuel to operate for a period of 7 days, while the Diesel Generator (DG) is supplying maximum post Loss of Coolant Accident (LOCA) load demand. This requirement is currently expressed as a minimum tank level limit. In Modes 1 through 4, the existing tank level limit is 89%, which ensures that a 7-day supply of fuel is available. TS 3.8.3, Condition A, states that during Modes 1 through 4, if one or more Diesel Generators (DG) has a fuel level in the storage tank less than 89% and greater than or equal to 76%, then fuel oil level must be restored to within limits within 48 hours. The 76% level requirement is based on maintaining a 6-day supply of diesel fuel in Modes 1 through 4. If the tank level is at or below 76% (6-day supply), the associated DG must be declared inoperable immediately.

Similarity, for Modes 5 and 6, the existing tank level limit is 72%, which ensures that a 7-day supply of fuel is available. TS 3.8.3, Condition C, states that during Modes 5 and 6, if one required DG has a fuel level in the storage tank less than 72% and greater than 63%, then [the] fuel oil level must be restored to within limits within 48 hours. The 63% level requirement is based on maintaining a 6-day supply of diesel fuel in Modes 5 and 6. If the tank level is at or below 63% (6-day supply), the associated diesel generator must be declared inoperable immediately.

As described in the Bases to TS 3.8.3, these tank level requirements are based on fuel volume requirements. In Modes 1 through 4, 89% and 76% level limits are based on a 7-day (49,724 gallons) and 6-day (42,960 gallons) fuel supply, respectively [plus an allowance for instrument Total Loop Uncertainty (TLU)]. In Modes 5 and 6, the 72% and 63% tank level limits are based on a 7-day (40,472 gallons) and 6-day (34,960 gallons) fuel supply, respectively (plus an allowance for instrument TLU).

Because the Lower Heating Value (LHV) per gallon of California Diesel fuel is less than that of EPA Clear diesel fuel, it was necessary to recalculate the amount of fuel required to supply necessary loads for the required time periods. For Modes 1 through 4, the resulting minimum volumes of California Diesel fuel are 45,662 gallons and 39,468 gallons for the 7-day and 6-day fuel supply, respectively. For Modes 5 and 6, the required volumes of California Diesel fuel are

41,691 gallons and 35,735 gallons for a 7-day supply and a 6-day supply, respectively.

It should be noted that the minimum volumes for Modes 1 through 4 are decreased due to a change in the calculated [diesel generator] load profile. SONGS no longer requires the third-of-a-kind High Pressure Safety Injection (HPSI) pump to be started following a Loss of Coolant Accident (LOCA) or Main Steam Line Break (MSLB). Operation of the third-of-a-kind HPSI pump is no longer assumed as part of the DG load profile in Modes 1 through 4. This resulted in a net decrease in the amount of required stored diesel fuel in Modes 1 through 4, even when the use of the California Diesel fuel [with the lower heating value] is taken into account.

The diesel generators and the associated support systems such as the fuel oil storage and transfer systems are designed to mitigate accidents and are not accident initiators. Revising the minimum volumes of stored [diesel] fuel in the storage tanks will not result in a significant increase in the probability of any accident previously evaluated. [The revisions are to maintain the current requirements for a 7-day and 6-day supply of stored diesel fuel].

Following implementation of this proposed change, there will be no change in the ability of the diesel generators to supply maximum post-LOCA load demand for 7 days. The proposed minimum volumes of fuel, 45,662 gallons and 39,468 gallons, ensure that a 7-day and 6-day supply of fuel, respectively, are available in Modes 1 through 4. The proposed minimum volumes of fuel, 41,691 gallons and 35,735 gallons, ensure that a 7-day and a 6-day supply, respectively, of fuel is available in Modes 5 and 6. This is identical to the current requirements. Therefore this change will not result in a significant increase in the consequences of any accident previously evaluated.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

Following this change, the diesel generators will still be able to supply maximum post-LOCA load demand. The current 7-day and 6-day fuel supply requirements will be maintained following this change. [The diesel generators fuel oil storage and transfer systems are not accident initiators].

The changes in units from tank level percentage to fuel volume in gallons is an administrative change only. The change from a ''greater than or equal to'' sign to a ''greater than'' sign in TS 3.8.3, Condition A, is for consistency with other parts of TS 3.8.3 and is also an administrative change.

Therefore, this proposed change will not create the possibility of a new or different kind of accident from any accident that has been previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The Bases to TS 3.8.3 states that ''Each diesel generator (DG) is provided with a storage tank having a fuel oil capacity sufficient to operate that diesel for a period of 7 days, while the DG is supplying maximum post loss of coolant accident load demand.'' When the fuel oil tank level is less than required to support [7 days] of operation, the required action depends on whether or not a 6-day supply of fuel is available. [The proposed tank level limits for Modes 1 through 4 will maintain the 7-day and 6-day fuel supply requirements following changeout to California Diesel fuel and the change in the DG load profile for Modes 1 through 4].

The proposed tank level limits for Modes 5 and 6 will maintain these 7-day and 6-day fuel supply requirements following changeout to California Diesel fuel.

The change in units from tank level percentage to fuel volume in gallons is an administrative change only. The change from a ''greater than or equal to'' sign to a ''greater than'' sign in TS 3.8.3, Condition A, is for consistency with other parts of the TS 3.8.3 and is also an administrative change.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Attorney for licensee: Douglas K. Porter, Esquire, Southern California Edison Company, 2244 Walnut Grove Avenue, Rosemead, California 91770.

NRC Section Chief: Stephen Dembek.

Tennessee Valley Authority, Docket No. 50–296, Browns Ferry Nuclear Plant, Unit 3, Limestone County, Alabama

Date of amendment request: November 1, 2001.

Description of amendment request: The proposed amendment would revise Technical Specification (TS) 2.1.1.2, ''Reactor Core Safety Limits,'' by modifying the safety limit minimum critical power ratio (SLMCPR).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

As required by 10 CFR 50.91(a), TVA has provided its analysis of the issue of no significant hazards consideration, which is presented below:

A. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment establishes revised SLMCPR values for two recirculation loop operation and for single recirculation loop operation. The probability of an evaluated accident is derived from the probabilities of the individual precursors to that accident. The proposed SLMCPRs preserve the existing margin to transition boiling and the probability of fuel damage is not increased. Since the change does not require any physical plant modifications or physically affect any plant components, no individual precursors of an accident are affected and the probability of an evaluated accident is not increased by revising the SLMCPR values.

The consequences of an evaluated accident are determined by the operability of plant systems designed to mitigate those consequences. The revised SLMCPRs have been performed using NRC-approved methods and procedures. The basis of the MCPR Safety Limit is to ensure no mechanistic fuel damage is calculated to occur if the limit is not violated. These calculations do not change the method of operating the plant and have no effect on the consequences of an evaluated accident. Therefore, the proposed TS change does not involve an increase in the probability or consequences of an accident previously evaluated.

B. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed license amendment involves a revision of the SLMCPR for two recirculation loop operation and for single loop operation based on the results of an analysis of the Cycle 11 core. Creation of the possibility of a new or different kind of accident would require the creation of one or more new precursors of that accident. New accident precursors may be created by modifications of the plant configuration, including changes in the allowable methods of operating the facility. This proposed license amendment does not involve any modifications of the plant configuration or changes in the allowable methods of operation. Therefore, the proposed TS change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

C. The proposed amendment does not involve a significant reduction in a margin of safety.

The margin of safety as defined in the TS bases will remain the same. The new SLMCPRs are calculated using NRC-approved methods and procedures which are in accordance with the current fuel design and licensing criteria. The SLMCPRs remain high enough to ensure that greater than 99.9% of all fuel rods in the core are expected to avoid transition boiling if the limit is not violated, thereby preserving the fuel cladding integrity. Therefore, the proposed TS changes do not involve a reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET l0H, Knoxville, Tennessee 37902.

NRC Section Chief: Richard P. Correia.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: September 12, 2001 (TS 01–04).

Brief description of amendments: The proposed amendments would change the Sequoyah (SQN) Unit 1 and 2 Technical Specification (TS) 3/4 6.5.1 and associated Bases to reflect an increase in the ice condenser basket weight from 1071 pounds to 1145 pounds and the total ice condenser ice weight from 2,082,024 pounds to 2,225,880 pounds. This change is being made in response to a reanalysis by Westinghouse Electric Company that identified a modeling input error used in the original analysis.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), Tennessee Valley Authority (TVA), the licensee, has provided its analysis of the issue of no significant hazards consideration, which is presented below:

A. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The analyzed accidents of consideration in regards to changes affecting the ice condenser are a loss-of-coolant accident (LOCA) and a main steam line break (MSLB) inside containment. The ice condenser is a passive system and is not postulated as being the initiator of any LOCA or main steam line break (MSLB) and is designed to remain functional following a design basis earthquake.

In addition, the ice condenser does not interconnect or interact with any systems that have an interface with the reactor coolant or main steam systems.

For SQN, the LOCA is the more severe accident in terms of containment pressure and ice bed meltout and is therefore the more limiting accident. SQN's LOCA Containment Integrity Analysis calculates the post-LOCA peak containment pressure to be 11.44 pounds per square inch gauge (psig), which is below SQN's containment design pressure of 12.0 psig. The analysis contains an assumed ice mass that is an input value to the calculation to ensure that sufficient heat removal capability is available from SQN's ice condenser to limit the accident peak pressure inside containment. The analyzed peak accident pressure must remain below the containment design pressure.

TVA's proposed TS revision reflects the ice mass assumed in the SQN ['s] Containment Integrity Analysis. Accordingly, TVA's proposed change ensures that ice mass values retain the existing margin between the calculated peak containment accident pressure and SQN's containment design pressure.

Since the proposed changes to the TS and TS bases are solely to revise ice weight values to reflect current margins within SQN's analysis, and are not the result of or require any physical changes to the ice condenser, there is no change in the probability of an accident previously evaluated in the Safety Analysis Report.

Based on the above discussions, the proposed changes do not involve an increase in the probability or consequences of an accident previously evaluated.

B. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Because the TS and TS bases changes do not involve any physical changes to the ice condenser, or chemical changes to the ice contained therein, or make any changes in the operational aspects of the ice condenser as required by the TS, there are no new or different kind of accidents created from those already identified and evaluated.

C. The proposed amendment does not involve a significant reduction in a margin of safety.

The ice condenser TSs ensure that during a LOCA or MSLB the ice condenser will initially pass sufficient air and steam mass to preclude over-pressurizing lower containment, that it will absorb sufficient heat energy initially and over a prescribed time period to assist in precluding containment vessel failure, and that it will not alter the bulk containment sump pH and boron concentration assumed in the accident analysis.

TVA's proposed change does not physically alter the ice condenser, but rather accounts for changes to input assumptions for SQN's containment pressure analysis to correct a computer model input error. The correction to the model provides a more accurate accounting of the pressure response inside containment following a LOCA. The error correction requires an increase the ice mass assumed in the analysis to ensure that SQN's post-LOCA peak containment pressures remain unchanged. The margin that exists between the accident peak pressure and the containment design pressure is unaffected. Accordingly, TVA' s proposed change does not reduce the margin of safety.

The NRC has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 10H, Knoxville, Tennessee 37902.

NRC Section Chief: Richard P. Correia.

Vermont Yankee Nuclear Power Corporation, Docket No. 50–271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of amendment request: November 20, 2001.

Description of amendment request: The proposed amendment would change the Technical Specifications Table 3.2.6 by revising the Allowed Outage Times (AOTs) and associated action requirements for certain post-accident monitoring (PAM) instrumentation.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below:

1. Will the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

The PAM instrumentation is not considered as an initiator or contributor to any previously evaluated accident. The proposed change will not affect any Final Safety Analysis Report safety analysis. Because there are no credible failures of the PAM instrumentation that could initiate any accidents previously evaluated, changing the AOTs and related actions for PAM instrumentation will not increase the probability of any accident previously evaluated. The operability or inoperability of this instrumentation will not cause an accident because this instrumentation was not intended to and does not serve a function for preventing accidents. Therefore, the proposed change does not involve a significant increase in the probability of an accident previously evaluated.

The availability and use of PAM instrumentation ensures that the prescribed operator (manual) actions for mitigating the consequences of an accident will be implemented when necessary, and that the operator has sufficient information to verify required automatic actions have occurred as intended. The availability and use of PAM instrumentation provide assurance that the consequences of accidents will not be greater than previously evaluated. Changes to allowed outage times and shutdown completion times do not affect the consequences of accidents. The proposed change does not modify any parameters or assumptions contained in previously analyzed design-basis events. The continued availability and use of this instrumentation ensures that the prescribed manual operator actions for mitigating the consequences of an accident will be implemented when necessary, and that the operator has sufficient information to verify required automatic actions have occurred as intended. The requirements of the revised TS are adequate to ensure the required instrumentation is maintained operable such

that PAM instrumentation will be available to perform its intended safety function. Therefore, the proposed change does not involve a significant increase in the consequences of an accident previously evaluated.

2. Will the proposed changes create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change does not involve any physical modification to the plant, change in TS setpoints, plant design-basis, or the manner in which the plant is operated. Because the PAM instrumentation serves a passive function and does not provide any automatic action, there are no credible failures of the PAM instrumentation that could initiate a new or different kind of accident from any accident previously evaluated.

The change to AOTs and related action requirements for PAM instrumentation will not result in a failure mode not previously analyzed. This instrumentation is not considered an accident precursor because its existence or availability does not have any adverse impact in the pre-accident state of the reactor.

Therefore, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Will the proposed changes involve a significant reduction in a margin of safety?

PAM instrumentation is assumed to be used by operators for monitoring only after an accident occurs and performs no automatic functions. The continued availability and use of this instrumentation ensures that the prescribed manual operator actions for mitigating the consequences of an accident will be implemented when necessary, and that the operator has sufficient information to verify required automatic actions have occurred as intended. The requirements of the revised TS are adequate to ensure the required instrumentation is maintained operable such that PAM instrumentation will be available to perform its intended safety function.

Therefore, this change does not involve a significant reduction in a margin of safety.

Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. David R. Lewis, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037–1128.

NRC Section Chief: James W. Clifford.

Wolf Creek Nuclear Operating Corporation, Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: December 11, 2001.

Description of amendment request: A change is proposed to Surveillance Requirement (SR) 3.0.3 to allow a longer period of time to perform a missed surveillance. The time is extended from the current limit of '' * * * up to 24 hours or up to the limit of the specified Frequency, whichever is less'' to ''* * * up to 24 hours or up to the limit of the specified Frequency, whichever is greater.'' In addition, the following requirement would be added to SR 3.0.3: ''A risk evaluation shall be performed for any Surveillance delayed greater than 24 hours and the risk impact shall be managed.''

The NRC staff issued a notice of opportunity for comment in the **Federal Register** on June 14, 2001 (66 FR 32400), on possible amendments concerning missed surveillances, including a model safety evaluation and model no significant hazards consideration (NSHC) determination, using the consolidated line item improvement process. The NRC staff subsequently issued a notice of availability of the models for referencing in license amendment applications in the **Federal Register** on September 28, 2001 (66 FR 49714).

The licensee affirmed the applicability of the following NSHC determination in its application dated December 11, 2001.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The proposed change relaxes the time allowed to perform a missed surveillance. The time between surveillances is not an initiator of any accident previously evaluated. Consequently, the probability of an accident previously evaluated is not significantly increased. The equipment being tested is still required to be operable and capable of performing the accident mitigation functions assumed in the accident analysis. As a result, the consequences of any accident previously evaluated are not significantly affected. Any reduction in confidence that a standby system might fail to perform its safety function due to a missed surveillance is small and would not, in the absence of other unrelated failures, lead to an increase in consequences beyond those estimated by existing analyses. The addition of a requirement to assess and manage the risk introduced by the missed surveillance will further minimize possible concerns. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident From Any Previously Evaluated

The proposed change does not involve a physical alteration of the plant (no new or different type of equipment will be installed) or a change in the methods governing normal plant operation. A missed surveillance will not, in and of itself, introduce new failure modes or effects and any increased chance that a standby system might fail to perform its safety function due to a missed surveillance would not, in the absence of other unrelated failures, lead to an accident beyond those previously evaluated. The addition of a requirement to assess and manage the risk introduced by the missed surveillance will further minimize possible concerns. Thus, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in the Margin of Safety

The extended time allowed to perform a missed surveillance does not result in a significant reduction in the margin of safety. As supported by the historical data, the likely outcome of any surveillance is verification that the LCO [Limiting Condition for Operation] is met. Failure to perform a surveillance within the prescribed frequency does not cause equipment to become inoperable. The only effect of the additional time allowed to perform a missed surveillance on the margin of safety is the extension of the time until inoperable equipment is discovered to be inoperable by the missed surveillance. However, given the rare occurrence of inoperable equipment, and the rare occurrence of a missed surveillance, a missed surveillance on inoperable equipment would be very unlikely. This must be balanced against the real risk of manipulating the plant equipment or condition to perform the missed surveillance. In addition, parallel trains and alternate equipment are typically available to perform the safety function of the equipment not tested. Thus, there is confidence that the equipment can perform its assumed safety function.

Therefore, this change does not involve a significant reduction in a margin of safety. Based upon the reasoning presented above and the previous discussion of the amendment request, the requested change does not involve a significant hazards consideration.

The NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Section Chief: Stephen Dembek.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor) Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Document Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC Public Document Room Reference staff by telephone at 1–800–397–4209, 301–415–4737, or by e-mail to *pdc@nrc.gov.*

AmerGen Energy Company, LLC, et al., Docket No. 50–219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of application for amendment: December 29, 2000, supplemented on October 11, 2001.

Brief description of amendment: The amendment revises the offsite power source identified in Technical Specification 3.7.A.3 to remove one listed source and add a different source. Also, the bases have been revised to reflect the availability of the offsite sources and to revise minor administrative changes.

Date of Issuance: December 27, 2001.

Effective date: December 27, 2001, and shall be implemented within 30 days of issuance.

Amendment No.: 222.

Facility Operating License No. DPR–16: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** April 4, 2001 (66 FR 17965).

The October 11, 2001, letter provided clarifying information within the scope of the original application and did not change the staff's initial proposed no significant hazards consideration determination.

The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated December 27, 2001.

No significant hazards consideration comments received: No.

Dominion Nuclear Connecticut, Inc., Docket No. 50–336, Millstone Nuclear Power Station, Unit No. 2, New London County, Connecticut

Date of application for amendment: April 11, 2001, as supplemented June 14, 2001.

Brief description of amendment: The amendment revises the list of documents that describe the analytical methods used to determine the core operating limits specified in Technical Specification 6.9.1.8b. The revision consists of updating the list of documents to include the latest NRC-approved methodologies, along with deleting the revision numbers and dates of all documents in the list.

Date of issuance: December 19, 2001.

Effective date: As of the date of issuance and shall be implemented prior to restart from refueling outage 14 which is currently scheduled in early February of 2002.

Amendment No.: 260.

Facility Operating License No. DPR–65: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** July 25, 2001 (66 FR 38760).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 19, 2001.

No significant hazards consideration comments received: No.

Dominion Nuclear Connecticut, Inc., et al., Docket No. 50–423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of application for amendment: June 28, 2001.

Brief description of amendment: The amendment deletes the post-maintenance testing Surveillance Requirement 4.6.3.1 of containment isolation valves.

Date of issuance: December 21, 2001.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment No.: 200.

Facility Operating License No. NPF–49: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** October 17, 2001 (66 FR 52799).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 21, 2001.

No significant hazards consideration comments received: No.

Entergy Operations, Inc., Docket No. 50–368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas

Date of application for amendment: June 12, 2001, as supplemented by letters dated October 15 and November 16, 2001.

Brief description of amendment: The amendment revised certain emergency diesel generator (EDG) Technical Specifications (TSs) to remove the requirement for an accelerated test frequency, remove the requirement to subject the EDGs to an inspection in accordance with the manufacturer's recommendations, allow that certain EDG tests may be done in modes other than shutdown, and remove the EDG special reporting requirements.

Date of issuance: December 17, 2001.

Effective date: As of the date of issuance to be implemented within 60 days from the date of issuance.

Amendment No.: 237.

Facility Operating License No. NPF–6: Amendment revised the TSs.

Date of initial notice in ***Federal Register:*** July 11, 2001 (66 FR 36340). The October 15 and November 16, 2001, supplemental letters provided clarifying information and revised TSs that were within the scope of the original **Federal**

Register notice and did not change the staff's initial no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 17, 2001.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket Nos. 50–237 and 50–249, Dresden Nuclear Power Station, Units 2 and 3, Grundy County, Illinois

Docket Nos. 50–254 and 50–265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of application for amendments: February 22, as supplemented by letters dated May 4, and September 13, 2001.

Brief description of amendments: The amendments revise reactor vessel water level—low scram and isolation setpoints in order to minimize unnecessary reactor scrams that might result from events involving a temporary reduction in feedwater flow. The revision to these setpoints was originally requested as part of the power uprate licensing amendment. However, since the setpoint reduction will provide a similar benefit when operating at the current thermal power, Exelon has requested to implement the requested changes prior to power uprate approval as part of efforts to improve summer reliability at Dresden and Quad Cities Nuclear Power Stations.

Date of issuance: December 18, 2001.

Effective date: As of the date of issuance and shall be implemented within 30 days.

Amendment Nos.: Dresden Units 2 and 3—190/184; Quad Cities Units 1 and 2—200/196.

Facility Operating License Nos. DPR–19, DPR–25, DPR–29 and DPR–30. The amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** June 6, 2001 (66 FR 30490).

The supplemental letters contained clarifying information and did not change the initial no significant hazards consideration determination and did not expand the scope of the original **Federal Register** notice.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated December 18, 2001.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket Nos. 50–254 and 50–265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of application for amendments: September 29, 2000, as supplemented by letters dated March 1, July 13, August 9, August 13, August 27, and October 17, 2001.

Brief description of amendments: The amendments change the technical specifications to reflect a change in fuel vendors from Siemens Power Corporation to General Electric, and a transition to GE14 fuel. As part of the transition, changes are made to (1) increase the number of required automatic depressurization system valves from four to five, and (2) remove an allowance to continue operating for 72 hours if certain combinations of emergency core cooling systems are inoperable.

Date of issuance: December 20, 2001.

Effective date: As of the date of issuance and shall be implemented as follows: for Unit 1, prior to reaching Startup (i.e., Mode 2) following refueling outage 17, scheduled for completion in November 2002; for Unit 2, prior to reaching Startup (i.e., Mode 2) following refueling outage 16, scheduled for completion in February 2002.

Amendment Nos.: 201 and 197.

Facility Operating License Nos. DPR–29 and DPR–30: The amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** December 27, 2000, (65 FR 81912) and August 22, 2001 (66 FR 44172).

The submittals dated July 13, August 9, August 13, August 27, and October 17, 2001, did not change the scope of the amendment or the proposed no significant hazards findings dated December 27, 2000, (65 FR 81912) and August 22, 2001 (66 FR 44172).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated December 20, 2001.

No significant hazards consideration comments received: No.

Florida Power and Light Company, et al., Docket Nos. 50–335 and 50–389, St. Lucie Plant, Unit Nos. 1 and 2, St. Lucie County, Florida

Date of application for amendments: October 17, 2001.

Brief description of amendments: Revised St. Lucie Unit 1 and 2 Technical Specifications (TS) actions regarding inoperable redundant components when an Emergency Diesel Generator becomes inoperable, such that required actions will be based on the TS for the inoperable redundant components.

Date of Issuance: December 17, 2001.

Effective Date: As of the date of issuance and shall be implemented within 60 days of issuance.

Amendment Nos.: 180 and 123.

Facility Operating License Nos. DPR–67 and NPF–16: Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** November 14, 2001 (66 FR 57121).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated December 17, 2001.

No significant hazards consideration comments received: No.

Florida Power and Light Company, Docket Nos. 50–250 and 50–251, Turkey Point Plant, Units 3 and 4, Miami-Dade County, Florida

Date of application for amendments: October 23, 2000.

Brief description of amendments: The amendments removed references to the containment hydrogen monitors in Technical Specification (TS) Tables 3.3–5, ''Accident Monitoring Instrumentation,'' and 4.3–4, ''Accident Monitoring Instrumentation Surveillance Requirements.'' In addition, the amendments deleted TS 3/4.6.5, ''Combustible Gas Control—Hydrogen Monitors,'' and TS 3/4.6.6, ''Post Accident Containment Vent System.''

Date of issuance: December 20, 2001.

Effective date: As of the date of issuance and shall be implemented within 120 days of issuance.

Amendment Nos: 217 and 211.

Facility Operating License Nos. DPR–31 and DPR–41: Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** January 10, 2001 (66 FR 2014).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated December 20, 2001.

No significant hazards consideration comments received: No.

Nuclear Management Company, LLC, Docket No. 50–255, Palisades Plant, Van Buren County, Michigan

Date of application for amendment: October 26, 2001.

Brief description of amendment: Amendment changes the Operating License to extend certain Technical Specification surveillance requirement intervals on a one-time basis.

Date of issuance: December 19, 2001.

Effective date: As of the date of issuance and shall be implemented within 60 days.

Amendment No.: 206.

Facility Operating License No. DPR–20. Amendment revised the Operating License.

Date of initial notice in ***Federal Register:*** November 13, 2001 (66 FR 56865).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 19, 2001.

No significant hazards consideration comments received: No.

PPL Susquehanna, LLC, Docket No. 50–387, Susquehanna Steam Electric Station, Unit 1, Luzerne County, Pennsylvania

Date of application for amendment: September 19, 2001, as supplemented October 26, 2001.

Brief description of amendment: The amendment authorized a one-cycle delay in removal of the second reactor pressure vessel material surveillance capsule.

Date of issuance: December 20, 2001.

Effective date: As of date of issuance.

Amendment No.: 197.

Facility Operating License No. NPF–14: The amendment authorized a change to the Reactor Vessel Material Surveillance Program.

Date of initial notice in ***Federal Register:*** November 14, 2001 (66 FR 57122).

The October 26, 2001, letter provided clarifying information that did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 20, 2001.

No significant hazards consideration comments received: No.

PSEG Nuclear LLC, Docket Nos. 50–272, Salem Nuclear Generating Station, Unit No. 1, Salem County, New Jersey

Date of application for amendments: December 10, 2001, as supplemented on December 21, and December 24, 2001.

Brief description of amendments: The amendment allows a one-time change to Technical Specifications (TSs) Limiting Condition for Operation 3/4.7.4, ''Service Water System,'' to increase the Allowed Outage Time (AOT) from 72 hours to 10 days. The increase in the TS 3/4.7.4 AOT is necessary in order to allow repairs to a portion of the 12 Service Water System piping while remaining at power.

Date of issuance: December 27, 2001.

Effective date: As of the date of issuance.

Amendment No.: 248.

Facility Operating License Nos. DPR–70: The amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: No.

The Commission's related evaluation of the amendment, finding of emergency circumstances, and final determination of no significant hazards consideration determination are contained in a Safety Evaluation dated December 27, 2001.

No significant hazards consideration comments received: No.

PSEG Nuclear LLC, Docket Nos. 50–272 and 50–311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of application for amendments: January 5, 2001.

Brief description of amendments: The amendments revise Technical Specification 3/4.6.4, ''Containment Systems, Combustible Gas Control, Hydrogen Analyzers,'' to reduce the channel calibration frequency of the Hydrogen Analyzers from quarterly to a frequency of once per refueling outage. The change also adds an additional surveillance requirement to perform a quarterly gas calibration.

Date of issuance: December 17, 2001.

Effective date: As of the date of issuance, and shall be implemented within 60 days.

Amendment Nos.: 247 and 228.

Facility Operating License Nos. DPR–70 and DPR–75: The amendments revised the Technical Specifications.

Date of *initial notice in* ***Federal Register:*** April 18, 2001 (66 FR 20008).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated December 17, 2001.

No significant hazards consideration comments received: No.

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50–395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, South Carolina

Date of application for amendment: October 1, 2001.

Brief description of amendment: This amendment deletes Technical Specification 6.8.4.d requiring a program for post-accident sampling, and thereby eliminates the requirements to have and maintain the Post-Accident Sampling System at Virgil C. Summer Nuclear Station, Unit No. 1.

Date of issuance: December 20, 2001.

Effective date: December 20, 2001.

Amendment No.: 152.

Facility Operating License No. NPF–12: Amendment revises the Technical Specifications.

Date of initial notice in ***Federal Register:*** October 31, 2001 (66 FR 55023).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 20, 2001.

No significant hazards consideration comments received: No.

Southern Nuclear Operating Company, Inc., Docket Nos. 50–348 and 50–364, Joseph M. Farley Nuclear Plant, Units 1 and 2, Houston County, Alabama

Date of amendments request: December 8, 2000.

Brief description of amendments: The amendments delete or modify existing license conditions from the Unit 1 and Unit 2 Operating License, which 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.

Date of issuance: December 7, 2001.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment Nos.: 152 and 144.

Facility Operating License Nos. NPF–2 and NPF–8: Amendments revise the Operating License.

Date of initial notice in ***Federal Register:*** March 7, 2001 (66 FR 13808).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated December 7, 2001.

No significant hazards consideration comments received: No.

Virginia Electric and Power Company, Docket Nos. 50–338 and 50–339, North Anna Power Station, Units 1 and 2, Louisa County, Virginia

Date of application for amendment: September 10, 2001.

Brief description of amendment: These amendments eliminate the Technical Specification requirements to have and maintain a post-accident sampling system (PASS) at North Anna Power Station, Units 1 and 2. In addition, for North Anna Power Station, Unit 2, the amendment deletes a license condition associated with the implementation of PASS.

Date of issuance: December 19, 2001.

Effective date: As of the date of issuance and shall be implemented within 120 days from the date of issuance.

Amendment Nos.: 229 and 210.

Facility Operating License Nos. NPF–4 and NPF–7: Amendments change the Technical Specifications for both units and the license for Unit 2 only.

Date of initial notice in ***Federal Register:*** October 31, 2001 (66 FR 55025).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated December 19, 2001.

No significant hazards consideration comments received: No.

Virginia Electric and Power Company, et al., Docket Nos. 50–280 and 50–281, Surry Power Station, Units 1 and 2, Surry County, Virginia

Date of application for amendments: September 10, 2001.

Brief Description of amendments: These amendments eliminate the Technical Specification requirements to have and maintain a post-accident sampling system at Surry Power Station, Unit Nos. 1 and 2.

Date of issuance: December 18, 2001.

Effective date: December 18, 2001.

Amendment Nos.: 229 and 229.

Facility Operating License Nos. DPR–32 and DPR–37: Amendments change the Technical Specifications.

Date of initial notice in ***Federal Register:*** October 31, 2001 (66 FR 55026).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated December 18, 2001.

No significant hazards consideration comments received: No.

Dated at Rockville, Maryland, this 31st day of December 2001.

For the Nuclear Regulatory Commission.

Stuart A. Richards,

Acting Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 02–301 Filed 1–7–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued a revision of a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

Revision 1 of Regulatory Guide 1.78, ''Evaluating the Habitability of a Nuclear Power Plant Control Room During a Postulated Hazardous Chemical Release,'' describes guidance acceptable to the NRC staff for assessing the habitability of the control room during and after a postulated external release of hazardous chemicals. This guide also provides guidance for the protection of control room operators against an accidental release of hazardous chemicals, including chlorine.

With the publication of Regulatory Guide 1.78, Regulatory Guide 1.95, ''Protection of Nuclear Power Plant Control Room Operators Against an Accidental Chlorine Release,'' is being withdrawn because the guidance in Regulatory Guide 1.95 has been updated and incorporated into Revision 1 of Regulatory Guide 1.78.

Comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time. Written comments may be submitted to the Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Regulatory guides are available for inspection or downloading at the NRC's Web site at *www.nrc.gov* under Regulatory Guides and in NRC's Electronic Reading Room (ADAMS System) at the same site. Single copies of regulatory guides may be obtained free of charge by writing the Reproduction and Distribution Services Section, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by fax to (301) 415–2289, or by E-mail to *distribution@nrc.gov.* Issued guides may also be purchased from the National Technical Information Service on a standing order basis. Details on this service may be obtained by writing NTIS, 5285 Port Royal Road, Springfield, VA 22161. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 26th day of December, 2001.

For the Nuclear Regulatory Commission.

Michael E. Mayfield,

Director, Division of Engineering Technology, Office of Nuclear Regulatory Research.

[FR Doc. 02–406 Filed 1–7–02; 8:45 am]

BILLING CODE 7590–01–P

POSTAL SERVICE

United States Postal Service Board of Governors; Sunshine Act Meeting

Board Votes To Close December 24, 2001, Meeting

By paper and telephone vote on December 21 and 24, 2001, a majority of the members contacted and voting, the Board of Governors of the United States Postal Service voted to close to public observation its meeting held in Washington, DC via teleconference. The Board determined that prior public notice was possible.

Item Considered: Rate Case R2001–1.

General Counsel Certification: The General Counsel of the United States Postal Service has certified that the meeting was properly closed under the Government in the Sunshine Act.

Contact Person for More Information: Requests for information about the meeting should be addressed to the Secretary of the Board, David G. Hunter, at (202) 268–4800.

David G. Hunter,

Secretary.

[FR Doc. 02–512 Filed 1–4–02; 12:20 pm]

BILLING CODE 7710–12–M

RAILROAD RETIREMENT BOARD

Determination of Quarterly Rate of Excise Tax for Railroad Retirement Supplemental Annuity Program

In accordance with directions in Section 3221(c) of the Railroad Retirement Tax Act (26 U.S.C., Section 3221(c)), the Railroad Retirement Board has determined that the excise tax imposed by such Section 3221(c) on every employer, with respect to having individuals in his employ, for each work-hour for which compensation is paid by such employer for services rendered to him during the quarter beginning January 1, 2002, shall be at the rate of 25 cents.

In accordance with directions in Section 15(a) of the Railroad Retirement Act of 1974, the Railroad Retirement Board has determined that for the quarter beginning January 1, 2002, 41.1 percent of the taxes collected under Sections 3211(b) and 3221(c) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Account and 58.9 percent of the taxes collected under such Sections 3211(b) and 3221(c) plus 100 percent of the taxes collected under Section 3221(d) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Supplemental Account.

Dated: November 30, 2001.

By Authority of the Board.

Beatrice Ezerski,

Secretary of the Board.

[FR Doc. 02–330 Filed 1–7–02; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27488]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

January 2, 2002.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by January 28, 2002, to the Secretary, Securities and Exchange Commission, Washington, DC 20549–0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After January 28, 2002, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

American Electric Power Company, Inc. (70–10021)

American Electric Power Company, Inc. (''AEP''), a registered holding company, 1 Riverside Plaza, Columbus, Ohio 43215, has filed a declaration under sections 6(a), 7, 32, and 33 of the Act and rules 53 and 54 under the Act.

The Commission issued an order on April 20, 2001 (HCAR No. 27382) (''April Order'') authorizing AEP to organize and acquire all of the common stock or other equity interests of one or more financing subsidiaries (''FS'') for the purpose of effecting various financing transactions through June 30, 2004. These transactions involved the issuance and sale of up to $1.5 billion unsecured in any combination of preferred securities, debt securities, interest rate hedges, anticipatory hedges, stock purchase contracts, and stock purchase units, as well as stock issued under the stock purchase contracts and stock purchase units. AEP has issued $1.25 billion debt under the April Order. The Commission further authorized AEP to effect directly financing transactions involving preferred securities, debt securities, stock purchase contracts, or stock purchase units. By supplemental order dated May 29, 2001 (HCAR No. 27408) (''May Order''), the Commission released jurisdiction and authorized the use of proceeds of the financings authorized in the April Order for investment in exempt wholesale generators ''(EWGs'') and foreign utility companies (''FUCOs'').

In addition to continuing to engage in the transactions authorized in the April Order and the May Order, AEP requests authorization to increase the investment limit from $1.5 billion to $3.0 billion. AEP also requests authorization to issue common stock directly and through FS. In the case of direct common stock sales, AEP proposes to sell its common stock other than as a component or in satisfaction of a stock purchase contract or stock purchase unit (a) through solicitations of proposals from underwriters or dealers; (b) through negotiated transactions with underwriters or dealers; (c) directly to a limited number of purchasers or to a single purchaser; and or (d) through agents. The price applicable to shares sold in any transaction will be based on several factors, including the current market price of the common stock and prevailing capital market conditions. AEP is authorized under its restated articles of incorporation to issue 600,000,000 shares of common stock ($6.50 par value), of which 322,024,714 were issued and outstanding as of February 1, 2001. As of September 30, 2001, AEP's consolidated capitalization consisted of 63.0% indebtedness, 0.7% preferred stock, 1.3% mandatorily redeemable preferred securities, and 35.0% common equity.

AEP states that interest rate hedges and anticipatory hedges will be treated for accounting purposes under generally accepted accounting principles. The April Order authorized hedges that would qualify for hedge accounting treatment.

AEP states that it will not publicly issue unsecured indebtedness or preferred securities in this file unless it has maintained at least an investment grade corporate or senior unsecured debt rating by at least one nationally recognized rating agency.

AEP was authorized in the April Order to form special purpose subsidiaries (''SPS'') in connection with the issuance of unsecured preferred securities. The April Order also authorized FS to issue and sell unsecured subordinated debentures, unsecured promissory notes or other unsecured debt instruments (''Note'' or ''Notes''). AEP states that it expects the FS interest payments on the Notes will be deductible for federal income tax purposes and that each SPS will be treated as either a partnership or a passive grantor trust for federal income tax purposes. Consequently, holders of the preferred securities and AEP will be deemed to have received distributions in respect of their ownership interests in the respective SPS and will not be entitled to any ''dividends received deduction'' under the Internal Revenue Code. The preferred securities of any series, however, may be redeemable at the option of the SPS issuing the series (with the consent or at the direction of AEP) at a price equal to their par or stated value or liquidation preference, plus any accrued and unpaid dividends or distributions, (a) at any time after a specified date not later than approximately ten years from their date of issuance, or (b) upon the occurrence of certain events, among them that (x) the SPS is required to withhold or deduct certain amounts in connection with dividend, distribution or other payments or is subject to federal income tax with respect to interest received on the Notes issued to the SPS, or (y) it is determined that the interest payments by FS on the related Notes are not deductible for income tax purposes, or (z) the SPS becomes subject to regulation as an ''investment company'' under the Investment Company Act of 1940. The preferred securities of any series may also be subject to mandatory redemption upon the occurrence of certain events. FS also may have the right in certain cases or in its discretion to exchange the preferred securities of any SPS for the Notes or other junior subordinated debt issued to the SPS.

In the event that any SPS is required to withhold or deduct certain amounts in connection with dividend, distribution or other payments, the SPS may also have the obligation to ''gross up'' the payments so that the holders of the preferred securities issued by the SPS will receive the same payment after the withholding or deduction as they would have received if no withholding

or deduction were required. In this event, FS obligations under its related Note may also cover this ''gross up'' obligation. In addition, if any SPS is required to pay taxes with respect to income derived from interest payments on the Notes issued to it, the FS may be required to pay additional interest on the related Notes as necessary in order that net amounts received and retained by the SPS, after the payment of the taxes, shall result in the SPS having the funds as it would have had in the absence of the payment of taxes.

The proceeds of any financing by FS or any SPS will be remitted, paid as a dividend, loaned or otherwise transferred to AEP or its designee. The proceeds of preferred securities, debt securities, stock purchase contracts and stock purchase units will be used to acquire the securities of associate companies and interests in other businesses, including interests in EWGs and FUCOs, or in any transactions permitted under the Act and for other general corporate purposes, including the reduction of short-term indebtedness. AEP had approximately $3.6 billion outstanding short-term indebtedness as of September 30, 2001. No proceeds will be used to purchase generation assets currently owned by AEP or any affiliate unless the purchase has been approved by order of this Commission under File No. 70–9785 or other similar applications.

AEP represents that no financing proceeds will be used to acquire the equity securities of any company or any interest in other businesses unless the acquisition has been approved by the Commission in this proceeding or in File No. 70–9353 or is in accordance with an available exemption under sections 32, 33 and 34 of the Act or rule 58 under the Act. AEP does not seek in this proceeding any increase in the amount it is permitted to invest in EWGs and FUCOs.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–402 Filed 1–7–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 25353; 813–226]

DRW Venture Partners LP and RBC Dain Rauscher Corp.; Notice of Application

January 2, 2002.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under sections 6(b) and 6(e) of the Investment Company Act of 1940 (the ''Act'') granting an exemption from all provisions of the Act, except section 9, section 17 (other than certain provisions of paragraphs (a), (d), (e), (f), (g), and (j)), section 30 (other than certain provisions of paragraphs (a), (b), (e), and (h)), sections 36 through 53, and the rules and regulations thereunder.

SUMMARY OF APPLICATION: Applicants request an order to exempt certain limited partnerships and limited liability companies (''Partnerships'') formed for the benefit of key employees of RBC Dain Rauscher Corp. (''DRC'') and certain of its affiliates from certain provisions of the Act. Each Partnership will be an ''employees' securities company'' as defined in section 2(a)(13) of the Act.

APPLICANTS: DRW Venture Partners LP (the ''Initial Partnership'') and DRC.

FILING DATES: The application was filed on January 20, 2000 and amended on December 28, 2001.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on January 28, 2002, and should be accompanied by proof of service on applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 Fifth Street, NW, Washington, DC 20549–0609; Applicants, 60 South Sixth Street, Minneapolis, MN 55402.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Senior Counsel, at (202) 942–0574 or Mary Kay Frech, Branch Chief, at (202) 942–0564, (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW, Washington, DC 20549–0102 (telephone (202) 942–8090).

Applicants' Representations

1. DRC is a holding company that provides investment advice and services to individual and institutional investors and investment banking services to corporate and governmental clients through its principal subsidiary, Dain Rauscher Incorporated. Dain Rauscher Incorporated is a wholly-owned subsidiary of DRC and is a broker-dealer registered under the Securities Exchange Act of 1934 (the ''Exchange Act'') and an investment adviser registered under the Investment Advisers Act of 1940 (the ''Advisers Act''). DRC and its affiliates as defined in rule 12b-2 under the Exchange Act are referred to collectively in this notice as the ''DRC Group.''

2. DRC Group has offered and proposes to continue to offer various investment programs for the benefit of its Eligible Employees (as defined below). These programs may be structured as different Partnerships, as separate plans within a Partnership, or as investments by the Partnerships in investment entities formed by DRC Group, from time to time, which are exempt from registration under the Act in reliance on sections 3(c)(1), 3(c)(6), or 3(c)(7) of the Act and which are managed by DRC employees (the ''DRC Funds''). Each Partnership will be a limited partnership or limited liability company formed as an ''employees' securities company'' within the meaning of section 2(a)(13) of the Act, and will operate as a closed-end, non-diversified management investment company. The Partnerships have been or will be established primarily for the benefit of highly compensated employees of DRC Group as part of a program designed to create capital building opportunities that are competitive with those at other investment banking firms and to facilitate the recruitment of high caliber professionals. Participation in a Partnership will be voluntary.

3. DRC, a Delaware corporation, is the general partner of the Initial Partnership (together with any DRC Group entity which acts as the general partner of a Partnership, ''General Partner''). The General Partner of the Initial Partnership will not be registered under

the Advisers Act pursuant to section 203(b)(3) of the Advisers Act and rule 203(b)(3)–1 thereunder. The General Partner of other Partnerships will register as an investment adviser under the Advisers Act if required under applicable law. The General Partner will manage, operate, and control each of the Partnerships. The General Partner will be authorized to delegate management responsibility to a DRC Group entity or to a committee of DRC Group employees (including, without limitation, the managers of other Partnerships). The General Partner will not receive a performance-based fee, or carried interest, from the Initial Partnership, and the General Partner does not currently anticipate receiving a performance-based fee, or carried interest, from any Partnership.[1]

4. Limited partner interests in the Partnerships (''Interests'') will be offered without registration in reliance on section 4(2) of the Securities Act of 1933 (the ''Securities Act'') or Regulation D under the Securities Act, and will be sold only to ''Eligible Employees'' or, if permitted by DRC, to ''Qualified Participants'' (in each case as defined below) (collectively, ''Participants''). Prior to offering Interests to an Eligible Employee, the General Partner must reasonably believe that the Eligible Employee will be a sophisticated investor capable of understanding and evaluating the risks of participating in a Partnership. An Eligible Employee is (a) an individual who is a current or former employee, officer, director, or ''Consultant'' of DRC Group and, except for a maximum of 35 individuals who either manage the day-to-day affairs of the Partnership in question (''Managing Employees'') or who meet the alternative standards set forth in paragraph 5 below, meets the standards of an accredited investor under rule 501(a)(6) of Regulation D, or (b) an entity that is a current or former ''Consultant'' of DRC Group and meets the standards of an accredited investor under rule 501(a) of Regulation D.[2] Eligible Employees will be experienced professionals in the investment banking and securities, investment management or financial services businesses, or in the related administrative, financial, accounting, legal, or operational activities.

5. In order for an individual who is not an accredited investor under rule 501(a)(6) of Regulation D to qualify as an Eligible Employee, the individual must (a) have a graduate degree in business, law, or accounting, (b) have a minimum of five years of consulting, investment banking or similar business experience, and (c) have had reportable income from all sources (including any profit shares or bonus) in the calendar year immediately preceding such individual's admission as a Limited Partner in excess of $120,000 and have a reasonable expectation of reportable income of at least $150,000 in the years in which such individual invests in a Partnership. In addition, an Eligible Employee in this category will not be permitted to invest in any year more than 10% of his or her income from all sources for the immediately preceding year in the Partnership and in all other Partnerships in the aggregate in which he or she has previously invested.

6. Managing Employees will have primary responsibility for operating the Partnership. These individuals will be officers or employees of DRC Group who meet the definition of Knowledgeable Employee in rule 3c–5(a)(4) under the Act with respect to a Partnership as if it were a ''covered company'' within the meaning of the rule.

7. A Qualified Participant (a) is an Eligible Family Member or Qualified Entity, (in each case as defined below) of an Eligible Employee, and (b) if purchasing an Interest from a Partner[3] or directly from the Partnership, comes within one of the categories of an ''accredited investor'' under rule 501(a) of Regulation D. An ''Eligible Family Member'' is a spouse, parent, child, spouse of child, brother, sister, or grandchild of an Eligible Employee. A ''Qualified Entity'' is (a) a trust of which the trustee, grantor, and/or beneficiary is an Eligible Employee; (b) a partnership, corporation, or other entity controlled by an Eligible Employee;[4] or (c) a trust or other entity established solely for the benefit of Eligible Family Members of an Eligible Employee.

8. The terms of a Partnership will be fully disclosed to each Eligible Employee and, if applicable, to a Qualified Participant of the Eligible Employee, at the time the Eligible Employee is invited to participate in the Partnership. Each Partnership will send audited financial statements to each Participant within 120 days or as soon as practicable after the end of its fiscal year. In addition, each Participant will receive a copy of Schedule K–1 showing the Participant's share of income, credits, deductions, and other tax items.

9. Interests in a Partnership will be non-transferable except with the prior written consent of the General Partner. No person will be admitted into a Partnership unless the person is an Eligible Employee, a Qualified Participant of an Eligible Employee, or a DRC Group entity. No sales load will be charged in connection with the sale of an Interest.

10. An Eligible Employee's Interest in a Partnership may be subject to repurchase or cancellation if (a) the Eligible Employee's relationship with DRC Group is terminated for cause; (b) the Eligible Employee becomes a consultant to or joins any firm that the General Partner determines, in its reasonable discretion, is competitive with any business of DRC Group; or (c) the Eligible Employee voluntarily resigns from employment with DRC Group. Upon repurchase or cancellation, the General Partner will pay to the Eligible Employee at least the lesser of (a) the amount actually paid by the Eligible Employee to acquire the Interest (plus interest, as determined by the General Partner), or (b) the fair market value of the Interest as determined at the time of repurchase by the General Partner. The terms of any repurchase or cancellation will apply equally to any Qualified Participant of an Eligible Employee.

11. Subject to the terms of the applicable limited partnership agreement, a Partnership will be permitted to enter into transactions

[1] A ''carried interest'' is an allocation to the General Partner based on the net gains of an investment program and is in addition to the amount that is allocable to the General Partner in proportion to its capital contributions. Any carried interest payable to a General Partner that is registered under the Advisers Act will be charged only to the extent permitted by section 205(a) of the Advisers Act and rule 205–3 under the Advisers Act. Any ''carried interest'' payable to a General Partner that is not registered under the Advisers Act will comply with the requirements of section 205(b)(3) of the Advisers Act (with the Partnership treated as though it were a business development company for purposes of that section).

[2] A ''Consultant'' is a person or entity whom DRC Group has engaged on retainer to provide services and professional expertise on an ongoing basis as a regular consultant or as a business or legal adviser to DRC Group and who shares a community of interest with DRC Group and DRC Group employees.

[3] ''Partner'' means any partner of a Partnership, including the General Partner.

[4] The inclusion of partnerships, corporations, or other entities controlled by an Eligible Employee in the definition of ''Qualified Entity'' is intended to enable Eligible Employees to make investments in the Partnerships through personal investment vehicles for the purpose of personal and family investment and estate planning objectives. Eligible Employees will exercise investment discretion or control over these investment vehicles, thereby creating a close nexus between DRC Group and these investment vehicles. In the case of a partnership, corporation, or other entity controlled by a Consultant, individual participants will be limited to senior level employees, members, or partners of the Consultant who will be required to qualify as an ''accredited investor'' under rule 501(a)(6) of Regulation D and who will have access to the General Partner or DRC Group.

involving (a) a DRC Group entity; (b) a portfolio company, (c) any Partner or person or entity affiliated with a Partner, (d) an investment fund or separate account that is organized for the benefit of investors who are not affiliated with DRC Group and over which a DRC Group entity will exercise investment discretion (a ''Third Party Fund''), or (e) any partner or other investor of a Third Party Fund that is not affiliated with DRC Group (a ''Third Party Investor''). These transactions may include (a) a Partnership's purchase or sale of an investment or an interest from or to any DRC Group entity or Third Party Fund, acting as principal. Prior to entering into these transactions, the General Partner must determine that the terms are fair to the Partners.

12. No Partnership will acquire any security issued by a registered investment company if immediately after the acquisition, the Partnership will own more than 3% of the outstanding voting stock of the registered investment company.

13. A DRC Group entity (including the General Partner) acting as agent or broker may receive placement fees, advisory fees, or other compensation from a Partnership in connection with a Partnership's purchase or sale of securities, provided the placement fees, advisory fees, or other compensation are ''usual and customary,'' subject to the requirements described below. DRC Group entities (including the General Partner) also may be compensated for services to entities in which the Partnerships invests and entities that are competitors of these entities.

Applicants' Legal Analysis

1. Section 6(b) of the Act provides, in part, that the Commission will exempt employees' securities companies from the provisions of the Act to the extent that the exemption is consistent with the protection of investors. Section 6(b) provides that the Commission will consider, in determining the provisions of the Act from which the company should be exempt, the company's form of organization and capital structure, the persons owning and controlling its securities, the price of the company's securities and the amount of any sales load, how the company's funds are invested, and the relationship between the company and the issuers of the securities in which it invests. Section 2(a)(13) defines an employees' securities company, in relevant part, as any investment company all of whose securities are beneficially owned (a) by current or former employees, or persons on retainer, of one or more affiliated employers, (b) by immediate family members of such persons, or (c) by such employer or employers together with any of the persons in (a) or (b).

2. Section 7 of the Act generally prohibits an investment company that is not registered under section 8 of the Act from selling or redeeming its securities. Section 6(e) provides that, in connection with any order exempting an investment company from any provision of section 7, certain provisions of the Act, as specified by the Commission, will be applicable to the company and other persons dealing with the company as though the company were registered under the Act. Applicants request an order under sections 6(b) and 6(e) of the Act for an exemption from all provisions of the Act except section 9, section 17 (other than certain provisions of paragraphs (a), (d), (e), (f), (g), and (j)), section 30 (other than certain provisions of paragraphs (a), (b), (e), and (h)), sections 36 through 53, and the rules and regulations thereunder.

3. Section 17(a) generally prohibits any affiliated person of a registered investment company, or any affiliated person of an affiliated person, acting as principal, from knowingly selling or purchasing any security or other property to or from the company. Applicants request an exemption from section 17(a) to permit (a) a DRC Group entity or a Third Party Fund, acting as principal, to engage in any transaction directly or indirectly with any Partnership or any company controlled by the Partnership; (b) any Partnership to invest in or engage in any transaction with any DRC Group entity, acting as principal, (i) in which the Partnership, any company controlled by the Partnership, or any DRC Group entity, or Third Party Fund has invested or will invest, or (ii) with which the Partnership, any company controlled by the Partnership, or any DRC Group entity, or Third Party Fund will become affiliated; and (iii) any Third Party Investor, acting as principal, to engage in any transaction directly or indirectly with any Partnership or any company controlled by the Partnership.

4. Applicants state that an exemption from section 17(a) is consistent with the protection of investors and is necessary to promote the purpose of the Partnerships. Applicants state that the Participants in each Partnership will be fully informed of the extent of the Partnership's dealings with DRC Group. Applicants also state that, as professionals employed in the investment banking, investment management or financial services businesses, Participants will be able to understand and evaluate the attendant risks. Applicants assert that the community of interest among the Participants and DRC Group will provide the best protection against any risk of abuse.

5. Section 17(d) and rule 17d–1 prohibit any affiliated person or principal underwriter of a registered investment company, or any affiliated person of such person or principal underwriter, acting as principal, from participating in any joint arrangement with the company unless authorized by the Commission. Applicants request relief to permit affiliated persons of each Partnership (including without limitation, the General Partner, other DRC Group entities, or Third-Party Fund), or affiliated persons of any of these persons (including without limitation, Third-Party Investors) to participate in, or effect any transaction in connection with, any joint enterprise or other joint arrangement or profit-sharing plan in which a Partnership or a company controlled by a Partnership is a participant.

6. Applicants submit that it is likely that suitable investments will be brought to the attention of a Partnership because of its affiliation with DRC Group or DRC Group's large capital resources, and its experience in structuring complex transactions. Applicants also submit that the types of investment opportunities considered by a Partnership often require each investor to make funds available in an amount that may be substantially greater than what a Partnership may make available on its own. Applicants contend that, as a result, the only way in which a Partnership may be able to participate in these opportunities may be to co-invest with other persons, including its affiliates. Applicants note that each Partnership will be primarily organized for the benefit of Eligible Employees as an incentive for them to remain with DRC Group and for the generation and maintenance of goodwill. Applicants believe that, if co-investments with DRC Group are prohibited, the appeal of the Partnerships would be significantly diminished. Applicants assert that Eligible Employees wish to participate in co-investment opportunities because they believe that (a) the resources of DRC Group enable it to analyze investment opportunities to an extent that individual employees would not be able to duplicate; (b) investments made by DRC Group will not be generally available to investors even of the financial status of the Eligible Employees; and (c) Eligible Employees will be able to pool their investment resources, thus achieving greater diversification of their individual investment portfolios.

7. Applicants assert that the flexibility to structure co-investments and joint investments will not involve abuses of the type section 17(d) and rule 17d–1 were designed to prevent. Applicants state that the concern that permitting co-investments by DRC Group and a Partnership might lead to less advantageous treatment of the Partnership will be mitigated by the community of interest among DRC Group and the Participants, and the fact that senior officers and directors of DRC Group entities will be investing in the Partnership. Finally, applicants contend that the possibility that a Partnership may be disadvantaged by the participation of an affiliate in a transaction will be minimized by compliance with the lockstep procedures described in condition 3 below. (p. 16) Applicants believe that this condition will ensure that a Partnership will co-invest side-by-side and pro rata with, and on at least as favorable terms as, a DRC Group entity.

8. Co-investments with Third Party Funds, or by a DRC Group entity pursuant to a contractual obligation to a Third Party Fund, will not be subject to condition 3. Applicants note that it is common for a Third Party Fund to require that DRC Group invest its own capital in Third Party Fund investments, and that the DRC Group investments be subject to substantially the same terms as those applicable to the Third Party Fund. Applicants believe it is important that the interests of the Third Party Fund take priority over the interests of the Partnerships, and that the Third Party Fund not be burdened or otherwise affected by activities of the Partnerships. In addition, applicants assert that the relationship of a Partnership to a Third Party Fund is fundamentally different from a Partnership's relationship to DRC Group. Applicants contend that the focus of, and the rationale for, the protections contained in the requested relief are to protect the Partnerships from any overreaching by DRC Group in the employer/employee context, whereas the same concerns are not present with respect to the Partnerships *vis-à-vis* a Third Party Fund.

9. Section 17(e) and rule 17e–1 limit the compensation an affiliated person may receive when acting as agent or broker for a registered investment company. Applicants request an exemption from section 17(e) to permit a DRC Group entity (including the General Partner), that acts as an agent or broker, to receive placement fees, advisory fees, or other compensation from a Partnership in connection with the purchase or sale by the Partnership of securities, provided that the fees or other compensation is deemed to be ''usual and customary.'' Applicants state that for the purposes of the application, fees or other compensation that is charged or received by a DRC Group entity will be deemed to be ''usual and customary'' only if (a) the Partnership is purchasing or selling securities with other unaffiliated third parties, including Third Party Funds; (b) the fees or compensation being charged to the Partnership are also being charged to the unaffiliated third parties, including Third Party Funds; and (c) the amount of securities being purchased or sold by the Partnership does not exceed 50% of the total amount of securities being purchased or sold by the Partnership and the unaffiliated third parties, including Third Party Funds. Applicants assert that, because DRC Group does not wish it to appear as if it is favoring the Partnerships, compliance with section 17(e) would prevent a Partnership from participating in transactions where the Partnership is being charged lower fees than unaffiliated third parties. Applicants assert that the fees or other compensation paid by a Partnership to a DRC Group entity will be the same as those negotiated at arm's length with unaffiliated third parties.

10. Rule 17e–1(b) requires that a majority of directors of the General Partner who are not ''interested persons'' take actions and make approvals regarding commissions, fees, or other remuneration. Applicants request an exemption from rule 17e–1 to the extent necessary to permit each Partnership to comply with the rule without having a majority of the directors of the General Partner who are not interested persons take actions and make determinations as set forth in the rule. Applicants state that because all the directors of the General Partner will be affiliated persons, without the relief requested, a Partnership could not comply with rule 17e–1. Applicants state that each Partnership will comply with rule 17e–1 by having a majority of the directors of the General Partner take actions and make approvals as are set forth in rule 17e–1. Applicants state that each Partnership will comply with all other requirements of rule 17e–1.

11. Section 17(f) designates the entities that may act as investment company custodians, and rule 17f–1 imposes certain requirements when the custodian is a member of a national securities exchange. Applicants request an exemption from section 17(f) and rule 17f–1 to permit a DRC Group entity to act as custodian of Partnership assets without a written contract, as would be required by rule 17f–1(a). Applicants also request an exemption from the rule 17f–1(b)(4) requirement that an independent accountant periodically verify the assets held by the custodian. Applicants believe that, because of the community of interest between DRC Group and the Partnerships and the existing requirement for an independent audit, compliance with these requirements would be unnecessarily burdensome and expensive. Applicants will comply with all other requirements of rule 17f–1.

12. Section 17(g) and rule 17g–1 generally require the bonding of officers and employees of a registered investment company who have access to its securities or funds. Rule 17g–1 requires that a majority of directors who are not interested persons take certain actions and give certain approvals relating to fidelity bonding. Applicants request exemptive relief to permit the General Partner's officers and directors, who may be deemed interested persons, to take actions and make determinations set forth in the rule. Applicants state that, because all the directors of the General Partner will be affiliated persons, a Partnership could not comply with rule 17g–1 without the requested relief. Specifically, each Partnership will comply with rule 17g–1 by having a majority of the Partnerships' directors take actions and make determinations as are set forth in rule 17g–1. Applicants also state that each Partnership will comply with all other requirements of rule 17g–1.

13. Section 17(j) and paragraph (b) of rule 17j–1 make it unlawful for certain enumerated persons to engage in fraudulent or deceptive practices in connection with the purchase or sale of a security held or to be acquired by a registered investment company. Rule 17j–1 also requires that every registered investment company adopt a written code of ethics and that every access person of a registered investment company report personal securities transactions. Applicants request an exemption from the provisions of rule 17j–1, except for the anti-fraud provisions of paragraph (b), because they are unnecessarily burdensome as applied to the Partnerships.

14. Applicants request an exemption from the requirements in sections 30(a), 30(b), and 30(e), and the rules under those sections, that registered investment companies prepare and file with the Commission and mail to their shareholders certain periodic reports and financial statements. Applicants contend that the forms prescribed by the Commission for periodic reports have little relevance to the Partnerships and

would entail administrative and legal costs that outweigh any benefit to the Participants. Applicants request exemptive relief to the extent necessary to permit each Partnership to report annually to its Participants. Applicants also request an exemption from section 30(h) to the extent necessary to exempt the General Partner of each Partnership and any other persons who may be deemed to be members of an advisory board of a Partnership from filing Forms 3, 4, and 5 under section 16(a) of the Exchange Act with respect to their ownership of Interests in the Partnership. Applicants assert that, because there will be no trading market and the transfers of Interests will be severely restricted, these filings are unnecessary for the protection of investors and burdensome to those required to make them.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Each proposed transaction otherwise prohibited by section 17(a) or section 17(d) and rule 17d–1 to which a Partnership is a party (the ''Section 17 Transaction'') will be effected only if the General Partner determines that: (a) The terms of the transaction, including the consideration to be paid or received, are fair and reasonable to the Partners of the Partnership and do not involve overreaching of the Partnership or its Partners on the part of any person concerned; and (b) the transaction is consistent with the interests of the Partners in the Partnership, and the Partnership's organizational documents and reports to its Partners. In addition, the General Partner of each Partnership will record and preserve a description of the Section 17 Transactions, the General Partner's findings, the information or materials upon which the General Partner's findings are based, and the basis for the findings. All records relating to an investment program will be maintained until the termination of the investment program and at least two years thereafter, and will be subject to examination by the Commission and its staff.[5]

2. In connection with the Section 17 Transactions, the General Partner of each Partnership will adopt, and periodically review and update, procedures designed to ensure that reasonable inquiry is made, prior to the consummation of any Section 17 Transaction, with respect to the possible involvement in the transaction of any affiliated person or promoter of or principal underwriter for the Partnership, or any affiliated person of an affiliated person, promoter, or principal underwriter.

3. The General Partner of each Partnership will not invest the funds of the Partnership in any investment in which a ''Co-Investor'' (as defined below) has acquired or proposes to acquire the same class of securities of the same issuer, if the investment involves a joint enterprise or other arrangement within the meaning of rule 17d–1 in which the Partnership and the Co-Investor are participants, unless the Co-Investor, prior to disposing of all or part of its investment, (a) gives the General Partner sufficient, but not less than one day's, notice of its intent to dispose of its investment; and (b) refrains from disposing of its investment unless the Partnership has the opportunity to dispose of the Partnership's investment prior to or concurrently with, on the same terms as, and pro rata with the Co-Investor. The term ''Co-Investor'' with respect to any Partnership means any person who is (a) an ''affiliated person'' (as defined in section 2(a)(3) of the Act) of the Partnership (other than a Third Party Fund); (b) DRC Group; (c) an officer or director of DRC Group; or (d) an entity (other than a Third Party Fund) in which the General Partner acts as a general partner or has a similar capacity to control the sale or other disposition of the entity's securities. The restrictions contained in this condition, however, will not be deemed to limit or prevent the disposition of an investment by a Co-Investor: (a) To its direct or indirect wholly-owned subsidiary, to any company (a ''Parent'') of which the Co-Investor is a direct or indirect wholly-owned subsidiary, or to a direct or indirect wholly-owned subsidiary of its Parent; (b) to immediate family members of the Co-Investor or a trust or other investment vehicle established for any immediate family member; (c) when the investment is comprised of securities that are listed on any exchange registered as a national securities exchange under section 6 of the Exchange Act; (d) when the investment is comprised of securities that are national market system securities pursuant to section 11A(a)(2) of the Exchange Act and rule 11Aa2–1 under the Exchange Act; or (e) when the investment is comprised of securities that are listed or traded on any foreign securities exchange or board of trade that satisfies regulatory requirements under the law of the jurisdiction in which the foreign securities exchange or board of trade is organized similar to those that apply to a national securities exchange or a national market system for securities.

4. Each Partnership and the General Partner will maintain and preserve, for the life of the Partnership and at least two years thereafter, the accounts, books, and other documents that constitute the record forming the basis for the audited financial statements that are to be provided to the Participants in the Partnership, and each annual report of the Partnership required to be sent to Participants, and agree that these records will be subject to examination by the Commission and its staff.[6]

5. The General Partner of each Partnership will send to each Participant in the Partnership who had an interest in any capital account of the Partnership, at any time during the fiscal year then ended, Partnership financial statements audited by the Partnership's independent accountants. At the end of each fiscal year, the General Partner will make a valuation or have a valuation made of all of the assets of the Partnership as of the fiscal year end in a manner consistent with customary practice with respect to the valuation of assets of the kind held by the Partnership. In addition, within 120 days after the end of each fiscal year of each Partnership or as soon as practicable thereafter, the General Partner of the Partnership will send a report to each person who was a Participant in the Partnership at any time during the fiscal year then ended, setting forth the tax information necessary for the preparation by the Participant of federal and state income tax returns and a report of the investment activities of the Partnership during that year.

6. If purchases or sales are made by a Partnership from or to an entity affiliated with the Partnership by reason of a 5% or more investment in the entity by a DRC Group director, officer, or employee, the individual will not participate in the Partnership's determination of whether or not to effect the purchase or sale.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–401 Filed 1–7–02; 8:45 am]

BILLING CODE 8010–01–P

[5] Each Partnership will preserve the accounts, books, and other documents required to be maintained in an easily accessible place for the first two years.

[6] Each Partnership will preserve the accounts, books, and other documents required to be maintained in an easily accessible place for the first two years.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45211; File No. SR–Amex–2001–98]

Self-Regulatory Organizations; Order Approving a Proposed Rule Change by the American Stock Exchange LLC to Reinstate and Increase Options Transaction Charges

December 28, 2001.

On November 8, 2001, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 [1] the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change to reinstate and increase options transaction charges in select products. In April 2000, the Exchange eliminated transaction, floor brokerage, and clearance charges for customer equity option trades. At that time, fees charged to customers for transactions in index options remained unchanged at $0.10 per contract. The Exchange proposes to increase the fees charged to (1) customers for transactions in index options from $0.10 to $0.15; and (2) member firms and non-member broker dealers for transactions in index options from $0.11 to $0.15. In addition, the Exchange is proposing to reinstate a customer transaction charge for equity options on the S&P 100 iShares. The transaction charge will be $0.15 per contract side.

The proposed rule change was published for comment in the **Federal Register**.[2] The Commission received no comments on the proposal.

The Commission finds the proposed rule change is consistent with section 6(b) of the Act [3] in general and furthers the objectives of section 6(b)(4) of the Act [4] in particular in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities.[5] According to the Amex, these increases are necessary due to the increasing costs incurred in developing and implementing new technology for the fast and efficient trading of options.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[6] that the proposed rule change (SR–Amex–2001–98) be, and hereby is, approved.[7]

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–285 Filed 1–7–02; 8:45 am]

BILLING CODE 8010–01–M

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 45068 (Nov. 11, 2001), 66 FR 58765 (Nov. 23, 2001).

[3] 15 U.S.C. 78f(b).

[4] 15 U.S.C. 78f(b)(4).

[5] In approving this rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.c. 78c(f).

[6] 15 U.S.C. 78s(b)(2).

[7] 17 CFR 200.30–30(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45177; File No. SR–Amex–2001–103]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by American Stock Exchange LLC Relating to a Utilization Fee for the 'Smart' Wiring Program

December 20, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934,[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 10, 2001, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. 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 increase floor fees by assessing a $15.00 monthly utilization fee on registered options traders operating on the Harry's floow of the Exchange (new trading facility on the first floor of the 86 Trinity Exchange building) to enable registered options traders to hard-wire their handheld computers from certain locations in the Harry's floor.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to assess a $150.00 monthly utilization fee (regardless of amount of days service is utilized during a month) on registered options traders operating on the Harry's floor of the Exchange to recover the capital investment, as well as the implementation and operating costs, for the 'Smart' Wiring program.

'Smart' Wiring involves the installation of 'Smart' wired outlets throughout the Harry's floor to enable registered options traders to change their location within that trading floor from day to day by easily connecting into a 'Smart' outlet. The need for this program arose because of the desire of users to be able to move to any location in the trading crowd and get connectivity to their member firm's servers. Through the 'Smart' Wiring connection, registered options traders receive analytical data and other information from their member firms which assists them in making better markets. 'Smart' Wiring is not part of the Exchange's order routing or other trading system.

The 'Smart' Wiring program is being implemented in the Harry's floor first, since that space requires less work than the other Amex floors to effect implementation of the program. The Exchange will monitor the program and, based on its experience with the program as well as the demand for the service, the Exchange may decide to extend the service on the Harry's floor by adding additional 'Smart' outlets and/or extend new service to the other Amex floors.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act [3] in general and furthers the objective of Section 6(b)(4) of the Act [4] in particular in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78f(b).

[4] 15 U.S.C. 78f(b)(4).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Amex has neither solicited nor received written comments with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; (3) does not become operative for 30 days from December 11, 2001, the date on which it was filed, and the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date, it has become effective pursuant to Section 19(b)(3)(A) of the Act [5] and Rule 19b–4(g)(6) thereunder.[6] At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such proposed rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room in Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to SR–Amex–2001–103 and should be submitted by January 29, 2002.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–404 Filed 1–7–02; 8:45 am]

BILLING CODE 8010–01–M

[5] 15 U.S.C. 78s(b)(3)(A).

[6] 17 CFR 240.19b–4(f)6.

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45221; File No. SR–CBOE–99–45]

Self-Regulatory Organizations; Notice of Filing of Amendment No. 2 to Proposed Rule Change by the Chicago Board Options Exchange, Inc. to Clarify Certain Aspects of Interpretation and Policy .02 to Exchange Rule 6.8

January 2, 2002.

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 19, 2001, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') Amendment No. 2 to the proposed rule change, as described in Items I, II, and III below, which Items have been prepared by the CBOE.[3] On December 28, 1999, the proposed rule change was published for comment in the **Federal Register**.[4] On October 30, 2000, the CBOE filed Amendment No. 1 to the proposed rule change.[5] Amendment No. 2 supersedes and replaces Amendment No. 1 in its entirety.[6] The Commission is publishing this notice to solicit comments on Amendment No. 2 to 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 change its Interpretation and Policy .01 to CBOE Rule 6.8 (RAES Operations) in order to add specific, objective criteria describing the circumstances in which Exchange Floor Officials may determine that quotes from one or more markets in one or more particular classes of options are not reliable, and, thus, may be excluded from CBOE's Retail Automatic Execution System (''RAES'') determination of the National Best Bid and Offer (''NBBO''). The text of Amendment No. 2 to the proposed rule change is provided below. Changes to the current rule text are in italics; deletions from the current rule text are in brackets.

RAES Operations in Equity Options

Rule 6.8 [No change]

* * * Interpretation and Policy

.01 [No change]

.02 (a) Orders to buy or sell options that are multiply traded in one or more markets in addition to the Exchange will not be automatically executed on RAES at prices inferior to the current best bid or offer in any other market, as such best bids or offers are identified in RAES.

Under circumstances where two Floor Officials determine that quotes from one or more particular markets in one or more classes of options are not reliable, the Floor Officials may direct the senior person in charge of the Exchange's Control Room to exclude the unreliable quotes from the RAES determination of the NBBO in the particular option class(es).

I. Two Floor Officials may determine quotes in one or more particular options classes in a market are not reliable under any of the following circumstances:

(a) Quotes Not Firm: A market's quotes in a particular options class are not firm based upon direct communication to the Exchange from

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Joanne Moffic-Silver, General Counsel and Corporate Secretary, Legal Department, CBOE to Stephen M. Cutler, Director, Division of Enforcement, Commission, Annette L. Nazareth, Director, Division of Market Regulation (''Division''), Commission, and Lori A. Richards, Director, Office of Compliance, Inspections and Examination, Commission, dated November 19, 2001 (''Amendment No. 2''). In Amendment No. 2, the CBOE proposes to set forth specific, objective criteria describing the circumstances in which Exchange Floor Officials may determine that quotes from one or more markets in one or more particular classes of options are not reliable and, thus, may be excluded from CBOE's Retail Automatic Execution System (''RAES'') determination of the National Best Bid and Offer (''NBBO'').

[4] *See* Securities Exchange Act Release No. 42256 (December 20, 1999), 64 FR 72707 (December 28, 1999).

[5] *See* letter from Christopher R. Hill, Attorney II, Legal Department, CBOE to Terri Evans, Special Counsel, Division, Commission, dated October 24, 2000 (''Amendment No. 1'').

[6] Telephone conversation between Patrick Sexton, Legal Division, CBOE, and Deborah Flynn, Assistant Director, Division, Commission, on December 14, 2001.

the market or the dissemination through OPRA of a message indicating that disseminated quotes are not firm;

(b) Confirmed Quote Problems: A market has directly communicated to the Exchange or otherwise confirmed that the market is experiencing systems or other problems affecting the reliability of its disseminated quotes;

(c) Crossed or Locked Markets: One or more floor officials observe that the market's quotes in six or more option series in a particular options class are crossed or locked with the disseminated quotes of two or more other markets (which may include the Exchange), and continue to be crossed or locked for 30 seconds or more, provided that the quotes must be crossed or locked at the time. Floor Officials determine to exclude the unreliable quotes from the RAES determination of the NBBO; or

(d) Documented Firm Quote Issues: One or more floor officials observe any of the following:

(1) One or more orders originating from an Exchange DPM or market-maker for a particular options class that are filled by the market at a worse price than its disseminated quote without a required quote change;

(2) One or more market orders or marketable limit orders originating from an Exchange DPM or market-maker for a particular options class that are confirmed to be unfilled or partially unfilled by the market without a required quote change; or

(3) One or more market orders or marketable limit orders originating from an Exchange DPM or market-maker for a particular options class partially filled by a ''responsible broker or dealer'' at its disseminated quote, followed by a quote change and a redisplay of the previously disseminated quote by the same ''responsible broker or dealer'' in less than 30 seconds.

In all such cases, the situation will be documented by the Exchange Control Room and reported to regulatory authorities at the appropriate market.

II. In all cases where floor officials exclude a market or any of its quotes from the RAES determination of the NBBO due to quote unreliability, the Exchange Control Room will promptly notify the market of the action, continue to monitor the reliability of the excluded quotes in consultation with Floor Officials, and maintain records showing the date, time, duration, and reasons for each such action, as well as the identity of the Floor Officials who authorized the action. Any determination to exclude a market or any of its quotes from the RAES determination of the NBBO pursuant to I(a) and (b) above will expire at the end of the trading day, or at such time as the quotes are confirmed by the market to be reliable again—whichever occurs first. Any determination to exclude a market or any of its quotes from the RAES determination of the NBBO pursuant to I(c) and (d) above will expire not later than 30 minutes after the initial determination, unless two Floor Officials determine that the excluded quotes continue to be unreliable in which case the quotes will continue to be excluded for an additional period of time not to exceed 30 minutes pending further Floor Official review. Exclusion of a market or its quotes from the RAES determination of the NBBO will be reported to Exchange member firms.

(b) In respect of those classes of options that have been specifically designated by the appropriate Floor Procedure Committee as coming within the scope of [this] *the first* sentence *of .02(a)* (''automatic step-up classes''), under circumstances where the Exchange's best bid or offer is inferior to the current best bid or offer in another market by no more than the ''step-up amount'' as defined below, such orders will be automatically executed on RAES at the current best bid or offer in the other market.

(i) In respect of automatic step-up classes of options under circumstances where the Exchange's best bid or offer is inferior to the current best bid or offer in another market by more than the step-up amount, or

(ii) In respect of series of option classes designated by the appropriate Floor Procedure Committee or its Chairman under circumstances where the NBBO for one of the series is crossed (e.g., 6.10 bid, 6 asked) or locked (e.g., 6 bid, 6 asked), or

(iii) In respect of specified automatic step-up classes or series of options or specified markets under circumstances where the Chairman of the appropriate Floor Procedure Committee or his designee has determined that automatic step-up should not apply because quotes in such options or markets are deemed not to be reliable, or

(iv) In respect of classes of equity options other than automatic step-up classes where the Exchange's best bid or offer is inferior to the current best bid or offer in another market by any amount, such orders will be rerouted for non-automated handling to the DPM or OBO for that class of options, or to any other location in the event of system problems or contrary routing instructions from the firm that forwarded the order to RAES. If the order has been rerouted to the DPM or OBO, the DPM or OBO will report the execution or non-execution of such orders to the firm that originally forwarded the order to RAES. With respect to the orders that are rerouted for manual handling pursuant to (ii) above, the appropriate Floor Procedure Committee may determine to have the orders for a particular series within a designated class of options executed on RAES notwithstanding the fact that the NBBO is either crossed or locked. Also, with respect to (ii) above, the appropriate Floor Procedure Committee may determine to have the orders rerouted for manual handling only when the CBOE RAES becomes crossed or locked as a result of applying the step-up amount.

As used in this Interpretation and Policy .02, the *term* ''step-up amount'' shall be expressed in an amount consistent with the minimum trading increment for options of that series established pursuant to Rule 6.42. The appropriate Floor Procedure Committee shall determine the step-up amount in respect of specified automatic step-up classes or series of options and may vary the ''step-up amount''on the basis of order size parameters. The procedures described in this Interpretation .02*(b)* shall not apply in circumstances where a ''fast market'' in the options that are the subject of the orders in question has been declared on the Exchange or where comparable conditions exist in the other market such that firm quote requirements do not apply.

(c) For purposes of this Interpretation and Policy .02, the term ''Exchange's best bid or offer'' shall mean the price for the series as established by the DPM's Autoquote or proprietary automated quotation updating system. Classes of options in which Autoquote or a proprietary automated quotation updating system are not operative shall not be deemed to be ''automatic step-up classes,'' as that term is defined in paragraph [(a)] *(b)* of this Interpretation.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filings with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change, as amended by Amendment No. 2, and discussed any comments it received on the proposed rule change, as amended. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set 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

Interpretation and Policy .02 to CBOE Rule 6.8 provides that orders to buy or sell equity options that are multiply traded in one or more markets in addition to the CBOE will not be executed on RAES at prices inferior to the current best bid or offer in any other market, as the NBBO is identified in RAES.

Amendment No. 2 is designed to clarify procedures and specifically describe the circumstances under which the Exchange will be permitted to remove another market's quotes from the NBBO calculation. Specifically, removal will occur only when specific conditions set forth in this amendment allow Exchange Floor Officials to make a determination based on objective criteria that quotes in one or more options classes in a market are not reliable.

Reliable NBBO Calculations Benefit Public Customers

The CBOE believes that the presence of inaccurate and unreliable quotes is a significant problem because incorrect quotes undermine the integrity of the NBBO and by doing so, impede the very purpose of the National Market System, as well as inhibit the ability of public customers to obtain best execution for their orders. Removal of unreliable quotes, effected through objective criteria and well-defined procedures, is an appropriate function of the Exchange, necessary to protect the integrity and fairness of the market.

An NBBO is critical to the National Market System because it serve as the reference point for almost every options transaction effected on the Exchange. An accurate NBBO is essential because it allows market makers to compete actively with traders at other markets to offer improved pricing, which in turn, allows brokers to compare prices across markets to ensure that customers are getting the best prices. For example, CBOE's RAES system uses the Exchange's internally calculated NBBO to ensure that customer orders executed on RAES are executed quickly and at the best available price. Thus, CBOE rules generally provide for an automatic execution for customer orders for RAES eligible orders at the NBBO, if the NBBO is not more than one ''tick'' better than the prevailing price at CBOE. If the NBBO is more than one ''tick'' better than the current CBOE price, however, the order is removed from the RAES system and is routed to the trading floor for manual handling.

If the NBBO includes ''unreliable'' quotes, i.e., quotes that do not accurately reflect prevailing quotes at another market, and such unreliable quotes are more than one tick better than CBOE's quotes, customer orders will be removed from CBOE's RAES system. According to the CBOE, such orders will not be executed at the quoted NBBO, however, because no market actually will be trading at the unreliable NBBO quote. The presence of the unreliable quote in the NBBO therefore needlessly will deprive the customer of a fast, automatic execution through RAES. In fact, depending on the speed and direction of the market's movement, a rejected order may end up being executed at a price inferior to the CBOE's market at the time the order was entered. An incorrect NBBO may even prevent a customer order from being filled at all. For example, if a customer submitted a RAES-eligible marketable limit order, but the order was removed from RAES because of an unreliable quote in the NBBO that was more than one tick better than CBOE's quote, the market may move away from the customer's limit order price during the process of rerouting and manual handling of the customer's order. As a result, the customer's order may not get filled at all, or may receive a price less favorable than what would have been obtained had the customer's order been executed on RAES without the ''unreliable'' quotes.

The presence of unreliable quotes in the NBBO calculation therefore harms public customers, and it is the goal of the proposed rule change, as amended, to clarify the procedures for preventing such harm by removing unreliable quotes from the NBBO.

Specific Criteria for Unreliability Determinations

As indicated in new Subsection .02(A)(I) of the proposed rule change, as amended, two Floor Officials may determine that quotes in one or more particular option classes in a market are not reliable and thus may be excluded from the NBBO determination under any of the following circumstances:

(a) Where a market confirms that its quotes are not firm based upon direct communication to CBOE from the market or the disssemination through OPRA of a message indicating that disseminated quotes are not firm;

(b) Where a market directly communicates to CBOE or otherwise confirms that it is experiencing systems or other problems affecting the reliability of its disseminated quotes;

(c) Where one or more Floor Officials observe that six or more option series in a particular options class are crossed or locked with the disseminated quotes of two or more other markets, and continue to be crossed or locked for 30 seconds or more, provided that the quotes are crossed or locked at the time Floor Officials determine to exclude the unreliable quote from the RAES determination of the NBBO; or

(d) Where a Floor Official observes any of the following:

(1) One or more orders originating from an Exchange DPM or market-maker for a particular options class that are filled by the market at a worse price than its disseminated quote without a required quote change;

(2) One or more market orders or marketable limit orders originating from an Exchange DPM or market-maker for a particular options class that are confirmed to be unfilled or partially unfilled by the market without a required quote change; or

(3) One or more market orders or marketable limit orders originating from an Exchange DPM or market-maker for a particular options class partially filled by a ''responsible broker or dealer'' at a worse price than its disseminated quote, followed by a quote change and a redisplay of the previously disseminated quote by the same ''responsible broker or dealer'' in less than 30 seconds.

The Exchange believes that proposed new subsections I(a)–(d) to Interpretation .02 to Rule 6.8 provide Floor Officials with specific, objective criteria when making a determination that another market's quote are unreliable. In addition, the Exchange believes that the criteria set forth above are consistent with recent amendments to Rule 11Ac1–1 under the Act,[7] which require options exchanges and options market makers to publish firm quotes.[8] Specifically, in new subsections I(a) and (b), two Exchange Floor Officials may determine that another market's quotes are not reliable based on direct communication from that other market that its quotes are not firm or that it is experiencing systems or other problems affecting the reliability of its disseminated quotes.

In new subsection I(c), two Exchange Floor Officials may determine that another market's quotes are not reliable only after one or more Floor Officials observe that six or more option series in a particular options class are crossed or

[7] 17 CFR 240.11Ac1–1.

[8] Securities Exchange Act Release No. 43591 (November 17, 2000), 65 FR 75439 (December 1, 2000).

locked with the disseminated quotes of two of more other markets, and continue to be crossed or locked for 30 seconds or more, provided that the quotes are crossed or locked at the time Floor Officials determine to exclude the unreliable quote from RAES determination of the NBBO. In new subsection I(d), two Exchange Floor Officials may determine that another market's quotes are not reliable only after one or more Floor Officials observe certain specific action with respect to the execution of orders originating from CBOE Designated Primary Market-makers or market-makers.

The Exchange believes that the objective criteria set forth in new subsection I provide an appropriate basis for Floor Officials to make a determination that another market's quotes are not reliable.

Procedures for Applying the Criteria

In developing these objective criteria for determining that another market's quotes are not reliable and, thus, may be excluded from the RAES determination of the NBBO, the Exchange has vested complete authority to make such determinations with Exchange Floor Officials. The market participants who are impacted by unreliable quotes have no authority or power to make determinations of unreliability.

As specified in Subsection (a)II, in all instances where Floor Officials exclude a market or any of its quotes from the RAES determination of the NBBO due to quote unreliability, the Exchange Control Room will promptly notify the market of the action and continue to actively monitor the reliability of the excluded quotes in consultation with Floor Officials. Any determination to exclude a market or any of its quotes pursuant to Subsections I(a) and (b) will expire at the end of the trading day, or at such time as the quotes are confirmed by the market to be reliable again—whichever occurs first.

Any determination to exclude a market or any of its quotes pursuant to Subsections I(c) and (d) will expire not later than 30 minutes after the initial determination, unless two Floor Officials determine that the excluded quotes continue to be unreliable, in which case the quotes will continue to be excluded for an additional period of time not to exceed 30 minutes pending further Floor Official review. This provisions is consistent with CBOE Rule 8.51(e)(iv),[9] which similarly requires CBOE Floor Officials to monitor options classes that are in non-firm mode every 30 minutes. Under CBOE Rule 8.51(e)(iv), continuation of the non-firm mode for longer than 30 minutes requires that Floor Officials reaffirm that the conditions which formed the basis for the determination to operate in non-firm mode continue to be present. Exclusion of a market or its quotes from the RAES determination of the NBBO will be reported to Exchange member firms.

Also, CBOE rules currently provide that CBOE will document in its Control Room log any action taken to disengage RAES or to operate RAES in a manner other than normal, the option classes affected by such action, the time such action was taken, the Exchange officials who undertook such action, and the reasons why such action was taken.[10] As a result, any determination by Floor Officials to exclude unreliable quotes from the RAES determination of the NBBO in particular option classes pursuant to subsections I(a) through (d) of Interpretation .02 will be documented in the Exchange's Control Room log.

As also indicated, this proposal relabels a portion of the previous Interpretation .02(a) text as .02(b) for greater ease of reference and relabels the previous Interpretation .02(b) text as .02(c).

2. Statutory Basis

CBOE believes that the proposed rule change, as amended, is consistent section 6(b) of the Act,[11] in general, and further the objectives of Section 6(b)(5),[12] in particular. By setting forth specific criteria that will be used to protect the integrity of the Exchange's NBBO calculations, public customers will receive better executions of their orders more frequently. This will improve the efficiency of RAES, thereby removing impediments to, and perfecting the mechanism of, a free and open market and a national market system, and thus protecting investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The CBOE does not believe that the proposed rule change, as amended, will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change, as amended.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such other 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 CBOE consents, the Commission will:

(A) By order approve the proposed rule change, as amended, or

(B) Institute proceedings to determine whether the proposed rule change, as amended, should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 2, including whether Amendment No. 2 is consistent with the Act. The Commission notes, in particular, that CBOE is a party to the intermarket options market linkage plan (''Linkage Plan'') approved by the Commission in July 2000.[13] The Commission specifically seeks comment on the potential implications of this proposal on the implementation and operation of the Linkage Plan. Specifically, the Commission seeks comment on whether proposed Amendment No. 2 is consistent with the requirements of the linkage Plan.

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

[9] CBOE Rule 8.51(e)(iv) states that ''[d]uring any period that the market in a reported security is in a non-firm mode, the Floor Officials shall monitor the activity or condition, which formed the basis for their determination. No more than 30 minutes after such market has been designated to be in a non-firm mode, the DPM shall review the condition of such market with the Floor Officials. Continuation of the non-firm mode for longer than 30 minutes shall require the reaffirmation of the reviewing Floor Officials. Such review and reaffirmation shall occur not less frequently than every 30 minutes thereafter while the non-firm mode is in effect.''

[10] CBOE Rule 6.8, Interpretation .08.

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] *See* Securities Exchange Act Release No. 43086 (July 28, 2000), 65 FR 48023 (August 4, 2000).

the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File Number SR–CBOE–99–45 and should be submitted by January 24, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–403 Filed 1–7–02; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3389]

State of Minnesota

Ramsey County and the contiguous Counties of Anoka, Dakota, Hennepin and Washington in the State of Minnesota constitute a disaster area due to damages caused by a fire at the Shoreview Hills Apartments that occurred on November 24, 2001. Applications for loans for physical damage may be filed until the close of business on February 25, 2002 and for economic injury until the close of business on September 22, 2002 at the address listed below or other locally announced locations:

U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308

The interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	6.500
Homeowners Without Credit Available Elsewhere	3.250
Businesses With Credit Available Elsewhere	8.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000
Others (Including Non-Profit Organizations) With Credit Available Elsewhere	6.375
For Economic Injury: Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 338905 and for economic injury is 9O0600.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

[14] 17 CFR 200.30–2(a)(12).

Dated: December 21, 2001.

Hector V. Barreto,

Administrator.

[FR Doc. 02–472 Filed 1–7–02; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3383]

State of Mississippi; Amendment #1

In accordance with information received from the Federal Emergency Management Agency, the above-numbered Declaration is hereby amended to include Grenada, Lafayette, Leake, Scott, and Tunica Counties in the State of Mississippi as a disaster area due to damages caused by severe storms, tornadoes, and flooding and to establish the incident period for this disaster as beginning on November 24, 2001 and continuing through December 17, 2001.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the previously designated location: Calhoun, Carroll, Jasper, Montgomery, Neshoba, Newton, Pontotoc, Smith, Union, Webster, and Winston Counties in Mississippi, and Lee County in Arkansas. All other counties contiguous to the above-named primary counties have been previously declared.

All other information remains the same, i.e., the deadline for filing applications for economic injury is September 9, 2002.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: December 21, 2001.

James E. Rivera,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 02–471 Filed 1–7–02; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: SR 20 (Sharpes Corner to SR 536) Skagit County, Washington

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Cancellation of Notice of Intent, FR document 99–23249.

SUMMARY: The FHWA is issuing this notice to rescind the previous Notice of Intent issued on August 27, 1999, to prepare an Environmental Impact Statement (EIS) for the proposed highway project in Skagit County, Washington. It was printed in the **Federal Register** on September 8, 1999.

FOR FURTHER INFORMATION CONTACT: Elizabeth Healy, Transportation and Environmental Engineer, Federal Highway Administration, Washington Division, 711 South Capitol Way, Suite 501, Olympia, Washington 98501, telephone: (360) 753–9480; Don Nelson, Director of Environmental and Engineering Programs, Washington State Department of Transportation, Transportation Administration Building, P.O. Box 47323, Olympia, WA (360) 705–6828, Director or Lorena Eng P.E., Northwest Region Administrator, WSDOT, 15700 Dayton Avenue North, P.O. Box 330310, Seattle, WA 98133–9710, telephone: (206) 440–4691.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Washington State Department of Transportation (WSDOT), issued a Notice of Intent on September 8, 1999 to prepare an (EIS) on a proposal to prepare alternative solutions to reduce the accident rate and provide capacity to meet current and future needs along a seven miles of the State Route 20 corridor near Anacortes from Sharpe's Corner to SR 536. The SR 20 transportation safety improvement EIS is a National Environmental Policy Act (NEPA) ''pilot'' project, intended to evaluate and improve the application of the NEPA process specifically for EIS level of documentation. The ''pilot'' process was developed cooperatively by Washington State and Federal agencies, and is jointly sponsored by FHWA and WSDOT. As project limits and elements have been refined, the impacts have been more specifically identified, and the FHWA and WSDOT have jointly decided that the project will not result in significant impacts to the environment. A documented Categorical Exclusion (DCE) is the most appropriate environmental document under the NEPA rather than an EIS. The SR 20 transportation safety improvement project will phase-out of the ''pilot'' process upon definition of the preferred alternative, and be followed by preparation of the DCE and submission of the DCE for public comment. Any person with questions about the project may write to Paul Johnson P.E. at 15700 Dayton Avenue North, MS 210, P.O. Box 330310, Seattle, WA 98133–9710, or call (206) 440–4711.

(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.)

Issued: November 8, 2001.

Elizabeth Healy,

Transportation & Environmental Engineer, Olympia, Washington.

[FR Doc. 02–331 Filed 1–7–02; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34141]

Brandywine Valley Railroad Company—Acquisition Exemption—Pennsylvania Department of Transportation

Brandywine Valley Railroad Company (BVRR), a Class III carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to acquire approximately 17.59 miles of rail line owned by the Pennsylvania Department of Transportation (PennDOT), between milepost 12.7 at the Delaware Pennsylvania line and milepost 30.29 at Modena, in Chester County, PA (rail line). BVRR currently operates the rail line under a modified rail certificate. See STB Finance Docket No. 33772, *Brandywine Valley Railroad Company—Modified Rail Certificate* (STB served Apr. 16, 1999).[1]

BVRR states that, while the transaction has already been consummated, BVRR is filing this notice to cover its acquisition of the ownership interest of the rail line, and the change in status of the rail line from a state-owned line to a privately-owned line. There will be no change in operations over the rail line. The exemption became effective on December 25, 2001.

If the 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.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34141, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Eric M. Hocky, Esq., Gollatz, Griffin & Ewing, P.C., 213 West Miner Street, P.O. Box 796, West Chester, PA 19381–0796, (610) 692–9116.

Board decision and notices are available on our Web site at *WWW.STB.DOT.GOV*.

Decided: December 27, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02–217 Filed 1–7–02; 8:45 am]

BILLING CODE 4915–00–P

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[1] Under the same modified rail certificate, BVRR also operates a rail line between milepost 18.0 at Wawa, PA and milepost 54.50 at the Pennsylvania/Maryland line near Sylmar, MD, a distance of 36.50 miles (Line 142), owned by Southeastern Pennsylvania Transportation Authority. BVRR has given notice of its intent to terminate service over Line 142, although it continues to operate Line 142 on a temporary basis.

Notices

Federal Register

Vol. 67, No. 5

Tuesday, January 8, 2002

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

Commodity Credit Corporation

Announcement of the Emerging Markets Program for Fiscal Year 2002

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice.

SUMMARY: The Commodity Credit Corporation is inviting private sector proposals for the FY 2002 Emerging Markets Program.

DATES: All proposals must be received by 5:00 p.m. Eastern Standard Time, March 11, 2002. Announcements of funding decisions for the EMP are anticipated sometime after mid-July 2002.

FOR FURTHER INFORMATION CONTACT: Marketing Operations Staff, Foreign Agricultural Service, U.S. Department of Agriculture, Room 4932S, STOP 1042, 1400 Independence Ave., SW, Washington, DC 20250–1042, phone: (202) 720–4327, fax: (202) 720–9361, e-mail: *emo@fas.usda.gov*.

SUPPLEMENTARY INFORMATION:

Introduction

The Commodity Credit Corporation (CCC) announces that proposals are being accepted for participation in the Fiscal Year 2002 Emerging Markets Program (EMP). The purpose of the EMP is to assist U.S. organizations, public and private, to improve market access and to develop and promote U.S. agricultural products and/or processes in low-to middle income countries that offer promise of emerging market opportunities. This is to be accomplished by providing, or paying the costs of, approved technical assistance activities in those emerging markets. The EMP is administered by the Foreign Agricultural Service (FAS).

The Act defines an emerging market as any country that the Secretary of Agriculture determines:

(1) Is taking steps toward a market-oriented economy through the food, agriculture, or rural business sectors of the economy of the country; and

(2) Has the potential to provide a viable and significant market for United States agricultural commodities or products of United States agricultural commodities.

Because funds are limited and the range of potential emerging market countries is worldwide, proposals for technical assistance activities (''proposals'') will be considered which target those countries with: (1) Per capita income less than $9,265 (the ceiling on upper middle income economies as determined by the World Bank (World Development Indicators 2001)); and (2) population greater than 1 million. Proposals may address suitable regional groupings, *e.g.*, the islands of the Caribbean Basin.

Authority

The EMP is authorized by Section 1542(d)(1)(D) of the Food, Agriculture, Conservation, and Trade Act of 1990, as amended (the Act). Up to $10 million is available to fund the program.

Eligible Applicants, Commodities, and Activities

Any United States agricultural or agribusiness organization, university, or state department of agriculture is eligible to participate in the EMP. Proposals from research and consulting organizations will be considered if they provide evidence of substantial participation by the U.S. industry. U.S. market development cooperators may seek funding to address priority, market specific issues and to undertake activities not suitable for funding under other FAS marketing programs, e.g. the Foreign Market Development Cooperator Program and the Market Access Program.

All agricultural products, except tobacco, are eligible for consideration. Proposals which include multiple commodities are also eligible.

Only technical assistance activities are eligible for reimbursement. Following are examples of the types of activities that may be funded:

—Projects designed specifically to improve market access in emerging foreign markets. *Examples:* activities intended to mitigate the impact of sudden political events or economic and currency crises in order to maintain U.S. market share; responses to time-sensitive market opportunities;

—Marketing and distribution of value-added products, including new products or uses. *Examples:* food service development; market research on potential for consumer-ready foods or new uses of a product;

—Studies of food distribution channels in emerging markets, including infrastructural impediments to U.S. exports; such studies should be specific in their focus and may include cross-commodity activities which focus on problems, e.g., distribution, which affect more than one industry. *Examples:* grain storage handling and inventory systems development; distribution infrastructure development;

—Projects that specifically address various constraints to U.S. exports, including sanitary and phytosanitary issues and other non-tariff barriers. *Examples:* seminars on U.S. food safety standards and regulations; assessing and addressing pest and disease problems that inhibit U.S. product exports;

—Assessments and follow up activities designed to improve country-wide food and business systems, to reduce trade barriers, to increase prospects for U.S. trade and investment in emerging markets, and to determine the potential use for general export credit guarantees for commodities, facilities and services. *Examples:* product needs assessments and market analysis; assessments for using facilities credits to address infrastructural impediments;

—Projects that help foreign governments collect and use market information and develop free trade policies that benefit American exporters as well as the target country or countries. *Examples:* agricultural statistical analysis; development of market information systems; policy analysis;

—Short-term training in broad aspects of agriculture and agribusiness trade that will benefit U.S. exporters, including seminars and training at trade shows designed to expand the potential for U.S. agricultural exports by focusing on the trading system. *Examples:* retail training; marketing seminars; transportation seminars; training keyed to opening new or expanding existing markets.

The Program funds technical assistance activities on a project-by-

project basis. EMP funds may not be used to support normal operating costs of individual organizations, nor as a source by which to recover prior expenses from previous or ongoing projects. Ineligible activities include restaurant promotions; branded product promotions (including labeling and supplementing normal company sales activities intended to increase awareness and stimulate sales of branded products); advertising; administrative and operational expenses for trade shows; and the preparation and printing of brochures, flyers, posters, etc., except in connection with specific technical assistance activities such as training seminars. Other items excluded from funding are contained in the FY 2002 EMP Guidelines.

Project Suitability and Qualification Requirements

The underlying premise of the EMP is that there are distinctive characteristics of emerging agricultural markets that necessitate or benefit significantly from U.S. governmental assistance before the private sector moves to develop these markets through normal corporate or trade promotional activities. The emphasis is on marketing opportunities where there are risks that the private sector would not normally undertake alone. The EMP is intended to supplement, not supplant, the efforts of the U.S. private sector and it complements the efforts of other FAS marketing programs. Once a market access issue has been addressed by the EMP, further market development activities may be considered under other programs such as GSM–102 or GSM–103 credit guarantee programs, the Facility Guarantee Program, the Supplier Guarantee Program, the Market Access Program, or the Cooperator Program. Section 108 funds may be used to complement funding provided by the EMP.

The following marketing criteria will be used to determine the suitability of projects for funding under the EMP:

1. Low U.S. market share and significant market potential.

• Is there a significant lag in U.S. market share of a specific commodity in a given country or countries?

• Is there an identifiable obstacle or competitive disadvantage facing U.S. exporters (e.g., competitor financing, subsidy, competitor market development activity) or a systemic obstacle to imports of U.S. products (e.g., inadequate distribution, infrastructure impediments, insufficient information, lack of financing options or resources)?

• What is the potential of a project to generate a significant increase in U.S. agricultural exports in the near-to medium-term? (Estimates or projections of trade benefits to commodity exports, and the basis for evaluating such, must be included in EMP proposals.)

2. Recent change in a market.

• Is there, for example, a change in a sanitary or phytosanitary trade barrier; a change in an import regime or the lifting of a trade embargo; or a shift in the political or financial situation in a country?

Application Requirements and Process

It is highly recommended that any organization considering applying to the Program for FY 2002 first obtain a copy of the 2002 Program Guidelines. These Guidelines contain information on requirements that a proposal must include in order to be considered for funding under the Program.

Requests for the 2002 EMP Guidelines and additional information may be obtained from the Marketing Operations Staff at the address above. The Guidelines are also available at the following URL address: *http://www.fas.usda.gov/mos/em-markets/em-markets.html.*

To assist FAS in making determinations regarding funding, applications should be no longer than ten (10) pages and include the following information: (a) Name of organization submitting the proposal; (b) Federal tax ID number of submitting organization; (c) date of proposal; (d) address, telephone and fax numbers of the organization; (e) full title of proposal; (f) constraint description activities (statement of problem to be addressed); (g) objectives and detailed description of project approach and specific; (h) benefits to U.S. agricultural exports as a result of the project, including specific performance measures; (i) target country/countries for proposed activities; (j) supporting market analysis of the target market(s)—brief economic analysis for each commodity and country, including current market conditions and relevant trade data—and existing size of U.S. export market share, in dollars and/or quantities, and the basis or source(s) for this data; (k) information on whether similar activities are or have previously been funded in target country/countries (e.g., under FAS's MAP and/or FMD programs); (l) a clearly stated explanation as to why participating organization(s) are unlikely to carry out activities without Federal financial assistance; (m) projected starting date (should be after 15 July 2002) and time line(s) for project implementation; (n) detailed, line item project budget, including other sources of funding and contributions from participating organizations (additional requirements are contained in the 2002 Program Guidelines) and any third party contributions. Qualifications of applicant(s) should be included, but as an attachment.

This notice is complemented by concurrent notices announcing other foreign market development programs administered by FAS including the Market Access Program (MAP), the Foreign Market Development Cooperator (Cooperator) Program, the Section 108 Program, and the Quality Samples Program (QSP). For FY 2002, EMP applicants have the opportunity to utilize the Unified Export Strategy (UES) application process, an online system which provides a means for interested applicants to submit a consolidated and strategically coordinated single proposal that incorporates funding requests for any or all of these programs. Applicants are not required to use the UES, but are strongly encouraged to do so because it reduces paperwork and expedites the FAS processing and review cycle.

Applicants planning to use the on-line system must contact the Marketing Operations Staff at (202) 720–4327 to obtain site access information. A login ID and password will be supplied to a prospective applicant upon request. A ''Help'' file will be available to assist applicants with the process. However, the on-line application for the EMP will not be available until approximately late January. Therefore, all organizations applying for funding assistance in FY 2002 are urged to begin preparing their applications in accordance with the requirements contained herein and the FY 2002 Program Guidelines, and provide this information once the online application is available. A notice concerning the availability of the online system will be posted on the FAS web site. A printed version of the proposal should also be submitted (using WordPerfect, Word or compatible format) to one of the following addresses:

Hand Delivery (including FedEx, DHL, UPS, etc.): Marketing Operations Staff, Foreign Agricultural Service, U.S. Department of Agriculture, Room 4932-South,1400 Independence Avenue, SW, Washington, DC 20250–1042.

U.S. Postal Delivery: Marketing Operations Staff, Foreign Agricultural Service, U.S. Department of Agriculture, STOP 1042, 1400 Independence Ave., SW, Washington, DC 20250–1042.

Allocation of Funds

In general, all qualified proposals received before the application deadline will compete for EMP funding. The limited funds and the range of emerging markets worldwide in which the funds may be used preclude CCC from approving large budgets for individual projects. While there is no minimum or maximum amount set for EMP-funded projects, most are funded at a level of less than $500,000 and for a duration of one year or less. Multi-year proposals may be considered in the context of a strategic detailed plan of implementation. Funding in such cases is normally provided one year at a time, with commitments beyond the first year subject to interim evaluations.

In general, priority consideration will be given to proposals that identify and seek to address specific problems or constraints in rural business systems or food and agribusiness systems in emerging markets through technical assistance activities to expand or maintain U.S. agricultural exports. Priority will also be given to those proposals that include the willingness of the applicant to commit its own funds, or those of the U.S. industry, to seek export opportunities in an emerging market. The percentage of private funding proposed for a project will therefore be a critical factor in determining which proposals are funded under the EMP. Proposals will also be judged on their ability to provide benefits to the organization receiving EMP funds and to the broader industry which that organization represents.

Reporting Requirements

A performance report detailing the results of each project supported with EMP funds must be submitted to the Marketing Operations Staff at the address above. Because public funds are used to support EMP projects, these reports will be made available to the public. Complete final financial reports are to accompany performance reports.

Closing Date for Applications

The deadline for all applications to the EMP is 5:00 p.m. Eastern Standard Time, March 11, 2002. Announcements of funding decisions for the EMP are anticipated sometime after mid-July 2002.

Signed at Washington, DC on December 31, 2001.

Mary T. Chambliss,

Acting Administrator, Foreign Agricultural Service, and Vice President, Commodity Credit Corporation.

[FR Doc. 02–432 Filed 1–7–02; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Announcement of the Foreign Market Development Cooperator Program for Fiscal Year 2003

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice.

SUMMARY: Commodity Credit Corporation is inviting proposals for the Fiscal Year 2003 Foreign Market Development Cooperator Program.

DATES: All applications must be received by 5 p.m. Eastern Standard Time, March 11, 2002.

FOR FURTHER INFORMATION CONTACT: Marketing Operations Staff, Foreign Agricultural Service, U.S. Department of Agriculture, Room 4932–S, STOP 1042, 1400 Independence Ave., SW., Washington, DC 20250, (202) 720–4327.

SUPPLEMENTARY INFORMATION:

Introduction

The Commodity Credit Corporation (CCC) announces that applications are being accepted for participation in the Fiscal Year 2003 Cooperator (Cooperator) program. The program is designed to create, expand, and maintain foreign markets for United States' agricultural commodities and products through cost-share assistance. Financial assistance under the Cooperator program will be made available on a competitive basis and applications will be reviewed against the evaluation criteria contained herein. The Cooperator program is administered by the Foreign Agricultural Service (FAS).

Under the Cooperator program, CCC enters into agreements with nonprofit U.S. trade organizations which have the broadest possible producer representation of the commodity being promoted and gives priority to those organizations which are nationwide in membership and scope. Cooperators may receive assistance only for the promotion of generic activities which do not involve promotions targeted directly to consumers. The program generally operates on a reimbursement basis.

Authority

The Cooperator program is authorized by section 5(f) of the Commodity Credit Corporation Charter Act, 15 U.S.C. 714c(f). Cooperator program regulations appear at 7 CFR part 1484.

Eligible Applicants

To participate in the Cooperator program an applicant must be a nonprofit U.S. agricultural trade organization.

Application Process

To be considered for the Cooperator program an applicant must submit to the FAS information required by the Cooperator program regulations set forth in 7 CFR part 1484. Incomplete applications and applications which do not otherwise conform to this announcement will not be accepted for review.

The FAS administers various other agricultural export assistance programs, including the Market Access Program (MAP), Cochran Fellowships, the Emerging Markets Program, the Quality Samples Program, Section 108 foreign currency program, and several Export Credit Guarantee programs. Organizations which are interested in applying for Cooperator program funds are encouraged to submit their requests using the Unified Export Strategy (UES) format. The UES allows interested entities to submit a consolidated and strategically coordinated single proposal that incorporates requests for funding and recommendations for virtually all the FAS marketing programs, financial assistance programs, and market access programs. The suggested UES format encourages applicants to examine the constraints or barriers to trade which they face, identify activities which would help overcome such impediments, consider the entire pool of complementary marketing tools and program resources, and establish realistic export goals. Applicants are not required, however, to use the UES format.

Organizations can submit applications in the UES format by two methods. The first allows an applicant to submit information directly to the FAS through the UES application Internet site. The FAS highly recommends applying via the Internet, as this format virtually eliminates paperwork and expedites the FAS processing and review cycle. Applicants also have the option of submitting electronic versions (along with two paper copies) of their applications to the FAS on diskette.

Applicants planning to use the Internet-based system must contact the FAS Marketing Operations Staff on (202) 720–4327 to obtain site access information. The Internet-based application, including step-by-step instructions for its use, is located at the following URL address: *http://www.fas.usda.gov/cooperators.html.*

Applicants who choose to submit applications on diskette can download the UES handbook, including the suggested application format and

instructions, from the following URL address: *http://www.fas.usda.gov/mos/ues/unified.html.* A UES handbook also may be obtained by contacting the Marketing Operations Staff on (202) 720–4327.

All cooperator program applicants, whether applying via the Internet on diskette, also must submit by March 11, 2002, via hand delivery or U.S. mail, an original signed certification statement as specified in 7 CFR section 1484.20(a)(14). The UES handbook contains an acceptable certification format.

Any organization which is not interested in applying for the Cooperator program but would like to request assistance through one of the other programs mentioned should contact the Marketing Operations Staff on (202) 720–4327.

Review Process and Allocation Criteria

The FAS allocates funds in a manner which effectively supports the strategic decision-making initiatives of the Government Performance and Results Act (GPRA) of 1993 and the USDA's Food and Agricultural Policy (FAP). In deciding whether a proposed project will contribute to the effective creation, expansion, or maintenance of foreign markets, the FAS seeks to identify a clear, long-term agricultural trade strategy and a program effectiveness time line against which results can be measured at specific intervals using quantifiable product or country goals. The FAS also considers the extent to which a proposed project targets markets with the greatest growth potential. These factors are part of the FAS resource allocation strategy to fund applicants who can demonstrate performance and address the objectives of the GPRA and FAP.

Following is a description of the FAS process for reviewing applications and the criteria for allocating available Cooperator program funds.

(1) Phase 1—Sufficiency Review and FAS Divisional Review

Applications received by the closing date will be reviewed by the FAS to determine eligibility of the applicants and the completeness of the applications. These requirements appear at § 1484.14 and § 1484.20 of the Cooperator program regulations. Applications which meet the application requirements then will be further evaluated by the proper FAS Commodity Division. The Divisions will review each application against the criteria listed in § 1484.21 and § 1484.22 of the Cooperator program regulations. The purpose of this review is to identify meritorious proposals and the recommend an appropriate funding level for each application based upon these criteria.

(2) Phase 2—Competitive Review

Meritorious applications then will be passed on to the Office of the Deputy Administrator, Commodity and Marketing Programs, for the purpose of allocating available funds among the applicants. Applications which pass the Divisional Review will compete for funds on the basis of the following allocation criteria (the number in parentheses represents a percentage weight factor):

(a) Contribution Level (40)

- The applicant's 6-year average share (1998–2003) of all contributions (contributions may include cash and goods and services provided by U.S. entities in support of foreign market development activities) compared to
- The applicant's 6-year average share (1998–2003) of all Cooperator marketing plan budgets.

(b) Past Export Performance (20)

- The 6-year average share (1997–2002) of the value of exports promoted by the applicant compared to
- The applicant's 6-year average share (1997–2002) of all Cooperator marketing plan budgets plus a 6-year average share (1996–2001) of foreign overhead provided for co-location within a U.S. agricultural trade office.

(c) Past Demand Expansion Performance (20)

- The 6-year average share (1997–2002) of the total value of world trade of the commodities promoted by the applicant compared to
- The applicant's 6-year average share (1997–2002) of all Cooperator marketing plan budgets plus a 6-year average share (1996–2001) of MAP program ceiling levels and a 6-year average share (1996–2001) of foreign overhead provided for co-location within a U.S. agricultural trade office.

(d) Future Demand Expansion Goals (10)

- The project total dollar value of world trade of the commodities being promoted by the applicant for the year 2008 compared to
- The applicant's requested funding level.

(e) Accuracy of Past Demand Expansion Projects (10)

- The actual dollar value share of world trade of the commodities being promoted by the applicant for the year 2001 compared to
- The applicant's past projected share of world trade of the commodities being promoted by the applicant for the year 2001, as specified in the 1998 Cooperator program application.

The Commodity Divisions' recommended funding level for each applicant is converted to a percentage of the total Cooperator program funds available then multiplied by the total weight factor to determine the amount of funds allocated to each applicant.

Closing Date for Applications

All Internet-based applications must be properly submitted by 5 p.m. Eastern Standard Time, March 11, 2002. Signed certification statements also must be received by that time at one of the addresses listed below.

All applications on diskette (with two accompanying paper copies and a signed certification statement) and any other applications must be received by 5 p.m. Eastern Standard Time, March 11, 2002, at one of the following addresses:

Hand Delivery (including FedEx, DHL, UPS, etc.): U.S. Department of Agriculture, Foreign Agricultural Service, Marketing Operations Staff, Room 4932–S, 1400 Independence Avenue, SW, Washington, DC 20250–1042.

U.S. Postal Delivery: U.S. Department of Agriculture, Foreign Agricultural Service, Marketing Operations Staff, STOP 1042, 1400 Independence Ave., SW, Washington, DC 20250–1042.

Signed at Washington, DC on December 31, 2001.

Mary T. Chambliss,

Acting Administrator, Foreign Agricultural Service, and Vice President, Commodity Credit Corporation.

[FR Doc. 02–433 Filed 1–7–02; 8:45 am]

BILLING CODE 3410–10–M

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Announcement of the Market Access Program for Fiscal Year 2002

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice.

SUMMARY: Commodity Credit Corporation is inviting proposals for the Fiscal Year 2002 Market Access Program.

DATES: All applications must be received by 5 p.m. Eastern Standard Time, March 11, 2002.

FOR FURTHER INFORMATION CONTACT: Marketing Operations Staff, Foreign

Agricultural Service, U.S. Department of Agriculture, Room 4932–S, STOP 1042, 1400 Independence Ave., SW., Washington, DC 20250, (202) 720–4327.

SUPPLEMENTARY INFORMATION:

Introduction

The Commodity Credit Corporation (CCC) announces that applications are being accepted for participation in the Fiscal Year 2002 Market Access Program (MAP). The MAP is designed to create, expand and maintain foreign markets for United States' agricultural commodities and products through cost-share assistance. Financial assistance under the MAP will be made available on a competitive basis and applications will be reviewed against the evaluation criteria contained herein. The MAP is administered by the Foreign Agricultural Service (FAS).

Under the MAP, CCC enters into agreements with eligible participants to share the costs of certain overseas marketing and promotion activities. MAP participants may receive assistance for either generic or brand promotion activities. The program generally operates on a reimbursement basis.

Authority

The MAP is authorized under section 203 of the Agricultural Trade Act of 1978, as amended. MAP regulations appear at 7 CFR part 1485.

Eligible Applicants

To participate in the MAP an applicant must be: a nonprofit U.S. agricultural trade organization, a nonprofit state regional trade group (i.e., an association of State Departments of Agriculture), a U.S. agricultural cooperative, a State agency, or a small-sized U.S. commercial entity (other than a cooperative or producer association).

Available Funds

$90 million of cost-share assistance may be obligated under this announcement to eligible MAP applicants.

Application Process

To be considered for the MAP an applicant must submit to the FAS information required by the MAP regulations set forth in 7 CFR part 1485. Incomplete applications and applications which do not otherwise conform to this announcement will not be accepted for review.

The FAS administers various other agricultural export assistance programs including the Foreign Market Development Cooperator (Cooperator) program, Cochran Fellowships, the Emerging Markets Program, the Quality Samples Program, the Section 108 foreign currency program, and several Export Credit Guarantee programs. Organizations which are interested in applying for MAP funds are encouraged to submit their requests using the Unified Export Strategy (UES) format. The UES allows interested entities to submit a consolidated and strategically coordinated single proposal that incorporates requests for funding and recommendations for virtually all the FAS marketing programs, financial assistance programs, and market access programs. The suggested UES format encourages applicants to examine the constraints or barriers to trade which they face, identify activities which would help overcome such impediments, consider the entire pool of complementary marketing tools and program resources, and establish realistic export goals. Applicants are not required, however, to use the UES format.

Organizations can submit applications in the UES format by two methods. The first allows an applicant to submit information directly to the FAS through the UES application Internet site. The FAS highly recommends applying via the Internet, as this format virtually eliminates paperwork and expedites the FAS processing and review cycle. Applicants also have the option of submitting electronic versions (along with two paper copies) of their applications to the FAS on diskette.

Applicants planning to use the Internet-based system must contact the FAS Marketing Operations Staff on (202) 720–4327 to obtain site access information. The Internet-based application, including step-by-step instructions for its use, is located at the following URL address: *http://www.fas.usda.gov/cooperators.html.*

Applicants who choose to submit applications on diskette can download the UES handbook, including the suggested application format and instructions, from the following URL address: *http://www.fas.usda.gov/mos/ues/unified.html.* A UES handbook also may be obtained by contacting the Marketing Operations Staff on (202) 720–4327.

All MAP applicants, whether applying via the Internet or diskette, also must submit by March 11, 2002, via hand delivery or U.S. mail, an original signed certification statement as specified in 7 CFR 1485.13(a)(2)(i)(G). The UES handbook contains an acceptable certification format.

Any organization which is not interested in applying for the MAP but would like to request assistance through one of the other programs mentioned should contact the Marketing Operations Staff on (202) 720–4327.

Review Process and Allocation Criteria

The FAS allocates funds in a manner which effectively supports the strategic decision-making initiatives of the Government Performance and Results Act (GPRA) of 1993 and the USDA's Food and Agricultural Policy (FAP). In deciding whether a proposed project will contribute to the effective creation, expansion, or maintenance of foreign markets, the FAS seeks to identify a clear, long-term agricultural trade strategy and a program effectiveness time line against which results can be measured at specific intervals using quantifiable product or country goals. The FAS also considers the extent to which a proposed project targets markets with the greatest growth potential. These factors are part of the FAS resource allocation strategy to fund applicants who can demonstrate performance and address the objectives of the GPRA and FAP.

Following is a description of the FAS process for reviewing applications and the criteria for allocating available MAP funds.

(1) Phase 1—Sufficiency Review and FAS Divisional Review

Applications received by the closing date will be reviewed by the FAS to determine the eligibility of the applicants and the completeness of the applications. These requirements appear at § 1485.12 and § 1485.13 of the MAP regulations. Applications which meet the requirements then will be further evaluated by the proper FAS Commodity Division. The Divisions will review each application against the criteria listed in § 1485.14 of the MAP regulations. The purpose of this review is to identify meritorious proposals and to recommend an appropriate funding level for each application based upon these criteria.

(2) Phase 2—Competitive Review

Meritorious applications then will be passed on to the Office of the Deputy Administrator, Commodity and Marketing Programs, for the purpose of allocating available funds among the applicants. Applications which pass the Divisional Review will compete for funds on the basis of the following allocation criteria (the number in parentheses represents a percentage weight factor):

(a) Applicant's Contribution Level (40)

- The applicant's 4-year average share (1999–2002) of all contributions (cash

and goods and services provided by U.S. entities in support of overseas marketing and promotion activities) compared to

• The applicant's 4-year average share (1999–2002) of the funding level for all MAP participants.

(b) Past Performance (30)

• The 3-year average share (1999–2001) of the value of exports promoted by the applicant compared to

• The applicant's 2-year average share (2000–2001) of the funding level for all MAP applicants plus, for those groups participating in the Cooperator program, the 2-year average share (2001–2002) of Cooperator marketing plan budgets, and the 2-year average share (2000–2001) of foreign overhead provided for co-location within a U.S. agricultural office;

(c) Projected Export Goals (15)

• The total dollar value of projected exports promoted by the applicant for 2002 compared to

• The applicant's requested funding level;

(d) Accuracy of Past Projections (15)

• Actual exports for 2000 as reported in the 2002 MAP application compared to

• Past projections of exports for 2000 as specified in the 2000 MAP application.

The Commodity Divisions' recommended funding level for each applicant is converted to a percentage of the total MAP funds available then multiplied by the total weight factor as described above to determine the amount of funds allocated to each applicant.

Closing Date for Applications

All Internet-based applications must be properly submitted by 5 p.m. Eastern Standard Time, March 11, 2002. Signed certification statements also must be received by that time at one of the addresses listed below.

All applications on diskette (with two accompanying paper copies and a signed certification statement) and any other applications must be received by 5 p.m. Eastern Standard Time, March 11, 2002, at one of the following addresses:

Hand Delivery (including FedEx, DHL, UPS, etc.): U.S. Department of Agriculture, Foreign Agricultural Service, Marketing Operations Staff, Room 4932–S, 14th and Independence Avenue, SW., Washington, DC 20250–1042.

U.S. Postal Delivery: U.S. Department of Agriculture, Foreign Agricultural Service, Marketing Operations Staff, STOP 1042, 1400 Independence Ave., SW, Washington, DC 20250–1042.

Signed at Washington, DC on December 31, 2001.

Mary T. Chambliss,

Acting Administrator, Foreign Agricultural Service, and Vice President, Commodity Credit Corporation.

[FR Doc. 02–431 Filed 1–7–02; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Announcement of the Quality Samples Program for Fiscal Year 2002

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice.

SUMMARY: Commodity Credit Corporation is inviting proposals for the FY 2002 Quality Samples Program.

DATES: All proposals must be received by 5 p.m. Eastern Standard Time, March 11, 2002.

FOR FURTHER INFORMATION CONTACT: Marketing Operations Staff, Foreign Agricultural Service, U.S. Department of Agriculture, Room 4932–S, STOP 1042, 1400 Independence Ave., SW, Washington, DC 20250–1042, (202) 720–4327.

SUPPLEMENTARY INFORMATION:

Introduction

The Commodity Credit Corporation (CCC) announces that proposals are being accepted for participation in the Fiscal Year 2002 Quality Samples Program (QSP). The QSP is designed to encourage the development and expansion of export markets for U.S. agricultural commodities by assisting U.S. entities in providing commodity samples to potential foreign importers to promote a better understanding and appreciation for the high quality of U.S. agricultural commodities. CCC will review all proposals it receives against the evaluation criteria contained herein and award QSP funds on a competitive basis. Financial assistance will be made available on a reimbursement basis.

Under the QSP, CCC enters into agreements with those entities whose proposals have been accepted. The QSP agreement between CCC and the participant will include the maximum amount of CCC funds that may be used to reimburse certain activity costs which have been approved by CCC and paid by the QSP participant. QSP participants will be responsible for procuring (or arranging for the procurement of) commodity samples, exporting the samples, and providing the technical assistance necessary to facilitate successful use of the samples by importers. A QSP participant will be reimbursed after CCC reviews its reimbursement claim and determines that the claim is complete. CCC will not reimburse the costs of providing technical assistance. QSP agreements are subject to review and verification by the Foreign Agricultural Service's (FAS) Compliance Review Staff. Upon request, a QSP participant shall provide to CCC the original documents which support the participant's reimbursement claims. CCC may deny a claim for reimbursement if the claim is not supported by adequate documentation. Cash advances will not be made available to any QSP participant.

The QSP is administered by FAS. This notice supercedes any prior notices concerning the QSP.

Authority

The QSP is authorized under section 5(f) of the CCC Charter Act, 15 U.S.C. 714c(f).

Available Funds

$2.5 million of cost-share assistance may be obligated under this announcement.

General Scope of QSP Projects

QSP projects are the activities undertaken by a QSP participant to provide an appropriate sample of a U.S. agricultural commodity to a foreign importer, or a group of foreign importers, in a given market. The purpose of the project is to provide information to an appropriate target audience regarding the attributes, characteristics, and proper use of the U.S. commodity. A QSP project addresses a single market/commodity combination. As a general matter, QSP projects should conform to the following guidelines:

• Projects should benefit the represented U.S. industry and not a specific company or brand;

• Projects should develop a new market for a U.S. product, promote a new U.S. product, or promote a new use for a U.S. product, rather than promote the substitution of one established U.S. product for another;

• Sample commodities provided under a QSP project must be in sufficient supply and available on a commercial basis;

• The QSP project must either subject the commodity sample to further processing or substantial transformation in the importing country, or the sample must be used in technical seminars designed to demonstrate to an

appropriate target audience the proper preparation or use of the sample in the creation of an end product;

• Samples provided in a QSP project shall not be directly used as part of a retail promotion or supplied directly to consumers; and

• Samples shall be in quantities less than a typical commercial sale and limited to the amount sufficient to achieve the project goal (e.g., not more than a full commercial mill run in the destination country).

QSP projects shall target foreign importers and target audiences who:

• Have not previously purchased the U.S. commodity which will be shipped under the QSP;

• Are unfamiliar with the variety, quality attribute, or end-use characteristic of the U.S. commodity which will be shipped under the QSP;

• Have been unsuccessful in previous attempts to import, process, and market the U.S. commodity which will be shipped under the QSP (e.g., because of improper specification, blending, or formulation; or sanitary or phytosanitary (SPS) issues);

• Are interested in testing or demonstrating the benefits of the U.S. commodity which will be shipped under the QSP; or

• Need technical assistance in processing or using the U.S. commodity which will be shipped under the QSP.

Major Changes From the FY 2001 Program

Due to limited funding, the FY 2001 program limited the number of projects which could be undertaken by a participant. Under this announcement, the number of projects per participant will not be limited.

The FY 2001 program limited the funding to $50,000 of QSP reimbursement. Under this announcement, projects will be limited to $60,000 of QSP reimbursement. Projects comprised of technical preparation seminars; that is, projects which do not include further processing or substantial transformation; will remain limited to $10,000 of QSP reimbursement, as these projects require smaller samples. Under the QSP, participants may be reimbursed for certain costs of purchasing and transporting commodity samples. Although providing technical assistance is required for all projects, costs of providing the actual technical assistance will not be reimbursed under the QSP.

Proposal Process

In order to be considered for participation in the QSP, interested parties should submit proposals to FAS as described in this notice. QSP proposals must contain complete information about the proposed projects. This notice is complemented by concurrent notices announcing four other foreign market development programs administered by FAS, including the Market Access Program (MAP), the Foreign Market Development Cooperator (Cooperator) Program, the Emerging Markets Program, and the Section 108 Foreign Currency Program.

The MAP and Cooperator Program notices detail a Unified Export Strategy (UES) application process which provides a means for interested applicants to submit a consolidated and strategically coordinated single proposal that incorporates funding requests for any or all of these programs. Some applicants to the QSP, particularly those who also are applying for funding under the MAP or Cooperator Program, are encouraged to use the UES application process. The Internet-based UES application, including step-by-step instructions for its use, is located at the following URL address: *http://www.fas.usda.gov/cooperators.html.* Other applicants should follow the application procedures contained in this notice.

Entities interested in participating in the QSP are not required to submit proposals in any specific format; however, FAS recommends that proposals contain, at a minimum, the following:

(a) Organizational information, including:

• Organization's name, address, Chief Executive Officer (or designee), and Federal Tax Identification Number (TIN);

• Type of organization;

• Name, telephone number, fax number, and e-mail address of the primary contact person;

• A description of the organization and its membership;

• A description of the organization's prior export promotion experience; and

• A description of the organization's experience in implementing an appropriate trade/technical assistance component;

(b) Market information, including:

• An assessment of the market;

• A long-term strategy in the market; and

• U.S. export value/volume and market share (historic and goals) for 1998–2004;

(c) Project information, including:

• A brief project title;

• Amount of funding requested;

• A brief description of the specific market development trade constraint or opportunity to be addressed by the project, performance measures for the years 2002–2004 which will be used to measure the effectiveness of the project, a benchmark performance measure for 2001, the viability of long term sales to this market, the goals of the project, and the expected benefits to the represented industry;

• A description of the activities planned to address the constraint or opportunity, including how the sample will be used in the end-use performance trial, the attributes of the sample to be demonstrated and their end-use benefit, and details of the trade/technical servicing component (including who will provide and who will fund this component);

• A sample description (i.e., commodity, quantity, quality, type, and grade), including a justification for selecting a sample with such characteristics (this justification should explain in detail why the project could not be effective with a smaller sample);

• An itemized list of all estimated costs associated with the project for which reimbursement will be sought; and

• The importer's role in the project regarding handling and processing the commodity sample;

(d) Information indicating all funding sources and amounts to be contributed by each entity that will supplement implementation of the proposed project. This may include the organization that submitted the proposal, private industry entities, host governments, foreign third parties, CCC, FAS, or other Federal agencies. Contributed resources may include cash, goods, and services.

Review Process

Proposals will be evaluated by the applicable FAS commodity division. The divisions will review each proposal against the factors described below. The purpose of this review is to identify meritorious proposals, recommend an appropriate funding level for each proposal based upon these factors, and submit the proposals and funding recommendations to the Deputy Administrator, Commodity and Marketing Programs.

FAS will use the following criteria in evaluating proposals:

• The ability of the organization to provide an experienced staff with the requisite technical and trade experience to execute the proposal;

• The extent to which the proposal is targeted to a market in which the United States is generally competitive;

• The potential for expanding commercial sales in the proposed market;

• The nature of the specific market constraint or opportunity involved and how well it is addressed by the proposal;

• The extent to which the importer's contribution in terms of handling and processing enhances the potential outcome of the project;

• The amount of reimbursement requested and the organization's willingness to contribute resources, including cash and goods and services of the U.S. industry and foreign third parties; and

• How well the proposed technical assistance component assures that performance trials will effectively demonstrate the intended end-use benefit.

Highest priority for funding under this announcement will be given to meritorious proposals which target countries which meet either of the following criteria:

• Per capita income less than $9,265 (the ceiling on upper middle income economies as determined by the World Bank (World Development Indicators 2001)); and population greater than 1 million. Proposals may address suitable regional groupings, for example, the islands of the Caribbean Basin; or

• U.S. market share of imports of the commodity identified in the proposal of 10 percent or less.

Agreements

Following approval of a proposal, CCC will enter into an agreement with the organization that submitted the proposal. Agreements will incorporate the details of each project as approved by FAS. Each agreement will identify terms and conditions pursuant to which CCC will reimburse certain costs of each project. Agreements will also outline the responsibilities of the participant, including, but not limited to, procurement (or arranging for procurement) of the commodity sample at a fair market price, arranging for shipment of the commodity sample within the time limit specified in the agreement (organizations should endeavor to ship commodities within 6 months of effective date of agreement), compliance with cargo preference requirements (shipment on United States flag vessels, as required), compliance with the Fly American Act requirements (shipment on United States air carriers, as required), timely and effective implementation of technical assistance, and submission of a written evaluation report within 90 days of expiration of the agreement. Evaluation reports should address all performance measures which were presented in the proposal.

Closing Date for Proposals

All proposals must be submitted in duplicate and received by 5 p.m. Eastern Standard Time, March 11, 2002, at one of the following addresses:

Hand Delivery (including FedEx, UPS, etc.): U.S. Department of Agriculture, Foreign Agricultural Service, Marketing Operations Staff, Room 4932–S, 14th and Independence Avenue, SW., Washington, DC 20250–1042.

U.S. Postal Delivery: U.S. Department of Agriculture, Foreign Agricultural Service, Marketing Operations Staff, STOP 1042, 1400 Independence Ave., SW., Washington, DC 20250–1042.

Signed at Washington, DC on December 31, 2001.

Mary T. Chambliss,

Acting Administrator, Foreign Agricultural Service, and Vice President, Commodity Credit Corporation.

[FR Doc. 02–434 Filed 1–7–02; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Food Safety Inspection Service

[Docket No. 01–035N]

National Advisory Committee on Microbiological Criteria for Foods

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice of public meeting; request for comments.

SUMMARY: The National Advisory Committee on Microbiological Criteria for Foods (NACMCF) will meet January 22–25, 2002. This meeting replaces the NACMCF meeting originally scheduled for September 17–20, 2001. The original meeting was postponed because of the September 11, 2001 terrorist attacks.

The meeting is open to the public. The committee will discuss *Salmonella* performance standards in meat and poultry products; *Escherichia coli* O157:H7 in blade-tenderized, non-intact beef; the evaluation of hot holding temperatures; Codex ''Discussion Paper on Proposed Draft Guidelines for the Validation of Food Hygiene Control Measures,'' and the scientific basis for establishing safety-based ''use by'' date labeling for refrigerated, ready-to-eat foods.

FSIS will finalize an agenda on or before the meeting date and post it to its Internet web page.

DATES: The full Committee will meet on Wednesday, Thursday, and Friday, January 23, 24, and 25, 2002; subcommittee meetings will be held on January 22 and 23, 2002.

ADDRESSES: The meeting will be held at the Omni Shoreham Hotel at 2500 Calvert St., NW, Washington, DC 20008. Send an original and two copies of comments to the Food Safety and Inspection Service Docket Room: Docket #01–035N, Room 102 Cotton Annex Building, 300 12th Street, SW., Washington, DC 20250. Comments may also be sent by facsimile (202) 205–0381. The comments and the official transcript of the meeting, when it becomes available, will be kept in the FSIS Docket Room at the above address.

FOR FURTHER INFORMATION CONTACT: Persons interested in making a presentation, submitting technical papers, or providing comments should contact Brenda Halbrook (202) 690–6600, Fax (202) 690–6337, e-mail address: *brenda.halbrook@dchqexs1.hqnet.usda.gov,* or mailing address: Food Safety and Inspection Service, Department of Agriculture, Office of Public Health and Science, Aerospace Center, Room 333, 1400 Independence Avenue, SW, Washington, DC 20250–3700. Persons requiring a sign language interpreter or other special accommodations should notify Ms. Halbrook, by January 7, 2001.

SUPPLEMENTARY INFORMATION:

Background

The NACMCF was established on March 18, 1988, in response to a recommendation of the National Academy of Sciences for an interagency approach to microbiological criteria for food, and in response to a recommendation of the U.S. House of Representatives Committee on Appropriations, as expressed in the Rural Development, Agriculture, and Related Agencies Appropriation Bill for fiscal 1988. The Charter for the NACMCF is available for viewing on the FSIS internet Web page at *http://www.fsis.usda.gov/OA/programs/nacmcf_chart.htm.*

The NACMCF provides scientific advice and recommendations to the Secretary of Agriculture and the Secretary of Health and Human Services on public health issues relative to the safety and wholesomeness of the U.S. food supply including development of microbiological criteria and review and evaluation of epidemiological and risk assessment data and methodologies for assessing microbiological hazards in foods. The Committee also provides advice to the Centers for Disease Control and Prevention and the Departments of Commerce and Defense. Dr. I. Kaye Wachsmuth, Deputy Administrator, Office of Public Health and Science, FSIS, is the Committee Chair, Janice F.

Oliver, Deputy Director, Center for Food Safety and Applied Nutrition, Food and Drug Administration, is the Co-Chair, and Brenda Halbrook, FSIS, is the Executive Secretary.

At the January 22–25, 2002, meeting announced in this document, the Committee will

- Discuss *Salmonella* performance standards in meat and poultry products;
- Discuss *Escherichia coli* O157:H7 in blade-tenderized, non-intact beef;
- Discuss the evaluation of hot holding temperatures;
- Discuss the Codex ''Discussion Paper on Proposed Draft Guidelines for the Validation of Food Hygiene Control Measures,'' and
- Discuss the scientific basis for establishing safety-based ''use by'' date labeling for refrigerated, ready-to-eat foods.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are aware of this notice, FSIS will announce the meeting and provide copies of this **Federal Register** publication in the FSIS Constituent Update. FSIS provides a weekly FSIS Constituent Update, which is communicated via fax to over 300 organizations and individuals. In addition, the update is available on-line through the FSIS Web page located at *http://www.fsis.usda.gov.* The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and any other types of information that could affect, or would be of interest to, our constituents/stakeholders. The constituent fax list consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals that have requested to be included. Through these various channels, FSIS is able to provide information to a much broader, more diverse audience. For more information and to be added to the constituent fax list, fax your request to the Congressional and Public Affairs Office, at (202) 720–5704.

Margaret O'K Glavin,

Acting Administrator.

[FR Doc. 02–499 Filed 1–4–02; 11:35 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Section 108 Foreign Currency Program

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice.

SUMMARY: The Foreign Agricultural Service invites proposals from interested parties to use certain foreign currencies acquired by the United States for activities to expand markets for U.S. agricultural commodities and for technical assistance activities.

FOR FURTHER INFORMATION CONTACT: Marketing Operations Staff, Foreign Agricultural Service, U.S. Department of Agriculture, Room 4932–S, STOP 1042, 1400 Independence Ave., SW., Washington, DC 20250–1042, (202) 720–4327.

SUPPLEMENTARY INFORMATION:

Introduction

The Foreign Agricultural Service (FAS) will use available currencies of the Dominican Republic, Jamaica, Sri Lanka, and Tunisia, to provide assistance in market development and agricultural technical assistance activities. This use of foreign currencies is commonly referred to as the ''section 108 foreign currency program.'' These foreign currencies were acquired by USDA pursuant to agreements made under Title I of the Agricultural Trade Development and Assistance Act of 1954, (Pub. L. 480).

Title I, Pub. L. 480 authorizes the U.S. government to finance the sale and exportation of agricultural commodities to foreign governments on concessional terms. Between 1986 and 1991, the U.S. entered into various Title I, Pub. L. 480 agreements with foreign governments, on terms which allowed repayment to the United States in local currencies. Pub. L. 480 authorizes the U.S. government to use these foreign currencies to implement market development and agricultural technical assistance activities.

This announcement supersedes all previous announcements regarding this program. On February 12, 2001, FAS published a notice in the **Federal Register** (66 FR 9818–9820) inviting proposals to use currencies of Costa Rica, Dominican Republic, Jamaica, and Tunisia for market development projects and technical assistance activities. The currencies of Costa Rica, which were available under the previous announcements, are no longer available. The currencies of Sri Lanka have been added to the list.

FAS must disburse local currencies to program participants, usually through the disbursing officer in the U.S. embassy in the country of origin. That is, FAS may not convert the local currency to any other currency prior to disbursement. Activities funded with section 108 currencies are not limited to the country where the currency originated. It is the responsibility of the recipient to arrange for receiving and using the foreign currencies made available, or converting the funds to other currencies. At the time of this announcement, approximately 28 million Dominican Republic pesos; 210 million Jamaica dollars; 12 million Tunisia dinars; and 1.7 million Sri Lanka rupees are available.

Proposal Process

This notice is complemented by concurrent notices announcing four other foreign market development programs administered by FAS, including the Market Access Program (MAP), the Foreign Market Development Cooperator (Cooperator) Program, the Emerging Markets Program, and the Quality Samples Program (QSP). The MAP and Cooperator Program notices detail a Unified Export Strategy (UES) application process which provides a means for interested applicants to submit a consolidated and strategically coordinated single proposal that incorporates funding requests for any or all of these programs. Some applicants to the section 108 foreign currency program, particularly those who are applying for funding under more than one program, may wish to use the UES application process. The Internet-based UES application, including step-by-step instructions for its use, is located at the following URL address: *http://www.fas.usda.gov/cooperators.html.* Other applicants, particularly those who are applying for funding only under the section 108 foreign currency program, should follow the application procedures contained in this notice. Interested applicants that are unsure of how to apply are urged to contact the Marketing Operations Staff at the address or phone number above.

FAS recommends that proposals to participate in the section 108 foreign currency program contain, at a minimum, the following:

(a) Organizational information, including:

- Organization's name, address, Chief Executive Officer (or designee), and Federal Tax Identification Number (TIN);
- Type of organization, e.g., corporation, non-profit organization;

• Name, telephone number, fax number, and e-mail address of the primary contact person;

• If a trade organization, a description of the organization and its membership;

• A description of the organization's prior export promotion experience; and

• A description of the organization's experience in implementing a trade or technical assistance activity;

(b) Market information, including:

• An assessment of the targeted market;

• A long-term strategy in the market; and

• U.S. export value/volume and market share data and goals for 1999–2004;

(c) Project information, including:

• A brief project title;

• Request for funding in one of the available foreign currencies;

• A brief description of the specific market development trade constraint to be addressed by the project, performance measures for the years 2002–2004 which will be used to measure the effectiveness of the project, a benchmark performance measure for 2002, the viability of long term sales to this market, the goals of the project, and the expected benefits to the represented industry;

• A method for evaluating and reporting results;

• A description of the activities planned to address the constraint; and

• An itemized list of all estimated costs associated with each project activity for which reimbursement will be sought;

(d) Information indicating all funding sources and amounts to be contributed by each entity that will supplement implementation of the proposed project. This may include the organization that submitted the proposal, private industry entities, host governments, foreign third parties, Commodity Credit Corporation, FAS, or other Federal agencies. Contributed resources may include cash, goods, and services; and,

(e) A completed Standard Form 424 (SF–424). This form is available on the Internet via the section 108 fact sheet at the following URL address: *http://www.fas.usda.gov/info/factsheets/108fact.htm,* or by calling the contact listed above.

Review Process and Allocation Criteria

The FAS allocates funds in a manner which effectively supports the strategic decision-making initiatives of the Government Performance and Results Act (GPRA) of 1993 and the USDA's Food and Agricultural Policy (FAP). In deciding whether a proposed project will contribute to the effective creation, expansion, or maintenance of foreign markets, the FAS seeks to identify a clear, long-term agricultural trade strategy and a program effectiveness time line against which results can be measured at specific intervals using quantifiable product or country goals. The FAS also considers the extent to which a proposed project targets markets with the greatest growth potential. These factors are part of the FAS resource allocation strategy to fund applicants who can demonstrate performance and address the objectives of the GPRA and FAP. FAS will provide financial assistance under this program on a competitive basis and applications will be reviewed against the evaluation criteria contained herein. Proposals will be evaluated by the applicable FAS commodity division. The divisions will recommend funding levels for each applicant based on a review of the applications against the following factors:

• The ability of the organization to provide an experienced staff with the requisite technical and trade expertise to execute the proposal;

• The funding request and the organization's willingness to contribute resources, including cash, goods and services of the U.S. industry and foreign third parties;

• The conditions or constraints affecting the level of U.S. exports and market share for the agricultural commodities and products;

• The degree to which the proposed project is likely to contribute to the creation, expansion, or maintenance of the targeted foreign market; and

• The degree to which the organization's proposal is coordinated with other private or U.S. government-funded market development projects.

The purpose of this review is to identify meritorious proposals and to suggest an appropriate funding level for each application based upon these factors. Meritorious proposals will then be reviewed by representatives of each FAS program area for the purpose of allocating available funds among the applicants. FAS will prioritize meritorious proposals according to the following criteria.

First priority consideration will be given to proposals which target the growth markets listed below. These developing markets account for a significant share of world imports of major farm commodities and much of the projected long-term growth in global import demand. As such, they are expected to be among the most supportive of USDA's primary export objective of increasing the U.S. share of world agricultural trade. First priority growth markets for allocation of section 108 funds: Brazil, countries in Central America, Chile, China, Egypt, India, Indonesia, Malaysia, Mexico, Philippines, Russia, South Africa, South Korea, Thailand, Turkey, and Vietnam. First priority consideration will also be given to proposals which target the countries from which the foreign currencies originate, i.e., Dominican Republic, Jamaica, Sri Lanka, and Tunisia.

Second priority consideration will be given to proposals which target other markets where growth prospects for the relevant agricultural product are high. These proposals would serve to open new markets or bring about substantial growth in existing markets.

In all cases, preference is given to nonprofit U.S. agricultural trade organizations that represent an entire industry or are nationwide in membership and scope.

Note: FAS generally reviews section 108 proposals on a quarterly basis. However, FAS may also consider proposals on an accelerated basis if an urgent marketing opportunity becomes available. FAS will evaluate such proposals according to the criteria specified in this notice. Details concerning the accelerated review can be obtained from the section 108 fact sheet on the Internet at the following URL address: *http://www.fas.usda.gov/info/factsheets/108fact.htm* or by calling the contact listed above.

Agreements

Following approval of a proposal, FAS will enter into an agreement with the organization that submitted the proposal. Agreements will incorporate the project details as approved by FAS and specify any other terms and conditions applicable to project funding. Agreements include the maximum amount of funds, in local currencies rather than U.S. dollars, which may be made available for a participant's approved activities. All agreements with non-profit organizations under this program are administered under 7 CFR part 3019—Uniform Administrative Requirements for Grants and Cooperative Agreements with Institutions of Higher Education, Hospitals, and other Non-profit Organizations. These regulations can be found on the Internet at the following URL address: *http://www.access.gpo.gov/nara/cfr/waisidx_;01/7cfr3019_01.html.*

Submission of Proposals

Proposals may be submitted on a continuous basis. However, all Internet-based section 108 proposals (using the UES application) must be properly

submitted by 5 p.m. Eastern Standard Time, March 11, 2002, because the UES entry Web site closes at that time. Signed SF–424 forms must be delivered to one of the addresses listed below.

All proposals on diskette (with two accompanying paper copies and a signed SF–424 form) and any other proposals must be delivered to one of the following addresses:

Hand Delivery (including FedEx, DHL, UPS, etc.): U.S. Department of Agriculture, Foreign Agricultural Service, Marketing Operations Staff, Room 4932–S, 14th and Independence Ave., SW., Washington, DC 20250–1042.

U.S. Postal Delivery: U.S. Department of Agriculture, Foreign Agricultural Service, Marketing Operations Staff, STOP 1042, 1400 Independence Ave., SW., Washington, DC 20250–1042.

Signed at Washington, DC on December 31, 2001.

Mary T. Chambliss,

Acting Administrator, Foreign Agricultural Service.

[FR Doc. 02–430 Filed 1–7–02; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Forest Service

Northeast Washington Resource Advisory Committee (RAC); Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Northeast Washington Resource Advisory Council will meet Wednesday and Thursday, January 23 and 24, 2002 at the Spokane Community College, Colville Campus Monumental Room at 985 S. Elm Street, Colville, Washington. The meeting will begin at 9 a.m. and continue until 4 p.m. each day.

Agenda items include: (1) FACA overview, (2) roles and responsibilities, (3) review RAC guidebook, (4) communication strategies, (5) future agenda items, (6) future meeting dates, (7) project process and identification, (8) election of chairperson, and (9) Public Forum.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to designated federal official, Nora Rasure or Cynthia Reichelt, Public Affairs Officer, Colville National Forest, 765 S. Main, Colville, Washington 99114: (509) 684–7000.

Dated: December 28, 2001.

Nora B. Rasure,

Forest Supervisor.

[FR Doc. 02–395 Filed 1–7–02; 8:45 am]

BILLING CODE 3410–11–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Louisiana Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Louisiana Advisory Committee to the Commission will convene at 5:30 p.m. and adjourn at 7:30 p.m. on January 31, 2002, at the Radisson Hotel & Conference Center, 4728 Constitution Avenue, Baton Rouge, Louisiana 70808. The purpose of the meeting is to discuss the draft report on environmental justice, and plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Melvin L. Jenkins, Director of the Central Regional Office, 913–551–1400 (TDD 913–551–1414). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, January 3, 2002.

Debra A. Carr,

Deputy General Counsel, Office of the General Counsel.

[FR Doc. 02–447 Filed 1–7–02; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Pennsylvania Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Pennsylvania Advisory Committee to the Commission will convene at 12:30 p.m. and adjourn at 4:30 p.m. on Thursday, January 17, 2002, at the Philadelphia Convention Center, Conference Room B, 12th and Arch Streets, Philadelphia, Pennsylvania 19107. The Advisory Committee will provide an orientation to members, plan a press conference to release its report, Barriers to Minority and Women Owned Businesses in Pennsylvania, and discuss new topic areas.

Persons desiring additional information, or planning a presentation to the Committee, should contact Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, January 3, 2002.

Debra A. Carr,

Deputy General Counsel, Office of the General Counsel.

[FR Doc. 02–446 Filed 1–3–02; 2:46 pm]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–866]

Notice of Antidumping Duty Order: Certain Folding Gift Boxes From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of antidumping duty order.

SUMMARY: On December 5, 2001, the Department of Commerce issued its amended final determination of sales at less than fair value with respect to certain folding gift boxes from the People's Republic of China. On December 26, 2001, the International Trade Commission notified the Department of its determination that an industry in the United States is being injured by reason of imports of subject merchandise from the People's Republic of China that are sold at less than fair value. The Department of Commerce hereby issues an antidumping duty order on certain folding gift boxes from the People's Republic of China.

EFFECTIVE DATE: January 8, 2002.

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 and (202) 482–0180, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (''the Act'') by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations at 19 CFR part 351 (April 2001).

Scope of the Order

The products covered by this order are certain folding gift boxes. Folding gift boxes are a type of folding or knock-down carton manufactured from paper or paperboard. 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 order excludes gift boxes manufactured from paper or paperboard of a thickness of more than 0.8 millimeters, corrugated paperboard, or paper mache. The scope also excludes those gift boxes for which no side of the box, when assembled, is at least nine inches in length.

Folding gift boxes included in this scope 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 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. 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 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 order 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 classified under Harmonized Tariff Schedules of the United States (HTSUS) subheadings 4819.20.0040 and 4819.50.4060. These subheadings also cover products that are outside the scope of this order. Furthermore, although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this order is dispositive.

Antidumping Duty Order

In accordance with section 735(a) of the Tariff Act, the Department made its final determination that certain folding gift boxes from the People's Republic of China (''PRC'') are being sold at less than fair value. See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Folding Gift Boxes From the People's Republic of China*, 66 FR 58115 (November 20, 2001). We received ministerial error allegations from one respondent and upon consideration of these allegations, we issued an amended final determination. See *Notice of Amended Final Determination of Sales at Less Than Fair Value: Certain Folding Gift Boxes From the People's Republic of China*, 66 FR 63216 (December 5, 2001).

On December 26, 2001, in accordance with section 735(d) of the Act, the International Trade Commission (''the Commission'') notified the Department of its final determination pursuant to section 735(b)(1)(A)(i) of the Tariff Act that an industry in the United States is materially injured by reason of less-than-fair-value imports of subject merchandise from the PRC. Therefore, in accordance with section 736(a)(1) of the Act, the Department will direct the Customs Service to assess, upon further advice by the Department, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price of the merchandise for all relevant entries of folding gift boxes from the PRC. These antidumping duties will be assessed on all unliquidated entries of folding gift boxes from the PRC entered, or withdrawn from the warehouse, for consumption on or after August 6, 2001, the date on which the Department published its *Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Folding Gift Boxes From the People's Republic of China*, 66 FR 40973 (August 6, 2001). On or after the date of publication of this notice, the Customs Service must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the estimated weighted-average antidumping duty margins as noted below for all companies except Max Fortune Industrial Ltd. Because we found a *de minimis* margin for Max Fortune Industrial Ltd., Max Fortune Industrial Ltd. is excluded from this order. The ''PRC-wide'' rate applies to all exporters of subject merchandise not specifically listed. The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average percent margin
Red Point Paper Products Co., Ltd	8.90
Max Fortune Industrial Ltd. (*de minimis*)	1.67
PRC-wide Rate	164.75

This notice constitutes the antidumping duty order with respect to folding gift boxes from the PRC. Interested parties may contact the Department's Central Records Unit, Room B–099 of the main Commerce building, for copies of an updated list of antidumping duty orders currently in effect.

This order is published in accordance with section 736(a) of the Act.

Dated: January 2, 2002.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 02–436 Filed 1–7–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–808]

Stainless Steel Wire Rod From India; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to a request by the Viraj Group, Limited (''Viraj Group''), respondent, the Department of Commerce (''the Department'') is conducting an administrative review of the antidumping duty order on stainless steel wire rod (''SSWR'') from India. The period of review (''POR'') is December 1, 1999, through November 30, 2000.

We have preliminarily determined that the Viraj Group has made sales below normal value (''NV''). If these preliminary results are adopted in our final results of this administrative review, we will instruct the U.S.

Customs Service to assess antidumping duties. We invite interested parties to comment on these preliminary results. Parties who submit arguments in this segment of the proceeding are requested to submit with the argument: (1) A statement of the issue, and (2) a brief summary of the argument.

EFFECTIVE DATE: January 8, 2002.

FOR FURTHER INFORMATION CONTACT: Catherine Bertrand, AD/CVD Enforcement Group III, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3207.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (''the Act'') by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all references to the Department's regulations are to the provisions codified at 19 CFR part 351 (2001).

Background

On October 20, 1993, the Department published in the **Federal Register** the antidumping duty order on certain stainless steel wire rod from India (58 FR 54110). On December 20, 2000, the Department published in the **Federal Register** a notice of opportunity to request an administrative review of this antidumping duty order (65 FR 79802).

On December 27, 2000, the Viraj Group requested an administrative review of the antidumping duty order on certain stainless steel wire rods from India. In accordance with 19 CFR 351.221(b), we published a notice of initiation of the review of the Viraj Group on January 31, 2001 (66 FR 8378).

On January 31, 2001, the Department issued a questionnaire to the Viraj Group. The Department initiated a cost of production inquiry and requested that the Viraj Group respond to section D of the questionnaire in addition to sections A, B and C. The Viraj Group submitted its Section A questionnaire response on February 28, 2001, and re-submitted it on March 6, 2001, in the correct format pursuant to the Department's request. On April 17, 2001, the Viraj Group submitted its Sections B, C and D questionnaire responses. The Department, however, considered the Section D response to be insufficient and requested that Viraj Group re-submit its Section D questionnaire response, which it did on August 13, 2001. The Department issued supplemental questionnaires to the Viraj Group and received responses on June 20, 2001, July 9, 2001, August 24, 2001, November 13, 2001, November 28, 2001. Petitioners submitted comments on the record on May 3, 2001, October 10, 2001, and November 28, 2001.

On July 23, 2001, due to the reasons set forth in the *Extension of Time Limit for the Preliminary Results of Antidumping Administrative Review: Certain Stainless Steel Wire Rod From India,* 66 FR 38257, the Department extended the due date for the preliminary results. In accordance with section 751(a)(3)(A) of the Act, the Department extended the due date for the notice of preliminary results the maximum 120 days allowable, from the original due date of September 2, 2001, to December 31, 2001. The Department is conducting this review in accordance with section 751 of the Act.

Verification

As provided in section 782(i) of the Act, we verified sales and cost information provided by the Viraj Group from December 3–12, 2001, using standard verification procedures, including an examination of relevant sales, cost, and financial records, and selection of original documentation containing relevant information. Our verification results are outlined in the public version of the verification report and are on file in the Department's Central Records Unit located in Room B–099 of the main Department of Commerce Building, 14th Street and Constitution Avenue, NW., Washington, DC.

Period of Review

The period of review is December 1, 1999 through November 30, 2000.

Scope of the Review

The merchandise under review is certain stainless steel wire rod (SSWR) which are hot-rolled or hot-rolled annealed and/or pickled rounds, squares, octagons, hexagons or other shapes, in coils. SSWR are made of alloy steels containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. These products are only manufactured by hot-rolling and are normally sold in coiled form, and are of solid cross section. The majority of SSWR sold in the United States are round in cross-section shape, annealed and pickled. The most common size is 5.5 millimeters in diameter.

The SSWR subject to this review are currently classifiable under subheadings 7221.00.0005, 7221.00.0015, 7221.00.0030, 7221.00.0045, and 7221.00.0075 of the *Harmonized Tariff Schedule of the United States* (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under review is dispositive of whether or not the merchandise is covered by the review.

Collapsing

The Viraj Group is composed of the following four companies: Viraj Forgings, Ltd. (''VFL''); Viraj Alloys, Ltd. (''VAL''); Viraj Impoexpo, Ltd. (''VIL''); and Viraj USA, Inc. (''Viraj USA''), which was incorporated during the POR on May 22, 2000. The Department has preliminarily determined that these four companies are affiliated for the purposes of this administrative review, and that the three producing companies, VAL, VIL, and VFL, should be collapsed and considered one entity pursuant to section 771(33) of the Act and section 351.401(f) of the Department's regulations. *See Memorandum from Edward C. Yang to Joseph A. Spetrini: 1999–2000 Administrative Review of Stainless Steel Wire Rod From India; Collapsing Memorandum of the Viraj Group, Limited,* dated December 31, 2001.

The Department has found the four companies affiliated based on the evidence on the record which states that Mr. Chhatwal and Mr. Kochhar are the directors for all four companies and they jointly run all four companies, and their decisions are made for the interest of the group as a whole. Furthermore, the stock of VAL, VFL and VIL is mainly held by Mr. Chhatwal, Mr. Kochhar, and their relatives. Collectively, this group holds more than 40% of the shares in VIL, VAL, and VFL. Also, VFL owns 100% of Viraj USA.

We find that the three producing companies (VAL, VIL, and VFL) should be collapsed because the evidence on the record indicates that VAL, VFL and VIL each use production facilities for similar or identical merchandise that would not require substantial retooling of any facility in order to restructure manufacturing priorities. For sales to the home market, VAL makes billets and then sends them to an unaffiliated subcontractor for rolling into wire rod. The subcontractor returns the black wire rod to VAL who sells it in the home market as subject merchandise. For sales to the U.S. market, VIL and VFL purchase the billets from VAL and send them to the same sub-contractor that VAL uses for rolling into wire rod. The subcontractor returns the black wire rod

which is then annealed at VFL's facilities, pickled at VIL's facilities, packed and then exported. Consequently, VAL, VFL and VIL are all considered ''producers'' of this wire rod for purposes of this review. Given that VAL, VIL and VFL all produced wire rod during the POR, no substantial retooling would be needed to restructure priorities among the three companies. Moreover, the companies are under common control and ownership, they use the same production facilities for producing wire rod, and the operations of the companies are intertwined. Therefore, the companies are capable, through their sales and production operations, of manipulating prices or affecting production decisions.

Affiliation

The Department has analyzed the issue of whether the Viraj Group was affiliated with its U.S. customer, Kurt Orban Partners (''KOP''), for a portion of the POR, May 22, 2000 through November 30, 2000. At the Department's request, KOP submitted information on the record of this proceeding on November 5, 2001, and November 28, 2001. The evidence on the record indicates that KOP's Vice President and later President, Matt Orban, was also the Vice President of Viraj USA. The record indicates that his duties as Viraj USA's Vice President were clerical in nature. Specifically his duties included signing customs documents with power of attorney and signing bank papers on behalf of Viraj USA. The record indicates Matt Orban also answered correspondence with customs brokers and shipping companies on behalf of Viraj USA. At KOP, Mr. Orban had primary responsibility for the general administration, sales, purchasing, supplier relations, and information technology. Both the Viraj Group and KOP deny that Matt Orban had any control over Viraj USA's sales and pricing decisions. *See* Viraj Group's June 20, 2001 submission at 6. There is no information on the record that indicates Matt Orban did have control over Viraj USA; therefore, the Department preliminarily determines that the Viraj Group and KOP are not affiliated for purposes of this administrative review.

Normal Value Comparisons

To determine whether the Viraj Group's sales of subject merchandise from India to the United States were made at less than normal value, we compared the export price (''EP'') and constructed export price (''CEP''), as appropriate, to the normal value (''NV''), as described in the ''Export Price/ Constructed Export Price'' and ''Normal Value'' sections of this notice, below. In accordance with section 777A(d)(2) of the Act, we calculated monthly weighted-average prices for NV and compared these to individual EP and CEP transactions.

Transactions Reviewed

We compared the aggregate volume of the Viraj Group's home market sales of the foreign like product and U.S. sales of the subject merchandise to determine whether the volume of the foreign like product the Viraj Group sold in India was sufficient, pursuant to section 773(a)(1) of the Act, to form a basis for NV. Because the Viraj Group's volume of home market sales of the foreign like product was greater than five percent of its U.S. sales of subject merchandise, in accordance with section 773(a)(1)(B)(i) of the Act, we have based the determination of NV upon the Viraj Group's home market sales of the foreign like product. Thus, we based NV on the prices at which the foreign like product was first sold for consumption in India in the usual commercial quantities, in the ordinary course of trade, and, to the extent possible, at the same level of trade (''LOT'') as the CEP or EP sales, as appropriate.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products covered by the **Scope of the Review** section above, which were produced and sold by the Viraj Group in the home market during the POR, to be foreign like products for purposes of determining appropriate comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics and reporting instructions listed in the Department's questionnaire.

We have preliminarily determined to consider grade 304L and grade 304LER as the same for purposes of the model match program. The Viraj Group submitted information on the record which claimed that these two grades should not be treated the same. However, after analyzing this data, we conclude that there is insufficient evidence on the record to support a determination that grades 304L and 304LER should be treated differently. Specifically, the evidence on the record is insufficient because the physical characteristics for each grade are not significantly different from one another. For example, in the grade specifications provided on the record by the Viraj Group, the grades 304L and 304LER have the same specifications for carbon, silicon, magnesium, phosphorus, and sulfur. Additionally, the ranges for chromium and nickel for 304LER are a subset of the ranges of those elements for grade 304L. The Department preliminarily determines that the specifications for these grades do not differ significantly. It is the Department's practice not to create additional categories unless the physical characteristics are significantly different from an existing known category. *See e.g., Certain Cold-Rolled Carbon Steel Flat Products From Korea: Final Results of Antidumping Duty Administrative Review,* 63 FR 781 (January 7, 1998). Therefore, we did not create an additional grade category for grade 304LER for purposes of these preliminary results.

Export Price and Constructed Export Price

In accordance with section 772(a) of the Act, EP is the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States. In accordance with section 772(b) of the Act, constructed export price CEP is the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under subsections (c) and (d).

For purposes of this review, the Viraj Group has classified certain sales as EP sales and certain sales as CEP sales. Based on the information on the record, we are using export price as defined in section 772(a) of the Act for sales before May 22, 2000, and CEP for sales on or after May 22, 2000, because that is the date on which the U.S. re-seller, Viraj USA, was incorporated.

The Viraj Group has classified those sales made by VIL and VFL to the unaffiliated U.S. customer as EP sales. The Viraj Group reported that these sales are shipped directly from the factory in India to the U.S. customer. The Department calculated EP for the appropriate sales based on packed, delivered prices to customers in the United States. We made deductions, where appropriate, from the starting price for following movement expenses:

marine insurance, international freight, inland freight, U.S. customs duties, and brokerage and handling in accordance with section 772(c)(2) of the Act.

The Viraj Group has classified those sales made by VIL and VFL through Viraj USA, an affiliated reseller that is 100% owned by VFL, as CEP sales. VIL and VFL make the shipment from India on a CIF basis to Viraj USA. Viraj USA clears the goods through customs and pays the customs duty. Then Viraj USA sells the good to the U.S. customer by issuing an invoice to the customer. The customer makes payment to Viraj USA.

Based on the evidence on the record, the Department preliminarily determines that VIL and VFL's U.S. sales through Viraj USA were made ''in the United States'' within the meaning of section 772(b) of the Act, and thus have been appropriately classified by the Viraj Group as CEP transactions.

We calculated CEP, in accordance with section 772(b) of the Act, based on the packed CIF prices to the first unaffiliated customer in the United States. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, brokerage and handling, inland freight, international freight, U.S. customs duties, marine insurance, customs clearance and delivery arrangements. In accordance with section 772(d)(1) of the Act, we deducted those selling expenses associated with economic activities occurring in the United States, including direct selling expenses (bank charges and credit expenses) and indirect selling expenses. As explained in the ''Duty Drawback'' section below, we are not making any adjustments for duty drawback for EP or CEP sales.

Normal Value

1. Comparison Market Viability

The Viraj Group reported the home market sales of VAL, as well as the largest third country market sales of VIL and VFL, who did not make any home market sales during the POR. Since we have preliminarily determined to collapse the companies of the Viraj Group, we used the home market sales of VAL as the basis of normal value.

After testing home market viability, as discussed in the ''Transactions Reviewed'' section, supra, and after determining whether home market sales were at below-cost prices, in the ''Cost of Production Analysis,'' infra, we calculated NV as noted in the ''Price-to-Price Comparisons'' and ''Price-to-Constructed Value (''CV'') Comparisons'' sections of this notice.

2. Cost of Production Analysis

Because the Department disregarded certain Viraj Group sales made in the home market at prices below the cost of producing the subject merchandise in the most recently completed segment of this proceeding and excluded such sales from normal value, the Department determined that there are reasonable grounds to believe or suspect that the Viraj Group made sales in the home market at prices below the cost of producing the merchandise in this review. *See Stainless Steel Wire Rod From India; Final Results of Antidumping Duty Administrative Review,* 65 FR 31302 (May 17, 2000), and section 773(b)(2)(A)(ii) of the Act. As a result, the Department initiated a cost of production inquiry in this case on January 31, 2001, to determine whether the Viraj Group made home market sales during the POR at prices below their respective COPs within the meaning of section 773(b) of the Act.

3. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of the Viraj Group's cost of materials and fabrication for the foreign like product, plus amounts for home market selling, general and administrative expenses (''SG&A''), including interest expenses, and packing costs. We used home market sales and COP information provided by the Viraj Group in its questionnaire responses.

4. Test of Home Market Prices

We compared the weighted-average COP for the POR to the Viraj Group's home market sales of the foreign like product as required under section 773(b) of the Act. In determining whether to disregard home market sales made at prices less than the COP, we examined whether such sales: (1) Were made within an extended period of time in substantial quantities; and (2) were not made at prices which permitted the recovery of all costs within a reasonable period of time.

5. Results of the COP Test

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of the Viraj Group's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because the below-cost sales were not made in ''substantial quantities.'' Where 20 percent or more of the Viraj Group's sales of a given product were at prices less than the COP, we determined such sales to have been made in ''substantial quantities.'' The extended period of time for this analysis is the POR. *See* section 773(b)(2)(B) of the Act and 19 CFR 351.406(b). Because each individual price was compared to the weighted-average COP for the cost reporting period, any sales that were below cost were also at prices which did not permit cost recovery within a reasonable period of time. *See* section 773(b)(2)(D). We compared the COP for subject merchandise to the reported home market prices less any applicable movement charges. Based on this test, we disregarded below-cost sales.

Calculation of Constructed Value

We calculated CV in accordance with section 773(e)(1) of the Act based on the sum of respondent's cost of materials, fabrication, SG&A, including interest expenses, and profit. We calculated the COP included in the calculation of CV as noted above, in the ''Calculation of COP'' section of the notice. In accordance with section 773(e)(2)(A) of the Act and 19 CFR 351.405(b)(1), we based SG&A and profit on the amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product, in the ordinary course of trade, for consumption in the foreign country.

Price-to-Price Comparisons

For those product comparisons for which there were sales at prices above the COP, we based NV on the home market prices to the home market customers. We made adjustments, where appropriate, for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act. We calculated NV based on prices to unaffiliated home market customers. We made circumstances of sale adjustments for credit expenses, as appropriate.

Price-to-CV Comparisons

In accordance with section 773(a)(4) of the Act, we base NV on CV if we are unable to find suitable home market sales of the foreign like product. For price-to-CV comparisons, we made adjustments to CV in accordance with section 773(a)(8) of the Act.

Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade (''LOT'') as the EP or CEP transaction. The NV LOT is that of the starting-price sales in the comparison market or, when NV is based on CV, that of the sales from which we derive SG&A expenses and profit. For EP, the LOT is also the level

of the starting-price sale, which is usually from the exporter to the importer. For CEP, it is the level of the constructed sale from the exporter to the affiliated importer. *See* 19 CFR 351.412(c)(1).

To determine whether NV sales are at a different LOT than EP or CEP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. Substantial differences in selling activities are a necessary, but not sufficient condition for determining that there is a difference in the stage of marketing. 19 CFR 351.412(c)(2). If the comparison market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the differences in the levels between NV and CEP sales affect price comparability, we adjust NV under section 773(A)(7)(B) of the Act (the CEP offset provision). *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Carbon Steel Plate from South Africa*, 62 FR 61731 (November 19, 1997).

In the home market, the Viraj Group reported one level of trade. The Viraj Group sold through one channel of distribution in the home market: directly to unaffiliated customers (trading companies and actual users). The Viraj Group claimed one level of trade in its U.S. market. The Viraj Group sold through two channels of distribution in the U.S. market: (1) directly to unaffiliated customers in the United States prior to May 22, 2000, the date of incorporation of Viraj USA; and (2) directly from the mill through Viraj USA to unaffiliated customers after May 22, 2000.

For sales in the home market channel, the Viraj Group reported that all of its sales are sold ex-factory. The selling functions performed by the Viraj Group include business promotion (*e.g.*, salesmen travel, entertainment, and product testing), extension of credit, price negotiation, and order processing. Because there is only one sales channel in the home market, and because identical selling functions are performed for all home market sales, we preliminarily determine that there is one LOT in the home market.

We reviewed the selling functions and services performed by the Viraj Group in the U.S. market, as represented by the Viraj Group in its responses. The Viraj Group indicated that the selling functions performed by the Viraj Group were the same for EP sales and CEP sales (*i.e.,* sales to Viraj USA). Viraj USA was incorporated on May 22, 2000, and after that time, Viraj USA handled customs clearance, but there was no change in the selling functions of the Viraj Group. We find that the differences in the degree of selling functions performed (*i.e.*, price negotiation and provision of freight) to be minor. Therefore, we preliminarily determine that there is one LOT in the U.S. market.

The selling functions of the Viraj Group are very minimal for both the home market and the U.S. market. The Viraj Group does not incur warranty expenses, technical service expenses, royalties, or advertising expenses for either market, and only provides freight services for EP transactions. Accordingly, we preliminarily determine that sales in the home market and in the U.S. market were made at the same LOT and have not made a LOT adjustment.

Duty Drawback

In the previous administrative review (*see Stainless Steel Wire Rod From India; Final Results of Antidumping Duty Administrative Review,* 65 FR 31302, (May 17, 2000)), the Department denied the Viraj Group's request for an upward adjustment to the U.S. starting price based on duty drawback because the reported duty drawback was not directly linked to the amount of duty paid on imports used in the production of merchandise for export as required by the Department's two-part test, which states there must be: (1) a sufficient link between the import duty and the rebate, and (2) a sufficient amount of raw materials imported and used in the production of the final exported product. *See Rajinder Pipes Ltd.* v. *U.S. (''Rajinder Pipes'')*, 70 F. Supp. 2d 1350, 1358. The Court of International Trade upheld the Department's decision to deny respondent an adjustment for duty drawback because there was not substantial evidence on the record to establish that part one of the Department's test had been met. *See Viraj Group, Ltd.* v. *United States of America and Carpenter Technology, Corp., et al.,* Slip Op. 01–104 (CIT August 15, 2001).

Similarly, in the current review, the Department finds that the Viraj Group has not provided substantial evidence on the record to establish the necessary link between the import duty and the reported rebate for duty drawback. The Viraj Group has reported that it received duty drawback in the form of duty entitlement certificates which are issued by the Government of India to neutralize the incidence of basic custom duty on the import of raw materials used in the production of subject merchandise, but has failed to establish the necessary link between the import duty paid and the rebate given by the Government of India. As in the previous review, the Viraj Group was not able to demonstrate that the import duty paid and the duty drawback rebate were directly linked. Therefore, the Department is denying a duty drawback credit for the preliminary results of this review.

Preliminary Results of Review

As a result of our review, we preliminarily determine that the following weighted-average dumping margin exists for the Viraj Group for the period December 1, 1999, through November 30, 2000:

Producer/manufacturer/exporter	Weighted-average margin (percent)
The Viraj Group, Limited	0.73

The Department will disclose calculations performed in connection with these preliminary results of review within five days of the date of publication of this notice. Any interested party may request a hearing within 30 days of publication. Any hearing, if requested, will be held two days after the scheduled date for submission of rebuttal briefs. Issues raised in the hearing will be limited to those raised in the case briefs. Case briefs from interested parties may be submitted not later than 30 days after the date of publication of this notice in the **Federal Register**; rebuttal briefs may be submitted not later than five days thereafter. The Department will publish the final results of this administrative review, including its analysis of issues raised in any written comments or at a hearing, not later than 120 days after the date of publication of this notice.

Upon issuance of the final results of this review, the Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. If these preliminary results are adopted in our final results, we will instruct the Customs Service not to assess antidumping duties on the merchandise subject to review. Upon completion of this review, the Department will issue appraisement instructions directly to the Customs Service. In accordance with 19 CFR 351.212(b), if applicable, we

will calculate an importer-specific ad valorem duty assessment rate based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total customs value of the sales used to calculate those duties. This rate will be assessed uniformly on all entries of that particular importer made during the POR.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of these administrative reviews, as provided by section 751(a)(1) of the Act: (1) For the Viraj Group, a deposit equal to the above margin will be required; (2) if the exporter is not a firm covered in this review, a prior review, or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (3) the cash deposit rate for all other manufacturers or exporters will continue to be 48.80 percent, the ''All Others'' rate made effective by the original investigation.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: December 31, 2001.

Susan H. Kuhbach,

Acting Assistant Secretary for Import Administration.

[FR Doc. 02–435 Filed 1–7–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D.121401C]

Marine Mammals; File No. 555-1565

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

ACTION: Receipt of application for amendment.

SUMMARY: Notice is hereby given that James Harvey, Ph.D., Moss Landing Marine Laboratories, P.O. Box 450, Moss Landing, CA 95039, has requested an amendment to scientific research Permit No. 555–1565.

DATES: Written or telefaxed comments must be received on or before February 7, 2002.

ADDRESSES: The amendment request and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)713–0376;

Northwest Region, NMFS, 7600 Sand Point Way NE, BIN C15700, Bldg. 1, Seattle, WA 98115–0700; phone (206)526–6150; fax (206)526–6426; and

Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213; phone (562)980–4001; fax (562)980–4018.

Written comments or requests for a public hearing on this request should be submitted to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular amendment request would be appropriate.

Comments may also be submitted by facsimile at (301)713–0376, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period. Please note that comments will not be accepted by e-mail or other electronic media.

FOR FURTHER INFORMATION CONTACT: Amy Sloan or Ruth Johnson, (301)713–2289.

SUPPLEMENTARY INFORMATION: The subject amendment to Permit No. 555–1565, issued on September 29, 2000 (65 FR 60411) is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

Permit No. 555–1565 authorizes the permit holder to study the distribution, ecological role, health, and behavior of harbor seals (*Phoca vitulina*) along the west coast of North America via capture, tagging, marking, and biological sampling, and performing vocalization playback experiments. The Permit also authorizes research on harbor seals in rehabilitation, including captive feeding studies to quantify biases associated with using fecal samples for diet analysis, and surgical implantation of radio tags to determine the efficacy of using such tags for application to the wild population for monitoring animal movements. The permit holder requests authorization to collect from the wild up to 8 harbor seals per year for use in the captive feeding studies and release them back to the wild after approximately 6 months in captivity; conduct feeding experiments on 10 California sea lions (*Zalophus californianus*) undergoing rehabilitation; and harass up to 2000 California sea lions per year at haul-out sites throughout central California for scat collection.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: December 31, 2001.

Ann D. Terbush,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 02–439 Filed 1–7–02; 8:45 am]

BILLING CODE 3510–22–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 Cambodia

January 3, 2002.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 8, 2002.

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 Memorandum of Understanding of December 29, 2001, between the Governments of the United States and Cambodia amends and extends the bilateral textile agreement of January 20, 1999 to cover the period January 1, 2002 through December 31, 2004.

The limits under this agreement may be revised if Cambodia becomes a member of the World Trade Organization (WTO) and the United States applies the WTO agreement to Cambodia.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 2002 limits, which include a nine percent (9%) increase to all of Cambodia's quotas under the Labor Standards provision described in **Federal Register** notice 64 FR 60428, published on November 5, 1999).

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 66 FR 65178, published on December 18, 2001).

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

January 3, 2002.

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 Memorandum of Understanding, dated December 29, 2001, between the Governments of the United States and Cambodia, you are directed to prohibit, effective on January 8, 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 Cambodia 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
331/631	2,012,222 dozen pairs.
334/634	220,696 dozen.
335/635	84,383 dozen.
338/339	3,472,705 dozen.
340/640	973,656 dozen.
345	122,031 dozen.
347/348/647/648	3,894,622 dozen.
352/652	778,925 dozen.
435	21,037 dozen.
438	101,072 dozen.
445/446	123,533 dozen.
638/639	1,168,386 dozen.
645/646	324,552 dozen.

This directive cancels and supercedes the counting letter of December 26, 2001. The limits set forth above are subject to adjustment pursuant to the provisions of the Memorandum of Understanding of December 29, 2001 between the Governments of the United States and Cambodia.

Products in the above categories exported during 2001 shall be charged to the applicable category limits for that year (see directive dated January 8, 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.

These limits may be revised if Cambodia becomes a member of the World Trade Organization (WTO) and the United States applies the WTO agreement to Cambodia.

Moreover, these limits may be revised in light of the U.S. determination as to whether working conditions in the Cambodian textile and apparel sector substantially comply with Cambodian labor law and internationally recognized core labor standards (see **Federal Register** notice 64 FR 60428, published on November 5, 1999).

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. 02–437 Filed 1–7–02; 8:45 am]

BILLING CODE 3510–DR–S

DEPARTMENT OF DEFENSE

Department of the Army

Availability of Non-Exclusive, Exclusive License or Partially Exclusive Licensing of U.S. Patent Application Concerning Method for Forming a Parachute and a Parachute Formed Thereby

AGENCY: U.S. Army Soldier and Biological Chemical Command (SBCCOM), DoD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR part 404.6, announcement is made of the availability for licensing of U.S. Patent No. US 6,328,262 B1 entitled ''Method for Forming a Parachute and a Parachute Formed Thereby'' issued December 11, 2001. This patent has been assigned to the United States Government as represented by the Secretary of the Army.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Rosenkrans at U.S. Army Soldier and Biological Chemical Command, Kansas Street, Natick, MA 01760, Phone; (508) 233–4928 of e-mail: *Robert.Rosenkrans@natick.army.mil.*

SUPPLEMENTARY INFORMATION: Any licenses granted shall comply with 35 U.S.C. 209 and 37 CFR part 404. The following Patent Number, Title and Issue date is provided:

Patent Number: US 6,328,262 B1.

Title: Method for Forming a Parachute and a Parachute Formed Thereby.

Issue Date: December 11, 2001.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 02–444 Filed 1–7–02; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability of Non-Exclusive, Exclusive License or Partially Exclusive Licensing of U.S. Patent Application Concerning Parachute Assembly

AGENCY: U.S. Army Soldier and Biological Chemical Command (SBCCOM), DoD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR Part 404.6, announcement is made of the availability for licensing of U.S. Patent No. US 6,328,263 B1 entitled ''Parachute Assembly'' issued December 11, 2001. This patent has been assigned to the United States Government as

represented by the Secretary of the Army.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Rosenkrans at U.S. Army Soldier and Biological Chemical Command, Kansas Street, Natick, MA 01760, Phone: (508) 233–4928 or E-mail: Robert Rosenkrans@natick.army.mil.

SUPPLEMENTARY INFORMATION: Any licenses granted shall comply with 35 U.S.C. 209 and 37 CFR part 404. The following Patent Number, Title and Issue date is provided:

Patent Number: US 6,328,263 B1.
Title: Parachute Assembly
Issue Date: December 11, 2001.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 02–442 Filed 1–7–02; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Estuary Habitat Restoration Council; Open Meeting

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of open meeting.

SUMMARY: In accordance with Section 105(h) of the Estuary Restoration Act of 2000 (Title I, Pub. L. 106–457), announcement is made of the forthcoming meeting of the Estuary Habitat Restoration Council. The meeting is open to the public.

DATES: The meeting will be held from 10 a.m. to 12 p.m. on Wednesday, January 23, 2002.

ADDRESSES: The meeting will be in room 3M60/70, 441 G Street, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ms. Ellen Cummings, Headquarters, U.S. Army Corps of Engineers, Washington, DC 20314–1000, (202) 761–4558; or Ms. Cynthia Garman-Squier, Office of the Assistant Secretary of the Army (Civil Works), Washington, DC, (202) 512–6668.

SUPPLEMENTARY INFORMATION: The Estuary Habitat Restoration Council consists of representatives of five agencies. These are the National Oceanic and Atmospheric Administration (NOAA), Environmental Protection Agency, U.S. Fish and Wildlife Service, Department of Agriculture, and Army.

The agenda for the meeting includes a discussion of the draft national estuary restoration strategy, which the Council is required by law to develop. The strategy is designed to ensure a comprehensive approach to maximize benefits derived from estuary habitat restoration projects and to foster the coordination of Federal and non-Federal activities related to restoration of estuary habitat.

Current security measures require that persons interested in attending the meeting must pre-register with us before 2 p.m. on January 18, 2002. Please contact Ellen Cummings at 202–761–4558 to pre-register. When leaving a voice mail message please provide the name of the individual attending, the company or agency represented, and a telephone number, in case there are any questions. The public should enter on the ''G'' Street side of the GAO building. All attendees are required to show photo identification and must be escorted to the meeting room by Corps personnel. Attendees' bags and other possessions are subject to being searched. All attendees arriving between one-half hour before and one-half hour after 10 a.m. will be escorted to the meeting. Those that are not pre-registered and/or arriving later than the allotted time will be unable to attend the public meeting.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 02–443 Filed 1–7–02; 8:45 am]

BILLING CODE 3710–92–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before March 11, 2002.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) title; (3) summary of the collection; (4) description of the need for, and proposed use of, the information; (5) respondents and frequency of collection; and (6) reporting and/or recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: January 2, 2002.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Educational Research and Improvement

Type of Review: Revision.
Title: Program for International Student Assessment (PISA).
Frequency: One-time.
Affected Public: Businesses or other for-profit; State, Local, or Tribal Gov't, SEAs or LEAs.
Reporting and Recordkeeping Hour Burden: Responses: 1,440. Burden Hours: 4,817.
Abstract: The Program for International Student Assessment (PISA) is a new system of international assessments that focus on 15-year-olds' capabilities in reading literacy, mathematics literacy, and science literacy. PISA 2000 was the first cycle of PISA, which will be conducted every three years, with a primary focus on one area for each cycle. PISA 2000 focuses on reading literacy; mathematics literacy will be the focus in 2003, and science literacy in 2006. In addition to assessment data, PISA provides background information on school context and student demographics to benchmark performance and inform policy.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the Internet address *OCIO.RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Kathy Axt at (540) 776–7742 or via her Internet address *Kathy.Axt@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 02–328 Filed 1–7–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before February 7, 2002.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Karen Lee, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10202, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the Internet address *Karen_F._Lee@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or recordkeeping burden. OMB invites public comment.

Dated: January 2, 2002.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Educational Research and Improvement

Type of Review: Reinstatement.

Title: Baccalaureate and Beyond Longitudinal Study, Third Followup (B&B:93/2003).

Frequency: On Occasion.

Affected Public: Individuals or household.

Reporting and Recordkeeping Hour Burden: Responses: 830. Burden Hours: 385.

Abstract: The Baccalaureate and Beyond Longitudinal Study, Third Followup (B&B:93/2003) will survey 1992–93 bachelor's degree recipients from public and private postsecondary institutions. The data will provide long term information on graduates' additional postsecondary education and training, employment, workforce activities, and other life experiences. The study directs special focus on sample members who began teaching.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the Internet address *OCIO.RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request. Comments regarding burden and/or the collection activity requirements should be directed to Kathy Axt at (540) 776–7742 or via her Internet address *Kathy.Axt@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 02–329 Filed 1–7–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[Number DE–PS36–02GO90014]

Solicitation for Financial Assistance Applications; Inventions and Innovation Program

AGENCY: Golden Field Office, Department of Energy (DOE).

ACTION: Notice of solicitation for financial assistance applications.

SUMMARY: The Department of Energy's Office of Industrial Technologies (OIT) is funding a competitive grant program entitled the Inventions and Innovation (I&I) Program. The goals of the I&I Program are to improve energy efficiency through the promotion of innovative ideas and inventions that have a significant, potential energy impact and a potential, future commercial market. These goals are consistent with the mission of the Office of Energy Efficiency and Renewable Energy (EERE), which is to develop and promote the adoption of cost-effective renewable energy and energy efficiency technologies within the building, industrial, transportation, and power sectors for the benefit of economic competitiveness, energy security, and environmental quality of the nation. The following mission focus industries, comprised of the most energy intensive industries in the U.S. manufacturing sector, are of particular interest to the Program: Agriculture, Aluminum, Chemicals, Forest products, Glass, Metal-casting, Mining, Petroleum, and Steel. Category 1 applications must be applications relevant to the Glass mission focus industry. Only Glass specific applications will be accepted under Category 1. Category 2 applications are open to all the mission focus industries and the building, transportation, and power sectors.

DATES: DOE expects to issue the solicitation on or about December 19, 2001. The deadline for receipt of applications will be on or about 3 pm Mountain Time on February 15, 2002.

ADDRESSES: The formal solicitation document will be disseminated electronically as Solicitation Number DE–PS36–02GO90014, Inventions and Innovation (I&I) Program, through the Industry Interactive Procurement System (IIPS) located at the following URL: *http://e-center.doe.gov.* IIPS provides the medium for disseminating

solicitations, receiving financial assistance applications, and evaluating the applications in a paperless environment. Completed applications are required to be submitted via IIPS. Individuals who have the authority to enter their company into a legally binding contract/agreement and intend to submit proposals/applications via the IIPS system must register and receive confirmation that they are registered prior to being able to submit an application on the IIPS system. An IIPS ''User Guide for Contractors'' can be obtained by going to the IIPS Homepage at the URL noted above and then clicking on the ''Help'' button. Questions regarding the operation of IIPS may be e-mailed to the IIPS Help Desk at *IIPS_HelpDesk@e-center.doe.gov* or call the help desk at (800) 683–0751.

FOR FURTHER INFORMATION CONTACT: Margo Gorin, Contract Specialist, at *margo_gorin@nrel.gov*

SUPPLEMENTARY INFORMATION: A selection of former projects funded by the I&I Program that have reached commercial markets included the following:

- Meta-Lax Stress Relief Equipment offers distinct advantages over conventional heat treatment methods. It uses less energy, is portable, can handle any size metal part, and treats metal stress in hours versus days.
- Aero Cylinder Technology replaces conventional cylinders by combining air spring bellows into assemblies for use on machines (such as punch presses) to control motion and large masses. The air springs act as counter balancers and press cushioners to eliminate alignment problems. This proper alignment reduces downtime and compressed air losses, resulting in significant energy savings.
- Electro-Optic Inspection of Heat Exchangers is a laser-based, nondestructive evaluation system for inspecting heat exchanger tubing for internal corrosion, erosion, scale buildup, and deformation. Benefits to petrochemical, pulp and paper, and power-generation plants include reduced downtime and increased efficiency.
- Hydrodynamic Multi-Deflection Pad Bearings optimize bearing operation in high-speed, combined heat and power turbines, high-load electric motors or gear boxes, air or gas compressors, and air conditioning refrigeration equipment. Energy loss due to friction is reduced up to forty-percent by using fluids as a wedge between pads and moving parts.

Solicitation Specifications: Eligibility requirements include the following: (1) Individuals that are U.S. citizens, either native-born or naturalized; (2) small businesses (as defined by the Small Business Administration) that are U.S. owned, as defined in 10 CFR part 600.501; or (3) institutions of higher learning located in the U.S. Individual inventors and very small businesses (15 or fewer employees) are especially encouraged to participate. More than one application may be submitted by an applicant for different innovations. However, funding will be limited to one award per applicant, per cycle. Also more than one organization may be involved in an application as long as the lead organization and lead financial assistance management responsibilities are defined. The Catalog of Federal Domestic Assistance number assigned to the I&I Program is 81.036. Cost sharing by applicants and/or cooperating participants is not required but highly encouraged. In addition to direct financial contributions, cost sharing can include beneficial services or items such as manpower, equipment, consultants, and computer time that are allowable in accordance with applicable cost principles.

The Golden Field Office has been assigned the responsibility of issuing the solicitation and administering the awards. Ideas that have a significant energy savings impact and future commercial market potential are chosen for financial support through the competitive solicitation process. The I&I Program will provide financial assistance of up to $40,000 for Category 1 and up to $200,000 for Category 2 to applications that fall within the ''conceptual'' and ''developmental'' stages of development, respectively. To be considered for a Category 2 award, a bench-scale model and/or other preliminary investigations must be complete. Each award may cover a project period of up to one year for Category 1 and up to two years for Category 2. In addition to financial assistance, the I&I Program offers technical guidance and commercialization support to successful applicants through the Resource Centers for Innovation (RCI).

Availability of Funds for FY 2001: DOE is announcing the availability of up to $2.16 million dollars in agreement funds for Fiscal Year 2002. The awards will be made through a competitive solicitation. DOE reserves the right to fund in whole or in part any, all, or none of the proposals submitted in response to this notice.

Issued in Golden, Colorado on December 20, 2001.

Matthew A. Barron,

Acting Director, Office of Acquisition and Financial Assistance, Golden Field Office.

[FR Doc. 02–390 Filed 1–7–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Hanford

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Hanford. The Federal Advisory Committee Act (Pub. L. No 92–463, 86 Stat. 770) requires that public notice of these meeting be announced in the **Federal Register**.

DATES:

Thursday, February 7, 2002, 9 a.m.–5 p.m.

Friday, February 8, 2002, 8:30 a.m.–3 p.m.

ADDRESSES: West Coast Hotel, 1101 North Columbia Center Boulevard, Kennewick, WA (509–783–0611).

FOR FURTHER INFORMATION CONTACT: Gail McClure, Public Involvement Program Manager, Department of Energy Richland Operations Office, P.O. Box 550 (A7–75), Richland, WA, 99352; Phone: (509) 373–5647; Fax: (509) 376–1563.

SUPPLEMENTARY INFORMATION: *Purpose of the Board:* The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

Thursday, February 7, 2002

- Ad Hoc Task Force Report on January 15–16 workshop.
- Introduction of Advice on the River Corridor Tri-Party Agreement (TPA) Change Package.
- FY04 Budget Development Process.
- Follow-up Discussion on White Paper: ''Evaluating Hanford Public Involvement: Goals, Activities, and a Framework for Discussion''.
- Integrated Safety Management System (ISMS): Bechtel National Inc. Approach to ISMS.

Friday, February 8, 2002

- Adoption of Board Advice on the River Corridor Tri-Party Agreement (TPA) Draft Change Package
- Board Feedback on Addressing Agencies' Issues for Consideration

• Committee Updates
• Public Involvement Process Related to Budget Development

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Gail McClure's office at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided equal time to present their comments.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 between 9 a.m. and 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be available by writing to Gail McClure, Department of Energy Richland Operation Office, P.O. Box 550, Richland, WA 99352, or by calling her at (509) 373–5647.

Issued at Washington, DC on January 2, 2002.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 02–391 Filed 1–7–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–259–002]

ANR Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

January 2, 2002.

Take notice that on December 26, 2001, ANR Pipeline Company (ANR) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, Sixteenth Revised Sheet No. 19, proposed to be effective January 1, 2002.

ANR states that the above-referenced tariff sheet is being filed to implement the Joint Offer of Settlement And Explanatory Statement and corresponding Stipulation and Agreement (Offer of Settlement) being filed simultaneously with this filing. As discussed in the Offer of Settlement, ANR has agreed to adjust the currently approved fuel matrix methodology for determining ANR's fuel use and lost-and-unaccounted-for retention percentages under its currently effective tariff mechanism. ANR has agreed to implement this revised methodology as to the current annual fuel matrix redetermination at issue in this proceeding, on an interim basis effective January 1, 2002, until ANR submits its next annual redetermination filing under its tariff to be effective April 1, 2002.

ANR states that, in general, the change in methodology results in fuel rate decreases only, but in any event, ANR is not proposing to put into effect any increases that result from the new methodology for the interim period January 1, 2002 through March 31, 2002.

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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–347 Filed 1–7–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP95–408–042]

Columbia Gas Transmission Corporation; Notice of Compliance Filing

January 2, 2002.

Take notice that on December 17, 2001, Columbia Gas Transmission Corporation (Columbia) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets, bearing a proposed effective date of January 1, 2002:

Fifty-fourth Revised Sheet No. 25
Fifty-fourth Revised Sheet No. 26
Fifty-fourth Revised Sheet No. 27
Twenty-fourth Revised Sheet No. 30A

Columbia states that this filing is being submitted pursuant to Stipulation I, Article I, Section E, True-up Mechanism, of the Settlement (Settlement) in Docket No. RP95–408 et al., approved by the Commission on April 17, 1997 (79 FERC 61,044 (1997)). Under the approved section of the Settlement, Columbia is required to true-up its collections pursuant to the Settlement Component for 12-month periods commencing November 1, 1996 and ending October 31, 2004. The fifth 12-month period (Period V) ended October 31, 2001. Columbia is making this true-up filing in compliance with the Settlement to return a net over-recovery of $3,070,840 for Period V, which includes interest and the true-up of the Period IV Settlement Component adjustment, through an adjustment to the Settlement Component of the base rates for the period January 1, 2002 through October 31, 2002.

Columbia states that copies of its filing have been mailed to all firm customers, interruptible customers, and affected state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–336 Filed 1–7–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–391–006]

Colorado Interstate Gas Company; Notice of Annual Revenue Report

January 2, 2002.

Take notice that on December 26, 2001, Colorado Interstate Gas Company tendered for filing its second and final report detailing the revenues received and credits distributed to eligible shippers from providing Interruptible Swing Service for the period July 1, 2000 through September 30, 2001.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before January 9, 2002. 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–341 Filed 1–7–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–350–007]

Colorado Interstate Gas Company; Notice of Compliance Filing

January 2, 2002.

Take notice that on December 20, 2001, Colorado Interstate Gas Company (CIG) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the tariff sheets listed in Appendices A, B and C to the filing, to become effective October 1, 2001.

CIG states that the tariff sheets are being filed in compliance with the Commission's November 20, 2001 order in this proceeding to revise HEEN service and to re-file certain tariff sheets.

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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–348 Filed 1–7–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–42–001]

Colorado Interstate Gas Company; Notice of Compliance Filing

January 2, 2002.

Take notice that on December 28, 2001, Colorado Interstate Gas Company (CIG) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Ninth Revised Sheet No. 284A, to be effective February 1, 2002.

CIG states that the tariff sheet and accompanying explanation address certain issues raised in the Commission's order issued December 10, 2001 in this proceeding regarding its Automatic Parking and Lending Service and similar imbalance services.

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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–350 Filed 1–7–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP95–408–043]

Columbia Gas Transmission Corporation; Notice of Compliance Filing

January 2, 2002.

Take notice that on December 17, 2001, Columbia Gas Transmission Corporation (Columbia) tendered a filing in compliance with Stipulation II, Article III, Section F, of the settlement filed in Docket No. RP95–408 et al., approved on April 17, 1997 (79 FERC 61,044 (1997)) (Settlement). Pursuant to Article III, Section F, Columbia is filing to comply with the Settlement requirement that all facilities not sold by Columbia as of December 31, 2001, ''shall be deemed to have been sold for zero dollars.''

Columbia states further that copies of this filing have been mailed to all parties to the Docket Nos. RP95–408, et al. proceedings.

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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–337 Filed 1–7–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–389–038]

Columbia Gulf Transmission Company; Notice of Negotiated Rate Filing

January 2, 2002.

Take notice that on December 27, 2001, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing the following contract for disclosure of a recently negotiated rate transaction:

ITS–2 Service Agreement No. 71879 between Columbia Gulf Transmission Company and Amoco Energy Trading Corp. dated December 21, 2001

Transportation service is to commence January 1, 2002 under the agreement.

Columbia Gulf states that copies of the filing have been served on all parties identified on the official service list in Docket No. RP96–389.

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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–338 Filed 1–7–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–389–039]

Columbia Gulf Transmission Company; Notice of Negotiated Rate Filing

January 2, 2002.

Take notice that on December 27, 2001, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing the following contract for disclosure of a recently negotiated rate transaction:

FTS–2 Service Agreement No. 71910 between Columbia Gulf Transmission Company and Dynegy Marketing and Trade dated December 24, 2001

Transportation service is to commence January 1, 2002 under the agreement.

Columbia Gulf states that copies of the filing have been served on all parties identified on the official service list in Docket No. RP96–389.

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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–339 Filed 1–7–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–14–002]

Crossroads Pipeline Company; Notice of Compliance Filing

January 3, 2002.

Take notice that on December 28, 2001, Crossroads Pipeline Company (Crossroads) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, its entire tariff, with a proposed effective date of November 1, 2001. This tariff is being filed in compliance with the Commission's October 31, 2001 Letter Order in the above-referenced docket.

Crossroads states that the purpose of this filing is to change its tariff from 7 point font to 10 point font as required by the Commission.

Crossroads states that copies of its filing and has been sent by first-class mail, postage prepaid, by Crossroads to each of the parties on the official service list in Docket No. RP02–14–000. Copies have also been mailed to each of Crossroads' firm and interruptible customers and affected state Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18

CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–469 Filed 1–7–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–126–000]

Eastern Shore Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

January 2, 2002.

Take notice that on December 18, 2001, Eastern Shore Natural Gas Company (ESNG) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, certain revised tariff sheets in the above captioned docket, bear a proposed effective date of November 1, 2001.

ESNG states that the purpose of this instant filing is to track rate changes attributable to storage services purchased from Transcontinental Gas Pipe Line Corporation (Transco) under its Rate Schedules GSS and LSS. The costs of the above referenced storage services comprise the rates and charges payable under ESNG's respective Rate Schedules GSS and LSS. This tracking filing is being made pursuant to Section 3 of ESNG's Rate Schedules GSS and LSS.

ESNG states that copies of the filing have been served upon its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–352 Filed 1–7–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–130–000]

Eastern Shore Natural Gas Company; Notice of Proposed Changes In FERC Gas Tariff

January 2, 2002.

Take notice that on December 27, 2001, Eastern Shore Natural Gas Company (ESNG) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, certain revised tariff sheets, bear a proposed effective date of January 1, 2002.

ESNG states that the purpose of this instant filing is to track rate changes attributable to storage services purchased from Columbia Gas Transmission Corporation (Columbia) under its Rate Schedules FSS and SST. The costs of the above referenced storage services comprise the rates and charges payable under ESNG's respective Rate Schedule CFSS. This tracking filing is being made pursuant to Section 3 of ESNG's Rate Schedule CFSS.

ESNG states that copies of the filing have been served upon its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–355 Filed 1–7–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–305–006]

Mississippi River Transmission Corporation; Notice of Negotiated Rates

January 2, 2002.

Take notice that on December 21, 2001, Mississippi River Transmission Corporation (MRT) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheet to be effective January 1, 2002:

Original Sheet No. 10D

MRT states that the purpose of this filing is to reflect the implementation of a new negotiated rate transaction.

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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–345 Filed 1–7–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–172–004]

Mojave Pipeline Company; Notice of Compliance Filing

January 3, 2002.

Take notice that on December 28, 2001, Mojave Pipeline Company (Mojave) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheet, with an effective date of February 1, 2002:

Seventh Revised Sheet No. 11
First Revised Sheet No. 105
First Revised Sheet No. 134
Original Sheet No. 243
Original Sheet No. 244
Original Sheet No. 245
Original Sheet No. 246
Sheet Nos. 247 through 399

Mojave states that the tariff sheets are being filed to comply with the Commission's order issued December 21, 2001 and to implement the terms of the Offer of Settlement and Stipulation and Agreement filed in this proceeding. The tariff sheets are proposed to become effective February 1, 2002.

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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–467 Filed 1–7–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER99–3719–001 and EC99–100–001]

Mountain West Independent System Admin. Sierra Pacific Power Co. and Nevada Power Co.; Notice of Filing

January 2, 2002.

Take notice that on December 21, 2001, Deseret Generation & Transmission Cooperative and Mt. Wheeler Power, Inc. notified the Commission of the withdrawal of their request for rehearing in Docket No. ER99–3719–001 and Docket No. EC99–100–001.

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 the comment date. 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 Commission's Web site 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.

Comment Date: January 11, 2002.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–335 Filed 1–7–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–176–047]

Natural Gas Pipeline Company of America; Notice of Negotiated Rate Filing

January 2, 2002.

Take notice that on December 19, 2001, Natural Gas Pipeline Company of America (Natural) tendered for filing to become part of its FERC Gas Tariff, Sixth Revised Volume No. 1, Original Sheet No. 26V, with an effective date of January 1, 2002.

Natural states that the purpose of this filing is to implement a negotiated rate transaction with NRG Power Marketing, Inc. under Natural's Rate Schedules FTS pursuant to Section 49 of the General Terms and Conditions of Natural's Tariff.

Natural requests waivers of the Commission's Regulations, including both the 30-day and the 60-day notice requirements of Section 154.207, to the extent necessary to permit the tariff sheet to become effective January 1, 2002.

Natural states that copies of the filing are being mailed to its customers, interested state commissions and all parties set out on the Commission's official service list in Docket No. RP99–176.

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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–342 Filed 1–7–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–176–048]

Natural Gas Pipeline Company of America; Notice of Negotiated Rate

January 2, 2002.

Take notice that on December 27, 2001, Natural Gas Pipeline Company of America (Natural) tendered for filing to become part of its FERC Gas Tariff, Sixth Revised Volume No. 1, Original Sheet No. 26W and Original Sheet No. 26W.01, to be effective December 28, 2001.

Natural states that the purpose of this filing is to implement four (4) new negotiated rate transactions under Natural's Rate Schedule FTS pursuant to Section 49 of the General Terms and Conditions of Natural's Tariff. Natural states that the negotiated rate agreements do not deviate in any material respect from the applicable form of service agreement in Natural's Tariff.

Natural states that copies of the filing are being mailed to its customers, interested state commissions and all parties set out on the Commission's official service list in Docket No. RP99–176.

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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–343 Filed 1–7–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–223–006]

Northern Natural Gas Company; Notice of Compliance Filing

January 2, 2002.

Take notice that on December 21, 2001, Northern Natural Gas Company (Northern), tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets, proposed to be effective August 1, 2001 and June 1, 2001, respectively, in compliance with the Commission's Order dated October 24, 2001:

Substitute 1st Revised 56 Revised Sheet No. 51

Substitute 1st Revised 57 Revised Sheet No. 51

Northern further states that copies of the filing have been mailed to each of its customers and interested State Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–344 Filed 1–7–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–438–000]

Northwest Pipeline Corporation; Notice of Site Visit

January 2, 2002.

On January 15–16, 2002, the Office of Energy Projects (OEP) staff will conduct a pre-certification site visit of Northwest Pipeline Corporation's (Northwest) Rockies Expansion Project in Pocatello, Idaho. We will examine the proposed project route and possible alternative routes in Pocatello. The inspection will be conducted by automobile and on foot. Representatives of Northwest will be accompanying the OEP staff.

All interested parties may attend. Those planning to attend must provide their own transportation. For further information on attending the site visit, please contact the Commission's Office of External Affairs at (202) 208–0004.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–334 Filed 1–7–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP00–395–003, RP00–613–002, and RP96–348–011 (Not Consolidated)]

Panhandle Eastern Pipe Line Company; Notice of Compliance Filing

January 2, 2002.

Take notice that on December 28, 2001, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the revised tariff sheets listed on Appendix A attached to the filing proposed to be effective February 1, 2002.

Panhandle asserts that the purpose of this filing is to implement the terms of the July 23, 2001 Stipulation and Agreement in Docket Nos. RP00–395–000, RP00–395–001, RP00–613–000, and RP96–348–000 [Not Consolidated] (Settlement). The Settlement was approved, as modified, by the

Commission's October 12, 2001 Order on Panhandle's Order No. 637 Settlement, 97 FERC ¶ 61,046 (2001), and the Commission's Order on Compliance Filing issued on December 19, 2001, 97 FERC ¶ 61,285 (2001), in the above referenced proceedings. In addition, the price references to Gas Daily on Tariff Sheet Nos. 272, 272D and 272E have been updated to reflect the current nomenclature in the subject publication.

Panhandle states that copies of this filing are being served on all affected customers, applicable state regulatory agencies and parties to 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–346 Filed 1–7–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–69–001]

PG&E Gas Transmission, Northwest Corporation; Notice of Compliance Filing

January 2, 2002.

Take notice that on December 19, 2001, PG&E Gas Transmission, Northwest Corporation (GTN) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1–A, the following substitute tariff sheets: Substitute Thirty-fifth Revised Sheet No. 4, Substitute Nineteenth Revised Sheet No. 4A and Substitute Fourteenth Revised Sheet No. 6C. GTN states that these tariff sheets establish GTN's Gas Research Institute (''GRI'') surcharge for calendar year 2002. GTN proposes that these sheets be made effective January 1, 2002.

GTN further states that a copy of this filing has been served on GTN's jurisdictional customers and interested state regulatory agencies.

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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–351 Filed 1–7–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–128–000]

Sea Robin Pipeline Company; Notice of Flowthrough Crediting Report

January 2, 2002.

Take notice that on December 21, 2001, Sea Robin Pipeline Company (Sea Robin) submitted its Annual Flowthrough Crediting Mechanism Filing. Sea Robin states that this filing was made pursuant to Section 27 of the General Terms and Conditions of Sea Robin's FERC Gas Tariff which requires the crediting of certain amounts received as a result of resolving monthly imbalances between its gas and liquefiables shippers and under its operational balancing agreements, and imposing scheduling penalties during the 12 month period ending October 31, 2001.

Sea Robin reports that it paid $298,131.88 in excess of amounts received from shippers. In accordance with Section 27.1, the excess amount paid by Sea Robin will be carried forward and offset against any accumulated amounts during the subsequent twelve-month period.

Sea Robin further states that copies of this filing are being served on all affected customers, applicable state regulatory agencies and parties to the proceeding.

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 on or before January 9, 2002. 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–353 Filed 1–7–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–129–000]

Southern LNG Inc.; Notice of Tariff Filing

January 2, 2002.

Take notice that on December 21, 2001, Southern LNG Inc. (SLNG) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the tariff sheets in Appendix A to its filing, to become effective February 1, 2002.

SLNG states that the proposed changes would change the initial rates for open-access service at the liquefied natural gas (LNG) receiving terminal on

Elba Island, Georgia (Elba Island Terminal). SLNG submits the changes as a limited filing under Section 4 of the Natural Gas Act, pursuant to an order of the Federal Energy Regulatory Commission issued on November 30, 2001 in Docket Nos. CP99–580–003 and CP99–582–004.

SLNG states that the proposed changes reflect the cost of recommissioning and modifying the Elba Island Terminal.

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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–354 Filed 1–7–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–17–002]

Tennessee Gas Pipeline Company; Notice of Compliance Filing

January 2, 2002.

Take notice that on December 21, 2001, Tennessee Gas Pipeline Company (Tennessee) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, Second Substitute First Revised Sheet No. 23F, Eighteenth Revised Sheet No. 25, Original Sheet No. 25A, and Substitute Sixth Revised Sheet No. 159, with an effective date of December 1, 2001.

Tennessee states that the purpose of this filing is to comply with the December 14 Order, in which the Commission approved Tennessee's proposal to provide Extended Receipt Service (ERS) and Extended Delivery Service (EDS) on Incremental Laterals for shippers receiving firm transportation service under Rate Schedule FT–A, but required Tennessee to file revised tariff sheets to properly reflect the services in the tariff.

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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–349 Filed 1–7–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–131–000]

Texas Eastern Transmission, LP; Notice of Proposed Changes in FERC Gas Tariff

January 2, 2002.

Take notice that on December 27, 2001, Texas Eastern Transmission, LP (Texas Eastern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1 and First Revised Volume No. 2, revised tariff sheets listed on Appendix A to the filing to become effective February 1, 2002.

Texas Eastern states that these revised tariff sheets are filed pursuant to Section 15.1, Electric Power Cost (EPC) Adjustment, of the General Terms and Conditions of Texas Eastern's FERC Gas Tariff, Seventh Revised Volume No. 1. Texas Eastern states that Section 15.1 provides that Texas Eastern shall file to be effective each February 1 revised rates for each applicable zone and rate schedule based upon the projected annual electric power costs required for the operation of transmission compressor stations with electric motor prime movers and to also reflect the EPC Surcharge which is designed to clear the balance in the Deferred EPC Account.

Texas Eastern states that the rate changes proposed to the primary firm capacity reservation charges, usage rates and 100% load factor average costs for full Access Area Boundary service from the Access Area Zone, East Louisiana, to the three market area zones are as follows:

Zone	Reservation	Usage	100% LF
Market 1	$0.029 /dth	$0.0009 /dth	$0.0019 /dth
Market 2	0.089 /dth	0.0029 /dth	0.0058 /dth
Market 3	0.130 /dth	0.0043 /dth	0.0086 /dth

Texas Eastern states that copies of its filing have been mailed to all affected customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make

protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–356 Filed 1–7–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–288–019]

Transwestern Pipeline Company; Notice of Negotiated Rates

January 2, 2002.

Take notice that on December 21, 2001, Transwestern Pipeline Company (Transwestern) tendered for filing to become part of Transwestern's FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, proposed to become effective on January 1, 2002:

14 Revised Sheet No. 5B.05
Fourth Revised Sheet No. 5B.08

Transwestern states that the above sheets are being filed to implement a specific Reliant Energy Services Inc. negotiated rate transaction in accordance with the Commission's Policy Statement on Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines.

Transwestern further states that copies of the filing have been mailed to each of its customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–340 Filed 1–7–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–132–000]

Viking Gas Transmission Company; Notice of Tariff Filing

January 2, 2002.

Take notice that on December 28, 2001, Viking Gas Transmission Company (Viking) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1 the tariff sheets listed on Attachment A (Primary Case) and Attachment B (Pro Forma Case) to the filing. Viking requests an effective date of July 1, 2002 for the tariff sheets listed on Attachment A and, accordingly, requests that the Commission suspend this filing for the maximum statutory period of five months.

Viking respectfully requests that the Commission allow Viking's Pro Forma Case to become effective only after a final Commission order on this proceeding. Should the Commission accept Viking's Pro Forma Case, Viking will submit actual tariff sheets in place of the Pro Forma tariff sheets to be effective on a prospective basis.

Viking states that the purpose of this filing is to revise Viking's rates for jurisdictional services to reflect current and projected costs and changes in demand on Viking's system. Viking is also filing to adopt term-differentiated rates and a demand rate for Daily Demand Service under Rate Schedule LMS, to change scheduling priority for interruptible services to ensure that capacity is allocated to those shippers that most value it and to provide for the termination of interruptible contracts with shippers who have not exercised any contractual rights for firm, interruptible or load management services for at least one year. In its Pro Forma Case, Viking is proposing to roll-in the costs of facilities installed during the 1999 expansion project approved by the Commission in Docket Nos. CP98–761–000. This project is appropriate for rolled-in rate treatment due to the significant systemwide reliability and operational benefits it provides to pre-expansion customers.

Viking states that copies of the filing have been mailed to all of its jurisdictional customers and to affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–357 Filed 1–7–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–425–005]

Williams Gas Pipelines Central, Inc.; Notice of Negotiated Rates

January 3, 2002.

Take notice that on December 28, 2001, Williams Gas Pipelines Central, Inc. (Williams) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets to become effective January 1, 2002:

Fourth Revised Sheet No. 1

Original Sheet No. 11
Sheet No. 12

Williams states that the purpose of this filing is to reflect the negotiated rate contract with Kansas Industrial Energy Supply Company.

Williams states that copies of the revised tariff sheets are being mailed to all parties on the service list, Williams' jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,
Acting Secretary.

[FR Doc. 02–468 Filed 1–7–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC02–39–000, et al.]

UtiliCorp United Inc., et al.; Electric Rate and Corporate Regulation Filings

January 2, 2001.

Take notice that the following filings have been made with the Commission. Any comments should be submitted in accordance with Standard Paragraph E at the end of this notice.

1. UtiliCorp United Inc.

[Docket No. EC02–39–000]

Take notice that on December 28, 2001, UtiliCorp United Inc. (UtiliCorp), filed with the Federal Energy Regulatory Commission (Commission) an application pursuant to Section 203 of the Federal Power Act, 16 U.S.C. 824b, and part 33 of the Commission's regulations, 18 CFR part 33. UtiliCorp requests authorization and approval of the sale by UtiliCorp and the purchase by the KAMO Electric Cooperative, Inc. (KAMO) of certain limited transmission facilities within the city of El Dorado Springs, Missouri.

Comment Date: January 18, 2002.

2. UtiliCorp United Inc.

[Docket No. EC02–40–000]

Take notice that on December 28, 2001, UtiliCorp United Inc. (UtiliCorp), filed with the Federal Energy Regulatory Commission (Commission) an application pursuant to Section 203 of the Federal Power Act, 16 U.S.C. 824b, and part 33 of the Commission's regulations, 18 CFR part 33. UtiliCorp requests authorization and approval of the sale by UtiliCorp and the purchase by the City of El Dorado Springs, Missouri (El Dorado Springs) of an electrical substation along with a transmission line and related assets.

Comment Date: January 18, 2002.

3. Rayburn Country Electric Cooperative, Inc.

[Docket No. ER02–210–001]

Take notice that on December 27, 2001, Rayburn Country Electric Cooperative Inc., (Rayburn Electric) tendered for filing 1st Revised Rate Schedule No. 3 with the Federal Energy Regulatory Commission. Rayburn Electric has re-filed 1st Revised Rate Schedule No. 3 to comply with the requirements of Order No. 614 and as directed by the Commission in a letter order issued on December 7, 2001.

Comment Date: January 17, 2002.

4. Illinois Power Company

[Docket No. ER02–609–000]

Take notice that on December 26, 2001, Illinois Power Company (Illinois Power), filed with the Federal Energy Regulatory Commission (Commission) a Firm Long-Term Point-To-Point Transmission Service Agreement entered into with Dynegy Power Marketing, Inc. Illinois Power requests an effective date of January 1, 2002 for the agreement and seeks a waiver of the Commission's notice requirement. Illinois Power states that a copy of this filing has been sent to the customer.

Comment Date: January 16, 2002.

5. Progress Energy Inc. Florida Power Corporation

[Docket No. ER02–610–000]

Take notice that on December 26, 2001, Florida Power Corporation (FPC) tendered for filing an executed Osceola Facility Parallel Operation Agreement between FPC and Seminole Electric Cooperative, Inc. FPC is requesting an effective date of December 1, 2001 for this Rate Schedule.

A copy of the filing was served upon the Florida Public Service Commission and the North Carolina Utilities Commission.

Comment Date: January 16, 2002.

6. Illinois Power Company

[Docket No. ER02–611–000]

Take notice that on December 26, 2001, Illinois Power Company (Illinois Power), filed with the Federal Energy Regulatory Commission (Commission) a Firm Long-Term Point-To-Point Transmission Service Agreement entered into with Exelon Generation, L.L.C. Illinois Power requests an effective date of January 1, 2002 for the agreement and seeks a waiver of the Commission's notice requirement. Illinois Power states that a copy of this filing has been sent to Exelon Generation, L.L.C.

Comment Date: January 16, 2002.

7. Xcel Energy Services Inc.

[Docket No. ER02–612–000]

Take notice that on December 26, 2001, Xcel Energy Services Inc. (XES), on behalf of Southwestern Public Service (SPS), submitted for filing an Interconnection Agreement between SPS and Texas New Mexico Power Company.

SPS requests that the Commission accept the agreement effective December 9, 2001, and requests waiver of the Commission's notice requirements in order for the agreements to be accepted for filing on the date requested.

Comment Date: January 16, 2002.

8. Calpine Energy Services, L.P.

[Docket No. ER02–614–000]

Take notice that on December 27, 2001, Calpine Energy Services, L.P., (the Applicant) tendered for filing, under section 205 of the Federal Power Act, an amendment to its rate schedule for authorization to make wholesale sales of certain ancillary services at market-based rates, to reassign transmission capacity, and to resell firm transmission rights.

Comment Date: January 17, 2002.

9. Western Resources, Inc.

[Docket No. ER02–616–000]

Take notice that on December 26, 2001, Western Resources, Inc. (WR) tendered for filing a Service Agreement between WR and Energy USA—TPC Corp. WR states that the purpose of this

agreement is to permit Energy USA—TPC Corp. to take service under WR's Market Based Power Sales Tariff on file with the Commission. This agreement is proposed to be effective December 21, 2001.

Copies of the filing were served upon Energy USA—TPC Corp. and the Kansas Corporation Commission.

Comment Date: January 16, 2002.

10. New York Independent System Operator, Inc.

[Docket No. ER02–617–000]

Take notice that on December 27, 2001, the New York System Operator, Inc. (NYISO) tendered for filing proposed revisions and additions to its Market Administration and Control Area Services Tariff (Services Tariff) designed to provide for payments to qualified suppliers of voltage support service. The NYISO has requested that the Commission act on this filing in an expedited manner, waive its usual 60-day notice period requirement and make the filing effective no later than January 1, 2002.

The NYISO has served a copy of this filing on all persons that have executed Service Agreements under the NYISO Services Tariff or the NYISO Open Access Transmission Tariff, on the New York Public Service Commission, and on the electric utility regulatory agencies in New Jersey and Pennsylvania. The NYISO has also emailed a copy of this filing to all of the subscribers to the NYISO Technical Information Exchange list.

Comment Date: January 17, 2002.

11. Mid-Continent Area Power Pool

[Docket No. ER02–618–000]

Take notice that on December 28, 2001, the Mid-Continent Area Power Pool (MAPP), on behalf of its public utility members, filed long-term firm point-to-point service agreements under MAPP Schedule F with Split Rock Energy and Utilicorp United, Inc.

Comment Date: January 18, 2002.

12. Public Service Company of New Mexico

[Docket No. ER02–619–000]

Take notice that on December 27, 2001, Public Service Company of New Mexico (PNM) filed a Notice of Cancellation with the Federal Energy Regulatory Commission (Commission) with respect to Amended and Restated Service Schedule C—Electric Service, under the Interconnection Agreement between PNM and the City of Farmington, New Mexico (COF) (Supplement No. 8 to PNM Rate Schedule FERC No. 51). Pursuant to the provisions of Amended and Restated Service Schedule C (Service Schedule C), Public Service Company of New Mexico provided notice to COF of its intent to terminate the service schedule. Consistent with the provisions of Service Schedule C, PNM's notice of termination and the notice requirements of 18 CFR 35.15, PNM requests that cancellation of Supplement No. 8 (as supplemented) to PNM Rate Schedule FERC No. 51 become effective on March 1, 2002.

A copy of the filing has been served upon COF and an informational copy was provided to the New Mexico Public Regulation Commission. The Notice of Cancellation is available for public inspection during normal business hours at PNM's offices in Albuquerque, New Mexico.

Comment Date: January 17, 2002.

13. Florida Power & Light Company

[Docket No. ER02–620–000]

Take notice that on December 27, 2001 Florida Power & Light Company (FPL) tendered for filing a proposed service agreement with City of Homestead for Long-Term Firm transmission service under FPL's Open Access Transmission Tariff.

FPL requests that the proposed service agreement becomes effective on December 21, 2001.

FPL states that this filing is in accordance with Section 35 of the Commission's regulations.

Comment Date: January 17, 2002.

14. Exelon Generation Company, LLC

[Docket No. ER02–621–000]

Take notice that on December 27, 2001, Exelon Generation Company, LLC (Exelon Generation) submitted for filing a power sales service agreement between Exelon Generation and Dynegy Power Marketing, Inc., under Exelon Generation's wholesale power sales tariff, FERC Electric Tariff Original Volume No. 2.

Comment Date: January 17, 2002.

15. New England Power Company

[Docket No. ER02–622–000]

Take notice that on December 27, 2001, New England Power Company (NEP) tendered for filing First Revised Service Agreement No. 4 for service under NEP's Wholesale Market Sales Tariff, FERC Electric Tariff, Original Volume No. 10 between NEP and Constellation Power Source, Inc.

Comment Date: January 17, 2002.

16. NewCorp Resources Electric Cooperative, Inc.

[Docket No. ER02–623–000]

Take notice that on December 27, 2001, NewCorp Resources Electric Cooperative, Inc. (NCR) tendered for filing with the Federal Energy Regulatory Commission (Commission) amendments to its Tariff for Electric Service (Tariff), which was previously accepted by the Commission in Docket No. ER95–973–000, and was revised pursuant to a notice of succession accepted in Docket No. ER97–1689–000. NCR proposes to change its rate design without increasing its tariff rates in order to unbundle the transmission service component from the power sales component of its rates, to true up its cost-of-service formula based on actual costs for 2000, to modify its purchased power adjustment clause to eliminate monthly demand cost adjustments, and to revise the list of delivery points for Cap Rock Electric Cooperative, Inc. NewCorp proposes that these changes be allowed to take effect on January 1, 2002, and requests waiver of notice requirements to allow this effective date.

Comment Date: January 17, 2002.

17. Allegheny Power Service Corporation, on behalf of Monongahela Power Company, The Potomac Edison Company, and West Penn Power Company (Allegheny Power)

[Docket No. ER02–624–000]

Take notice that on December 26, 2001, Allegheny Power Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power), filed Service Agreement No. 368 to add Exelon Generation Company, L.L.C. to Allegheny Power's Open Access Transmission Service Tariff which has been accepted for filing by the Federal Energy Regulatory Commission. The proposed effective date under the Service Agreement is January 1, 2002.

Comment Date: January 16, 2002.

18. Pinnacle West Capital Corporation

[Docket No. ER02–625–000]

Take notice that on December 26, 2001, Pinnacle West Capital Corporation (PWCC) tendered for filing with the Federal Energy Regulatory Commission (FERC or Commission) a Service Agreement, Rate Schedule FERC No. 5, under PWCC's rate Schedule FERC No. 1 for service to Tohono O'odham Utility Authority (TOUA).

A copy of this filing has been served on TOUA.

Comment Date: January 16, 2002.

19. West Penn Power Company

[Docket No.ER02–626–000]

Take notice that on December 26, 2001, Allegheny Energy Service Corporation on behalf of West Penn Power Company (West Penn), submitted a Notice of Cancellation of Service Agreement No. 15 (including its Amendments and Supplements) with the Borough of Tarentum, a customer under West Penn's Rate Schedule designated as FERC Electric Tariff, First Revised Volume No. 1.

West Penn has requested that the cancellation be effective March 16, 2002.

Comment Date: January 16, 2002.

20. Carolina Power & Light Company

[Docket No. ER02–627–000]

Take notice that on December 27, 2001, Progress Energy, Inc. (Progress Energy), on behalf of Carolina Power & Light Company (CP&L), tendered for filing with the Federal Energy Regulatory Commission (Commission) revised service agreements (Revised Service Agreements) executed by Florida Power Corporation (FPC) under CP&L's open-access transmission tariff (OATT), FERC Electric Tariff, Third Revised Volume No. 3 (CP&L's OATT), to comply with the Commission's June 25, 2001, September 21, 2001 and November 26, 2001 orders in Docket Nos. ER01–1807–007, et al. and ER01–2020–000, et al. See Carolina Power & Light Co. and Florida Power Corp., 95 FERC ¶ 61,429 (2001). Progress Energy also tendered for filing an index of FPC's Service Agreements as filed under CP&L's OATT.

Progress Energy respectfully requests that the Revised Service Agreements become effective on the date set forth on the cover sheet for each Revised Service Agreement.

Copies of the filing were served upon the Commission's official service list and the North Carolina Utilities Commission, the South Carolina Public Service Commission and the Florida Public Service Commission.

Comment Date: January 17, 2002.

21. El Paso Electric Company, Public Service Company of New Mexico, Texas-New Mexico Power Company

[Docket No. ER02–628–000]

Take notice that on December 27, 2001, El Paso Electric Company, Public Service Company of New Mexico, and Texas-New Mexico Power Company (collectively, Utilities) jointly tendered for filing an Interconnection Agreement between the Utilities and Duke Energy Luna, LLC under each of the Utilities' Open-Access Transmission Tariffs. The Utilities request that the Interconnection Agreement be permitted to become effective on December 26, 2001. The Utilities state that this filing is in accordance with part 35 of the Commission's regulations, 18 CFR 35, and that a copy has been served on the Texas Public Utility Commission and the New Mexico Public Regulation Commission.

Comment Date: January 17, 2002.

22. Talbot EMC

[Docket No. ER02–629–000]

Take notice that on December 27, 2001, Talbot EMC tendered for filing with the Federal Energy Regulatory Commission (Commission) an initial rate schedule pursuant to Section 205 of the Federal Power Act and Section 35.12 of the Commission's Regulations.

This filing consists of the Power Purchase Agreements, dated as of November 1, 2001, between Talbot EMC and each of its 30 member distribution cooperatives (the Members) pursuant to which Talbot EMC will sell power and/or energy to those Members. Copies of the filing were served upon all of the Members.

Talbot EMC is seeking wiavers of certain Commission requirements as part of this filing.

Comment Date: January 17, 2002.

23. Exelon Generation Company, LLC

[Docket No. ER02–630–000]

Take notice that on December 27, 2001, Exelon Generation Company, LLC (Exelon Generation), submitted for filing a power sales service agreement between Exelon Generation and Old Dominion Electric Cooperative under Exelon Generation's wholesale power sales tariff, FERC Electric Tariff Original Volume No. 2.

Comment Date: January 18, 2002.

24. Exelon Generation Company, LLC

[Docket No. ER02–631–000]

Take notice that on December 28, 2001, Exelon Generation Company, LLC (Exelon Generation), submitted for filing a power sales service agreement between Exelon Generation and Mirant Americas Energy Marketing, LP under Exelon Generation's wholesale power sales tariff, FERC Electric Tariff Original Volume No. 2.

Comment Date: January 18, 2002.

25. Exelon Generation Company, LLC

[Docket No. ER02–632–000]

Take notice that on December 28, 2001, Exelon Generation Company, LLC (Exelon Generation), submitted for filing a power sales service agreement between Exelon Generation and The New Power Company under Exelon Generation's wholesale power sales tariff, FERC Electric Tariff Original Volume No. 2.

Comment Date: January 18, 2002.

26. Commonwealth Edison Company

[Docket No. ER02–633–000]

Take notice that on December 28, 2001, Commonwealth Edison Company (ComEd) submitted for filing an unexecuted Service Agreement for Short-Term Firm Point-to-Point Transmission Service and an associated unexecuted Dynamic Scheduling Agreement with Exelon Generation Company, LLC (Exelon).

ComEd requests an effective date of January 1, 2002 and accordingly seeks waiver of the Commission's notice requirements.

Copies of the filing were served on Exelon and Ormet.

Comment Date: January 18, 2002.

27. Delmarva Power & Light Company

[Docket No. ER02–634–000]

Take notice that on December 28, 2001, Delmarva Power & Light Company (Delmarva) tendered for filing an Interconnection Agreement between Delmarva and the Delaware Municipal Electric Corporation (DEMEC). The Interconnection Agreement provides for the interconnection of DEMEC's generating facilities with the Delmarva transmission system.

Delmarva respectfully requests that the Interconnection Agreement become effective on December 31, 2001.

Copies of the filing were served upon the Delaware Public Service Commission, the Maryland Public Service Commission and the Virginia State Corporation Commission.

Comment Date: January 18, 2002.

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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–394 Filed 1–7–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM02–1–000]

Standardization of Generator Interconnection Agreements and Procedures; Notice of Staff Public Meeting

January 3, 2002.

In October 2001, the Federal Energy Regulatory Commission (Commission) issued an Advance Notice of Proposed Rulemaking seeking comments on a standard generator interconnection agreement and procedure that would be applicable to all public utilities that own, operate, or control transmission facilities under the Federal Power Act. As part of this process, on January 11, 2002, the Generator Interconnection Coalition [1] (Coalition) will file a single consensus document that will include a standard connection agreement and a standard interconnection procedures document.

The Commission staff will hold public meetings on Thursday, January 17, 2002, and Friday, January 18, 2002, to discuss and clarify the consensus document. The meetings are scheduled to take place each day from 9 a.m. to 5 p.m in the Commission Meeting Room at the Federal Energy Regulatory Commission, 888 First St. NE, Washington, DC.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–470 Filed 1–7–02; 8:45 am]

BILLING CODE 6717–01–P

[1] The Coalition includes representatives from: generators, marketers, transmission owners, industrial power producers, transmission dependent utilities, regional transmission organizations, independent system operators, distributed resources and state commissions. A list of the Coalition Members is included in Attachment 1 of the Coalition's Status Report, which was filed in this docket on December 14, 2001.

ENVIRONMENTAL PROTECTION AGENCY

[GA–057–1–200210; FRL–7125–6]

Adequacy Status of the Atlanta, Georgia, Ozone Attainment Demonstration for Transportation Conformity Purposes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of adequacy.

SUMMARY: In this action, EPA is notifying the public that we have found the motor vehicle emissions budgets in the Atlanta, Georgia, ozone attainment demonstration submitted on July 1, 2001, adequate for conformity purposes. On March 2, 1999, the D.C. Circuit Court ruled that submitted State Implementation Plans (SIPs) cannot be used for conformity determinations until EPA has affirmatively found them adequate. As a result of our finding, the Atlanta ozone nonattainment area must use the motor vehicle emissions budgets from the submitted ozone attainment demonstration for future conformity determinations.

DATES: This finding is effective January 23, 2002.

FOR FURTHER INFORMATION CONTACT: The finding and the response to comments will be available at EPA's conformity Web site: *http://www.epa.gov/oms/traq,* (once there, click on the ''Conformity'' button, then look for ''Adequacy Review of SIP Submissions for Conformity'').

The SIP is available for public viewing at the United States Environmental Protection Agency, 61 Forsyth Street, S.W., Atlanta, Georgia, 30303. You can request a copy of the SIP submission by contacting Kelly Sheckler, Air Quality Modeling and Transportation Section, United States Environmental Protection Agency, 61 Forsyth Street, S.W., Atlanta, Georgia 30303, phone: (404) 562–9042, fax: (404) 562–9019, e-mail: *Sheckler.Kelly@epa.gov.*

SUPPLEMENTARY INFORMATION:

Background

This notice is simply an announcement of a finding that we have already made. EPA Region 4 sent a letter to the Georgia Environmental Protection Division on December 20, 2001, stating that the motor vehicle emissions budgets in the Atlanta, Georgia, ozone attainment demonstration for 2004 are adequate. This finding has been announced on EPA's conformity website referenced above.

EPA Region 4 received comments on the motor vehicle emissions budget for transportation conformity purposes contained in the Atlanta, Georgia, 1-hour ozone attainment demonstration. EPA Region 4 has prepared a response to those comments and has posted the response on the website referenced above.

Transportation conformity is required by section 176(c) of the Clean Air Act. EPA's conformity rule requires that transportation plans, programs, and projects conform to SIPs and establishes the criteria and procedures for determining whether or not they do. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards.

We have described our process for determining the adequacy of submitted SIP budgets in guidance (May 14, 1999 memo titled ''Conformity Guidance on Implementation of March 2, 1999 Conformity Court Decision''). This guidance was used in making our adequacy determination. The criteria by which we determine whether a SIP's motor vehicle emission budgets are adequate for conformity purposes are outlined in 40 CFR 93.118(e)(4). Please note that an adequacy review is separate from EPA's completeness review, and it also should not be used to prejudge EPA's ultimate action to approve or disapprove the SIP. The SIP could later be disapproved for reasons unrelated to the transportation conformity even though the budgets have been deemed adequate.

Authority: 42 U.S.C. 7401–7671q.

Dated: December 20, 2001.

Mike Peyton,

Acting Regional Administrator, Region 4.

[FR Doc. 02–410 Filed 1–7–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7126–9]

Notice of Withdrawal of Proposed Prospective Purchaser Agreement in Relation to the Metcoa Radiation Superfund Site, Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as Amended by the Superfund Amendments and Reauthorization Act of 1986

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Notice is hereby given of withdrawal by the Prospective Purchaser from a proposed Prospective Purchaser Agreement and Covenant Not To Sue, executed between the United States, on behalf of the U.S. Environmental Protection Agency (''EPA''), and Medure Development LLC (''Prospective Purchaser'') in accordance with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9601–9675, as amended (''CERCLA''). EPA and the U.S. Department of Justice consent to the withdrawal. Therefore, the Agreement will not take effect. The withdrawn agreement concerned the Metcoa Radiation Superfund Site (''Site'') located on Route 551 and Metallurgical Way, approximately one-half mile north of the center of the village of Pulaski, and Route 208 in Pulaski, Lawrence County, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Humane L. Zia (3RC41), Assistant Regional Counsel, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103; phone: (215) 814–3454.

SUPPLEMENTARY INFORMATION: The Environmental Protection Agency previously published in the **Federal Register** a Notice of Prospective Purchaser Agreement and Request for Public Comment, 65 FR 77876 (December 13, 2000), and a Notice of Reopening of Public Comment Period, 66 FR 8234 (January 30, 2001), concerning this Prospective Purchaser Agreement.

Dated: January 2, 2002.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

[FR Doc. 02–411 Filed 1–7–02; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

December 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 February 7, 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.:* 3060–0054.

Title: Application for Exemption From Ship Station Requirements.

Form No.: FCC Form 820.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit; and individuals for household.

Number of Respondents: 250.

Estimated Time Per Response: 1.166 hours.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 292 hours.

Total Annual Cost: $36,000.

Needs and Uses: FCC rules require this collection of information when exemptions from radio provisions of statute, treaty or international agreements are requested. The data is used by examiners to determine the applicant's qualifications for the requested exemption. The data collected on this form includes the applicant's Taxpayer Identification Number. However, this information will be redacted from public view. This form has been revised to include FCC Registration Number and to correct mailing addresses in the general instructions, where to file completed applications and filing for emergency requests. The estimated average burden and number of respondents has been corrected based on receipts for the past 2 years.

Federal Communications Commission.

Wiliam F. Caton,

Deputy Secretary.

[FR Doc. 02–366 Filed 1–7–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comments Requested

December 28, 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 March 11, 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 Les Smith, Federal Communications Commissions, Room 1A–804, 445

Twelfth Street, SW., Washington, DC 20554 or via the Internet to *lesmith@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at *lesmith@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Approval Number: 3060–0170.

Title: Section 73.1030 Notifications concerning interference to radio astronomy, research and receiving installations.

Form No.: None.

Type of Review: Extension of currently approved collection.

Respondents: Businesses or other for-profit.

Number of Respondents: 57.

Estimated Hours Per Response: 1.5 hours (0.5 hours respondents; 1 hour contact consulting engineer).

Frequency of Response: Reporting, on occasion.

Cost to Respondents: $8,550.

Estimated Total Annual Burden: 29 hours.

Needs and Uses: Section 73.1030 requires licensees to provide written notification to the Interference Office at Green Bank, West Virginia, the Observatories at Green Bank, West Virginia, Sugar Grove, West Virginia, or the Arecibo Observatory, setting forth the particulars of a proposed station. The data are used by the Interference Office/Observatories to enable them to file comments or objections with the FCC in response to the notification in order to minimize potential interference.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. 02–369 Filed 1–7–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collections Approved by Office of Management and Budget

December 21, 2001.

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collections pursuant to the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid control number. For further information contact Shoko B. Hair, Federal Communications Commission, (202) 418–1379.

Federal Communications Commission

OMB Control No.: 3060–0056.

Expiration Date: December 31, 2004.

Title: Part 68—Connection of Terminal Equipment to the Telephone Network.

Form No.: N/A.

Respondents: Business or other for-profit; Individuals or household.

Estimated Annual Burden: 54,369 respondents; .10 minutes—24 hours per respondent; 2.1 hours per response (avg.); 117,959 total annual burden hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $2,705,000.

Frequency of Response: On occasion; Recordkeeping; Third Party Disclosure.

Description: In the Telecommunications Act of 1996 (1996 Act), Congress directed the Commission to review its rules every even-numbered year and repeal or modify those found to be no longer in the public interest. Consistent with the directive of Congress, in the year 2000, the Commission undertook its second comprehensive biennial review of the Commission's rules to eliminate regulations that are no longer necessary because the public interest can be better served through reliance on market forces. In a Report and Order issued in CC Docket No. 99–216, Biennial Regulatory Review of Part 68 of the Commission's Rules and Regulations, released December 21, 2000 (Order), the Commission completely eliminate significant portions of Part 68 of our rules governing the connection of customer premises equipment (terminal equipment) to the public switched telephone network and privatize the standards development and terminal equipment approval processes. Specifically, in the Commission transferred responsibility for developing technical criteria to Standards Development Organizations (SDOs) that are accredited by the American National Standards Institute (ANSI), and the responsibility for compiling and publishing all standards ultimately adopted as technical criteria for terminal equipment to the Administrative Council for Terminal Attachments (Administrative Council). The Commission maintains its rules' broad principles, including a proscription against causing any of four harms to the public switched telephone network by the direct connection of terminal equipment. Once the Administrative Council publishes the technical criteria, the Commission shall presume the criteria to be valid for the prevention of the harms to the public switched telephone network by terminal equipment interconnection, subject to *de novo* review by petition to this Commission. Conformance with the technical criteria will be considered a demonstration of compliance with the Commission's rules prohibiting terminal equipment from harming the public switched telephone network. Terminal equipment manufacturers either will submit their products to telecommunications certification bodies (TCBs) for certification of conformity with the technical criteria (instead of submitting them for registration with the Commission), or they will use the Commission's Supplier's Declaration of Conformity (SDoC) process to show conformity with the technical criteria. This process will be more efficient and responsive to the needs of all segments of the industry, and remove the Commission from a role where governmental involvement is no longer necessary or in the public interest. Following is a summary of the collections contained in the Order and 47 CFR part 68. See the Order and 47 CFR part 68 for additional information. a. Administrative Council for Terminal Attachment's Requirements—Currently, under rule 68.102 manufacturers must register terminal equipment. FCC Form 730 is no longer required to be used to obtain registration of telephone equipment pursuant to part 68 of the Commission's rules, but applicants may be required to file information with Telecommunications Certification Bodies or with the Administrative Council for Terminal Attachments. The Commission has ceased accepting applications for registration of part 68 equipment and transferred responsibility for establishing and maintaining the database of approved equipment to the Administrative Council. While continued collection of the information formerly required by FCC Form 730 is permitted, the Commission only requires that the database contain sufficient information for providers of telecommunications, this Commission and the U.S. Customs Service to carry out their functions. (No. of respondents: 2400; hours per response: 24 hours; total annual burden: 57,600 hours). b. Section 68.106—Notification to Provider of Wireline Telecommunications—Section 68.106 requires customers connecting terminal equipment or protective circuitry to the public switched telephone network shall, upon request of the provider of wireline telecommunications inform the provider of wireline

telecommunications of the particular line(s) to which such connection is made, and any other information required to be placed on that terminal equipment pursuant to Section 68.354. Customers connecting systems assembled of combinations of individually-approved terminal equipment and protective circuitry shall provide, upon the request of the provider of wireline telecommunications, provide the information delineated in Section 68.106(b)(i)–(iv). Customers who intend to connect premises wiring other than fully protected premises wiring to the public switched telephone network shall, in addition to the requirements in Section 68.106(b), give notice to the provider of wireline telecommunications in accordance with Section 68.215(e). (No. of respondents: 50,000; hours per response: .05 hours; total annual burden: 2500 hours). c. Section 68.108, Notification of Incidence of Harm—Section 68.108 requires that providers of wireline telecommunications notify the customer that temporary discontinuance of service may be required should terminal equipment, inside wiring, plugs and jacks, or protective circuitry cause harm to the public switched telephone network or should the provider reasonably determinate that such harm is imminent. (No. of respondents: 7500; hours per response: 0.5 hours; total annual burden: 750 hours). d. Section 68.110, Disclosure of Technical Information—Section 68.110(a) requires provider of wireline telecommunications to provide, upon request, technical information concerning interface parameters not specified by the technical criteria published by the Administrative Council for Terminal Attachments that are needed to permit terminal equipment to operate in a manner compatible with the communications facilities of a provider of wireline telecommunications. Section 68.110(b) requires that a provider of wireline telecommunications give the customer adequate notice in writing if changes can be reasonably expected to render any customer's terminal equipment incompatible with the communications facilities of the provider of wireline telecommunications, or require modification or alteration of such terminal equipment, or otherwise materially affect its use or performance. (No. of respondents: 40; hours per response: .50 hours; total annual burden: 20 hours). Section 68.110(c) requires provider of wireline telecommunications to provide building owners with all available information regarding carrier-installed wiring on the customer's side of the demarcation point, including copies of existing schematic diagrams and service records. (No. of respondents: 200, with 1200 responses; hours per response: 1 hours; total annual burden: 1200 hours). e. Section 68.215, Notarized Affidavit—Section 68.215 requires that a notarized affidavit and one copy thereof be prepared by the installation supervisor in advance of each operation associated with the installation, connection, reconfiguration and removal of other than fully-protected premises wiring (except when accomplished functionally using a cross-connect panel), except when involved with removal of the entire premises communications systems using such wiring. The affidavit and its copy must contain the information specified in 47 CFR 68.215(e)(1)–(9). (No. of respondents: 7500; hours per response: .50 hours; total annual burden: 3750 hours). f. Section 68.218, Compliance Warrants—Section 68.218 requires that the responsible party warrants that each unit of equipment marketed under such authorization will comply with all applicable rules and regulations of part 68 and with the applicable technical criteria of the Administrative Council for Terminal Attachments. (No. of respondents: 974, with 2350 responses; hours per response: .5 hours; total annual burden: 1175 hours).

g. Section 68.324, Supplier's Declaration of Conformity—Section 68.324(a)(1)–(6) lists the information that each responsible party must include in the Supplier's Declaration of Conformity. (No. of respondents: 974, with 2350 responses; hour per response: 20 hours; total annual burden: 47,000 hours). h. Section 68.326, Retention of Records—Section 68.326 requires that responsible party for a Supplier's Declaration of Conformity maintains records containing the information specified in Section 68.326(a)(1)–(4) for at least ten years after the manufacture of said equipment has been permanently discontinued, or until the conclusion of an investigation or a proceeding, if the responsible party is officially notified prior to the expiration of such ten year period that an investigation or any other administrative proceeding involving its equipment has been instituted, whichever is later. See 47 CFR 68.326. (No. of respondents: 974, with 2350 responses; hours per response: .5 hours; total annual burden: 1175 hours). i. Section 68.346, Description of Testing Facilities—Section 68.346 requires that each responsible party for equipment that is subject to a Supplier's Declaration of Conformity compiles and retains a description of the measurement facilities employed for testing the equipment. The description shall contain the information required by the Administrative Council for Terminal Attachments. See 47 CFR Section 68.346. (No. of respondents: 974, with 2350 responses; hours per response: .25 hours; total annual burden: 587 hours). j. Section 68.354, Numbering and Labeling Requirements—Section 68.354 requires that terminal equipment and protective circuitry that is subject to a Supplier's Declaration of Conformity or that is certified by a Telecommunications Certification Body have labels in a place and manner required by the Administrative Council for Terminal Attachments. Terminal equipment labels shall include an identification numbering system in a manner required by the Administrative Council for Terminal Attachments. FCC numbering and labeling requirements existing prior to the effective date of these rules shall remain unchanged until the Administrative Council for Terminal Attachments publishes its numbering and labeling requirements. See 47 CFR 68.354. See also 47 CFR 68.612. (No. of respondents: 974, with 2350 responses: .25 hours; total annual burden: 587 hours). k. Sections 68.400—68.417, Complaints. A complaint must be in writing and contain the information specified in Section 68.400(a)–(d). (No. of respondents: 5; hours per response: 20 hours; total annual burden: 20 hours). l. Section 68.418, Designation of Agents for Service—Pursuant to Section 68.418, every responsible party of equipment approved pursuant to part 68 must designate and identify one or more agents upon whom service may be made of all notices, inquiries, orders, decisions, and other pronouncements of the Commission in any matter before the Commission. See 47 CFR Section 68.418. (No. of respondents: 974, with 2350 responses: hours per response: .1 hour; total annual burden: 235 hours). m. Section 68.419, Answers to Informal complaints—Section 68.419 requires that any responsible party to whom the Commission or the Consumer Information Bureau directs an informal complaint file an answer within the time specified by the Commission or the Consumer Information Bureau, as required by in Section 68.419(a)–(e). (No. of respondents: 5; hours per response: 20 hours; total annual burden: 100 hours). n. Section 68.604, Requirements for submitting technical criteria—Any SDO that submits

standards to the Administrative Council for Terminal Attachments for publication as technical criteria shall certify to the Administrative Council for Terminal Attachments the information found in Section 68.604(c)(1)–(3). See 47 CFR Section 68.604. (No. of respondents: 5, with 10 responses; hours per burden: 5 hours; total annual burden: 5 hours). o. Section 68.610, Database of Terminal Equipment—Section 68.610 requires that the Administrative Council for Terminal Attachments operates and maintains a database of all approved terminal equipment. (No. of respondents: 974, with 2350 responses; hours per response: .5 hours; total annual burden: 1175 hours). To ensure that consumers, providers of telecommunications, the Administrative Council, TCBs, and the Commission are able to trace products to the party responsible for placing terminal equipment on the market, it is essential to require manufacturers and suppliers to provide the information specified in the Order and 47 CFR part 68. Authority: 47 U.S.C. 151–154; 47 U.S.C. 201–205; 47 U.S.C. 303. Obligation to respond: Required to obtain or retain benefits.

OMB Control No.: 3060–0972.

Expiration Date: June 30, 2002.

Title: Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers (LECs) Subject to Rate-of-Return Regulation.

Form No.: N/A.

Respondents: Business or other for-profit.

Estimated Annual Burden: 8059 respondents; 4.8 hours per response (avg.); 38,760 total annual burden hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $228,000.

Frequency of Response: On occasion; Quarterly; Annually; One-time; Third Party Disclosure.

Description: In the Second Report and Order in CC Docket Nos. 00–256, Fifteenth Report and Order in CC Docket No. 96–45, and Report and Order in CC Docket Nos. 98–77 and 98–166 (Report and Order), consistent with the recommendation of the Federal-State Joint Board on Universal Service, the Commission modifies its rules to reform the interstate access charge and universal service support system for incumbent local exchange carriers (LECs) subject to rate of return regulation. Below are summaries of the collections imposed on telecommunications carriers based on rules adopted in the Report and Order: a. Projected Revenue Requirements: In order to enable the Administrator to calculate per-line amounts of Interstate Common Line Support, rate-of-return carriers other than average schedule companies shall report to the Administrator their projected common line revenue requirement for each study area in which they operate. (No. of respondents: 769; hours per response: 2 hours; total annual burden: 1538 hours). In order to enable the Administrator to begin distributing Interstate Common Line Support to carriers on July 1, 2002, rate-of-return carriers will be required to submit to the Administrator projected common line revenue requirements for July 1, 2002, to June 30, 2003, by March 31, 2002. Consistent with carrier access tariff filing obligations and NECA's current procedures for the filing of revenue requirements by members of the carrier common line pool, the Commission will permit carriers to submit to the Administrator corrections of their projected common line revenue requirements until April 10, 2002. After April 10, 2002, any corrections to projected common line revenue requirements shall be made in the form of true ups, described below, using actual cost data. Rate-of-return carriers will be required to submit to the Administrator projected common line revenue requirements for subsequent years on the same schedule. (No. of respondents: 531; hours per response: 2 hours; total annual burden: 1062 hours). b. True Ups: On July 31st of each year, rate-of-return carriers will be required to submit actual interstate common line cost data to the Administrator for the preceding calendar year. The first date for filing actual cost data shall be July 31, 2003. The Administrator shall adjust a rate-of-return carrier's monthly per-line Interstate Common Line support in the following calendar year (i.e., January 1, 2004 through December 31, 2004) to the extent of any difference between the carrier's projected common line revenue requirement and its actual cost data. Because the July 1, 2003, filing will only include cost data for the first six months that Interstate Common Line Support is available (July 1, 2002, through December 31, 2002), trued-up support amounts distributed in the calendar year 2004 will be based on a pro-rated share of the 2002 annual cost data (i.e., 50 percent of the 2002 actual costs will be attributed to the final six months of 2002). Trued-up support amounts distributed in subsequent calendar years will be based on complete funding year cost data. (No. of respondents: 769; hours per response: 4 hours; total annual burden: 3076 hours). In order to provide rate-of-return carriers with opportunities to true up support amounts on a more frequent basis, the Commission will permit carriers to file updated cost data with the Administrator on a quarterly basis. Quarterly true ups will enable carriers that experience unforeseen costs to qualify for increased Interstate Common Line Support amounts. Quarterly true ups also will reduce risks associated with receiving Interstate Common Line Support based on a projected common line revenue requirement. Carriers wishing to submit cost data on a quarterly basis will file such data in accordance with the schedule provided in section 36.612 of the rules. (No. of respondents: 100; hours per response: 2 hours; total annual burden: 200 hours).

c. Line Counts: Consistent with rules adopted in the Rural Task Force Order, rate-of-return carriers will file their line counts, by disaggregation zone and customer class, in accordance with the schedule in sections 36.611 and 36.612 of our rules. Line count data for rural rate-of-return carrier study areas in which a competitive eligible telecommunications carrier has not begun providing service will be filed on an annual basis. Line count data will be filed on a regular quarterly basis upon competitive entry in rural rate-of-return carrier study areas. (No. of respondents: 1300; hours per response 6 hours: total annual burden: 7800 hours). Competitive eligible telecommunications carriers will file their line counts, by disaggregation zone and customer class on a quarterly basis, in accordance with the schedule in section 54.307 of our rules. (No. of respondents: 10; hours per response: 6 hours; total annual burden: 60 hours). d. Disaggregation Plans: Consistent with section 254 of the Act, we conclude that the plan for the geographic disaggregation and targeting of portable high-cost universal service support below the study area level recently adopted in the Rural Task Force Order will also apply to Interstate Common Line Support. To ensure the portability and predictability of support, rate-of-return carriers that elect to disaggregate and target support will be required to submit maps to the Administrator in which the boundaries of the designated disaggregation zones are clearly specified. The Administrator will make such maps available for public inspection by competitors and other interested parties. When submitting information in support of Path Three self-certification, incumbent carriers must provide the Administrator with publicly available information that allows competitors to verify and reproduce the algorithm used to determine zone support levels (Self-

Certification of Disaggregation Plan). Similarly, carriers electing Path One must submit to the Administrator a copy of certifications to a state commission or appropriate regulatory authority that they will not disaggregate and target support (Notification to State of Change in Disaggregation Methodology). Carriers selecting Path Two must submit a copy to the Administrator of the order by the state commission or appropriate regulatory authority approving the disaggregation plan submitted, along with a copy of the disaggregation plan itself (Targeting Plan to State). The Commission extends until May 15, 2002, the date by which carriers will be required to select a disaggregation path for high-cost loop, LTS, LSS, and Interstate Common Line Support mechanisms. (No. of respondents: 100; hours per response: 1 hour; total annual burden 100 hours) e. Section 254(e) Certifications: Section 254(e) provides that a carrier receiving universal service support must use that support ''only for the provision, maintenance, and upgrading of facilities and service for which the support is intended.'' In the Rural Task Force Order, the Commission sets forth rules requiring a state that wishes to receive federal universal service high-cost support for rural carriers within its territory to file a certification with the Commission stating that all federal high-cost funds flowing to rural carriers in such state will be used in a manner consistent with section 254(e). In addition, in the Interstate Access Support Order, the Commission adopted certification rules for the receipt of interstate access support. In the Rural Task Force Order, the Commission addressed federal universal service support for intrastate rates and the Commission required states to file a certification of section 254(e) compliance with the Commission because states have jurisdiction over rates for intrastate services. In this Order, the Commission addresses federal support for interstate rates, a matter over which the Commission has jurisdiction. Thus, to ensure that carriers receiving Interstate Common Line Support and LTS will use that support in a manner consistent with section 254(e), the Commission shall require carriers seeking such support to file a certification with the Commission and the Administrator. This requirement is consistent with rules adopted in the Interstate Access Support Order. This certification requirement will be applicable to rate-of-return carriers and eligible telecommunications carriers seeking support from our Interstate Common Line Support mechanism. The certification shall be filed with the Commission and the Administrator on March 31, 2002, at the same time a carrier files its first set of line count data with the Administrator. Such certification shall be filed in CC Docket No. 96–45 annually thereafter on June 30th. The certification may be filed in the form of a letter and must state that the carrier will use its Interstate Common Line Support and LTS only for the provision, maintenance, and upgrading of facilities and service for which support is intended. In the event that a certification is filed untimely, the carrier will not become eligible for support until the second calendar quarter after the certification is filed. Failure to file a certification will preclude a carrier from receiving Interstate Common Line Support or LTS. Carriers that fail to abide by their certification, or otherwise violate section 254(e), shall be subject to enforcement action by the Commission. (No. of respondents: 1300; hours per response: 2 hours; total annual burden: 2600 hours). f. Required tariff filings: All rate-of-return carriers are required to modify their access tariffs to comply with the new Subscriber Line Charge (SLC) caps, to become effective on January 1, 2002, and on July 1, 2002, and July 1, 2003 subject to a cost review study for price cap carriers. Rate-of-return carriers also must file tariffs to recover through a separate end-user charge the costs of ISDN line ports and line ports associated with other services that exceed the costs of a line port used for basic analog service. (No. of respondents: 116; hours per response: 69.9 hours (avg.); total annual burden: 8110 hours). g. Optional Line Port Cost Study: Rate-of-return carriers may use 30 percent of local switching costs as a proxy in shifting line port costs to the common line category, or may conduct a cost study based on geographically-averaged costs to be submitted in support of the tariff filing relying on the cost study. A carrier may rely on a cost study for subsequent tariff filings. (No. of respondents: 12; hours per response 40 hours; total annual burden: 480 hours). h. Establishment of TIC Caps: NECA is required to establish for carriers that participated in the NECA pool during the tariff year ending June 30, 2001, an individual carrier dollar limit based on its traffic volumes and the TIC rate for the twelve-month period ending June 30, 2001. Each carrier that was not in the pool during the tariff year ending on June 30, 2001, must determine its TIC limit and report it to NECA for purposes of administering future pool membership changes. (No. of respondents: 1186; hours per response: .13 hours; total annual burden: 2.6 hours). i. Optional tariff filings: Rate-of-return carriers may, at their option, establish the following local switching and transport rate elements: a flat charge for dedicated trunk port costs; a flat charge for the costs of DS1/voice grade multiplexers associated with terminating dedicated trunks at analog switches; a per-minute charge for shared trunk ports and any associated DS1/voice grade multiplexer costs; a flat charge for the costs of trunk ports used to terminate dedicated trunks on the serving wire center side of the tandem switch; individual charges for multiplexer costs associated with tandem switches; and a per-message call setup charge. (No. of respondents: 12; hours per response: 93 hours; total annual burden: 1116 hours). j. GSF allocation: Beginning July 1, 2002, rate-of-return carriers that use general purpose computers to provide non-regulated billing and collection services are required to allocate a portion of their general purpose computer costs to the billing and collection category, which will require them to determine general purpose computer investment. Carriers may use the general purpose computer investment amount they develop for a period of three years. (No. of respondents: 600; hours per response: 20 hours; total annual burden: 12,000 hours). The Commission will use the information collected to determine whether and to what extent non-price cap or rate-of-return carriers providing the data are eligible to receive universal service support. The Commission will use the tariff data to make sure that rates are just and reasonable, as required by section 201(b) of the Act. Obligation to respond: Mandatory. Public reporting burden for the collection of information is as noted above. Send comments regarding the burden estimate or any other aspect of the collections of information, including suggestions for reducing the burden to Performance Evaluation and Records Management, Washington, DC 20554.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. 02–377 Filed 1–7–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted to OMB for Review and Approval

December 19, 2001.

SUMMARY: The Federal Communications Commissions, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before February 7, 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 Les Smith, Federal Communications Commission, Room 1–A804, 445 12th Street, SW., Washington, DC 20554 or via the Internet to *lesmith@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at *lesmith@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0649.

Title: Sections 76.1601, Deletion or Repositioning of Broadcast Signals; 76.1617, Initial Must-Carry Notice; 76.1607 and 76.1708, Principal Headend.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities; Individuals or households; Not-for-profit institutions; and State, local, or tribal government.

Number of Respondents: 10,400.

Estimated Time per Response: 0.5 to 1.0 hours.

Frequency of Response: On occasion reporting requirement; Third party disclosure.

Total Annual Burden: 2,200 hours.

Total Annual Costs: None.

Needs and Uses: Under 47 CFR Sections 76.1601, 76.1607, 76.1617, and 76.1708 of FCC rules cable television system operators must provide various notification requirements—to provide written notice to any broadcast television station at least 30 days prior to deleting from carriage or repositioning the station; to provide written notice by certified mail to all stations carried on its system pursuant to the ''must-carry'' rules at least 60 days prior to any change in its principal headend designation; to notify all qualified non-commercial and educational stations of its principal headed within 60 days of system activation; and to maintain for public inspection the designation and location of its principal headend, including in this file a record of all changes of the designated headend.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. 02–367 Filed 1–7–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than January 23, 2002..

A. Federal Reserve Bank of Atlanta (Cynthia C. Goodwin, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309–4470:

1. Jerry J. Williams, Naples, Florida; to retain voting shares of FirstBancorp, Inc., Naples, Florida, and thereby indirectly retain voting shares of Gulf Coast National Bank, Naples, Florida.

B. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Douglas and Mary Kapnick, Mary E. Kapnick Trust, Douglas L. Kapnick Trust, Adrian, Michigan; to acquire additional voting shares of Lenawee Bancorp, Inc., Adrian, Michigan, and thereby indirectly acquire additional voting shares of Bank of Lenawee, Adrian, Michigan, and Bank of Washtenaw, Saline, Michigan. In addition, the Elmer L. Kapnick Trust, Adrian, Michigan; has applied to retain voting shares of Lenawee Bancorp, Inc., Adrian, Michigan, and acquire additional voting shares of Bank of Lenawee, Adrian, Michigan, and Bank of Washtenaw, Saline, Michigan.

C. Federal Reserve Bank of San Francisco (Maria Villanueva, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105–1579:

1. William R. Peeples, Santa Barbara, California; Ardyce M. Peeples, Santa Barbara, California; Melissa Peeples, Bronx, New York; Melanie D. Peeples, Davis, California; Michael F. Peeples, Sauh City, Wisconsin; Judith Ransom, Black River Falls, Wisconsin; Robert M. Peeples, Jr., Baton Rouge, Louisiana; Mary Ann Wander, Bradenton, Florida; Robert and Kathleen Peeples, Slidell, Louisiana; Daniel and Ardyce Acher, West Allis, Wisconsin; Shalla Acher, Haupen, Wisconsin; Michaela Moy, Madison, Wisconsin; Daniel Acher, West Allis, Wisconsin; all to retain voting shares of Community West Bancshares, Goleta, California, and thereby indirectly retain voting shares of Goleta National Bank, Goleta, California.

Board of Governors of the Federal Reserve System, January 3, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–474 Filed 1–7–02; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes

and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 1, 2002.

A. Federal Reserve Bank of Kansas City (Susan Zubradt, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. Citizens Bancshares, Inc., ESOP, Edmond, Oklahoma; to become a bank holding company by acquiring up to 30 percent of the voting shares of Citizens Bancshares, Inc., Edmond, Oklahoma, and thereby indirectly acquire voting shares of Citizens Bank of Edmond, Edmond, Oklahoma.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. Pubco Bancshares, Inc., Slaton, Texas; to acquire 100 percent of the voting shares of Shamrock Bancshares, Inc., Shamrock, Texas, and thereby indirectly acquire voting shares of Shamrock Delaware Financial, Inc., Dover, Delaware, and First National Bank, Shamrock, Texas.

Board of Governors of the Federal Reserve System, January 3, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–473 Filed 1–7–02; 8:45 am]

BILLING CODE 6210–01–S

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0262]

Submission for OMB Review; Comment Request Entitled Identification of Products With Environmental Attributes

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Notice of request for extension to previously approved OMB Clearance (3090–0262).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the General Services Administration (GSA), Office of Acquisition Policy has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement concerning the Identification of Products with Environmental Attributes.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of contracts, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

A request for public comments was published at 66 FR October 29, 2001. No comments were received.

DATES: Comment Due Date: February 7, 2002.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: Ed Springer, GSA Desk Officer, OMB, Room 10236, NEOB, Washington, DC 20503, and a copy to Stephanie Morris, General Services Administration, Acquisition Policy Division, 1800 F Street, NW., Room 4035, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Beverly Cromer, Office of Acquisition Policy (202) 208–6750.

SUPPLEMENTARY INFORMATION:

A. Purpose

The General Service Administration is requesting the Office of Management and Budget (OMB) to review and approve information collection, 3090–0262, concerning the Identification of Products with Environmental Attributes. The GSA requires contractors submitting Multiple Award Schedule Contracts to identify in their GSA price lists those products that they market commercially that have environmental attributes. The identification of these products will enable Federal agencies to maximize the use of these products to meet the responsibilities expressed in statutes and executive orders.

B. Annual Reporting Burden

Respondents: 9,200.
Annual Responses: 9,200.
Burden Hours: 46,000.
Obtaining Copies of Proposals: Requester may obtain a copy of the proposal from the General Services Administration, Regulatory Secretariat (MVP), 1800 F Street, NW., Room 4035, Washington, DC 20405, telephone (202) 501–4744. Please cite OMB Control No. 3090–0262, Identification of Products with Environmental Attributes.

Dated: December 31, 2001.

Al Matera,

Director, Acquisition Policy Division.

[FR Doc. 02–441 Filed 1–7–02; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Airborne Exposure Limits for Chemical Warfare Agents GA (Tabun), GB (Sarin), and VX

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services.

ACTION: Notice of proposed revisions to CDC recommendations for protection of public health and safety during disposal or transport of chemical warfare agents GA (tabun), GB (sarin), and VX through revision of worker and general population airborne exposure limits.

Purpose

CDC presents proposed recommendations for airborne exposure limits for the chemical warfare agents GA (tabun or ethyl N,N-dimethyl-phosphoramidocyanidate, CAS 77–81–6); GB (sarin or O-isopropyl-methylphosphonofluoridate, CAS 107–44–8); and VX (O-ethyl-S-(2-diisopropylaminoethyl)-

methylphosphonothiolate, CAS 50782–69–9).

Before these recommendations are finalized, CDC requests comments from the public, all interested parties, environmental and health regulators, the Department of Defense (DOD), and other organizations involved in handling, transporting, or demilitarizing chemical warfare agents. More specifically, CDC seeks scientifically and professionally defensible data or information that would persuade CDC to alter its recommendations to be more or less conservative.

SUMMARY: CDC's recommendations are based on comments by scientific experts at a public meeting convened by CDC on August 23–24, 2000, in Atlanta, Georgia; the latest available technical reviews; and the latest available risk assessment approach frequently used by regulatory agencies and other organizations (1). Airborne exposure limits for chemical warfare agents GA (tabun), GB (sarin), and VX were re-evaluated by using a conventional risk assessment methodology for developing airborne exposure limits described by the U.S. Environmental Protection Agency (EPA). This methodology is considered conservative; however, the calculated exposure limits are not numerically precise and do not define precise thresholds of potential human toxicity.

Note: There is no indication that the current exposure limits, as implemented by the U.S. Army Program Manager for Chemical Demilitarization, have been less than fully protective of human health. This may be due to rigorous exposure prevention efforts in recent years as well as the conservative implementation of the existing limits.

Proposed Airborne Exposure Limits for GB: CDC proposes a worker population limit (WPL) value of 3×10^{-5} mg/m^3, expressed as an 8-hour time-weighted average (TWA). Additionally, CDC recommends a short-term excursion limit (STEL) of 1×10^{-4} mg/m^3 to be used in conjunction with the WPL. Exposures above the WPL up to the STEL should not be longer than 15 minutes and should not occur more than 4 times per day, and there should be at least 60 minutes between successive exposures in this range. The STEL should not be exceeded during the work day, even if the cumulative exposure over the 8-hour TWA is not exceeded. CDC proposes a decrease in the general population limit (GPL) to 1×10^{-6} mg/m^3. These WPL, STEL, and GPL values are approximately threefold lower than the values recently recommended by the U.S. Army. An immediately dangerous to life or health (IDLH) value of 0.1 mg/m^3 is proposed for GB.

Proposed Airborne Exposure Limits for GA: Although not as well-studied as GB, GA is approximately equal in potency to GB. Therefore, CDC proposes the same exposure limits for GA as for GB.

Proposed Airborne Exposure Limits for VX: CDC proposes that the VX WPL, expressed as an 8-hour time-weighted average, should be decreased to 1×10^{-6} mg/m^3. Additionally, CDC proposes a VX STEL of 4×10^{-6} mg/m^3. These proposed WPL and STEL exposure limits are a factor of 10 lower than the U.S. Army's recommendation. CDC proposes that the GPL for VX should be decreased to 6×10^{-7} mg/m^3 (a factor of 2 higher than the Army's recommendation). An IDLH value of 0.003 mg/m^3 is proposed for VX. Acknowledging the gaps in the data base for this agent, CDC considers the proposed VX exposure limits subject to re-evaluation in 3 years. New VX toxicity studies, which are anticipated to be completed within 3 years, have been recommended recently by the EPA National Advisory Committee for Acute Exposure Guideline Levels for Hazardous Substances (NAC/AEGL Committee). CDC agrees that new toxicity studies may be helpful in setting VX exposure limits.

DATES: Submit comments within 60 days following the date of this publication in the **Federal Register**.

ADDRESSES: Comments may be sent to the following:

1. By mail. Submit your comments to Dr. Paul Joe, CDC, 4770 Buford Highway, Mail Stop F–16, Atlanta, Georgia 30341.

2. In person or by courier. Deliver your comments to Dr. Paul Joe, CDC, 4770 Buford Highway, Mail Stop F–16, Atlanta, Georgia 30341.

3. Electronically. You may submit your comments electronically by e-mail to Dr. Paul Joe at *pbj4@cdc.gov,* or you can submit a computer disk to Dr. Paul Joe, CDC, 4770 Buford Highway, Mail Stop F–16, Atlanta, Georgia 30341. Electronic documents will be accepted in WordPerfect or Microsoft Word.

FOR FURTHER INFORMATION CONTACT: Dr. Paul Joe, Centers for Disease Control and Prevention, 4770 Buford Highway, Mail Stop F–16, Atlanta, Georgia 30341, Telephone number: 770–488–7091, E-mail address: *pbj4@cdc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The nerve agents GA, GB, and VX are organophosphate esters that were designed specifically to cause incapacitation or death in military use. These agents are among the most potent of all chemical warfare agents and have extraordinarily high levels of acute toxicity. In vapor or aerosol form, the nerve agents can be inhaled or absorbed through the skin or the eyes. As a liquid, they can be absorbed through the skin, conjunctiva, and upper gastrointestinal tract. The agents' toxicity is related primarily to their ability to inhibit acetylcholinesterase, which is a critical enzyme needed for nerve function (2). Health symptoms can include runny nose, tightness in the chest, dimness of vision and pinpointing of eye pupils, difficulty in breathing, drooling and excessive sweating, nausea, vomiting, cramps, involuntary defecation and urination, twitching, staggering, headache, confusion, drowsiness, coma, and convulsions. The signs and symptoms can be followed by cessation of breathing and death (3). At superlethal doses, GB caused delayed neuropathy in antidote-protected chickens. VX has not been shown to cause delayed neuropathy in animals or humans. The health effects from low-dose chronic (long-term) exposure have not been demonstrated clearly.

Studies of genotoxicity, carcinogenicity, developmental, and reproductive toxicity associated with GB and VX have been primarily negative (2,4).

GA, GB, and VX no longer are manufactured in the United States; however, they are stored currently at eight locations in the continental United States by the DOD. Section 1412 of Public Law 99–145 [50 U.S.C. 1521] mandates that the present stockpile of chemical warfare agents be destroyed. Public Law 91–121 and Public Law 91–441 [50 U.S.C. 1512] mandate that the Department of Health and Human Services (DHHS) review DOD plans for transporting and/or disposing of chemical warfare agents and make recommendations for protecting human health and safety. DHHS delegated this authority to CDC.

In 1987, CDC requested public comments on recommendations for protecting human health and the environment from potential adverse effects of long-term exposure to low-airborne doses of agents GA, GB, VX, mustard, and lewisite (L). CDC incorporated public comments, including comments from scientific experts outside CDC, and in 1988 recommended worker and general population airborne exposure limits for GA, GB, VX, mustard (H, HD, HT), and L. (See Table 1.) The U.S. Army adopted these airborne exposure limits in 1990.

TABLE 1.—CURRENT CDC-RECOMMENDED AIRBORNE EXPOSURE LIMITS*

[All values expressed as milligrams per cubic meter air [mg/m3]]

Agent	General population limit (GPL)	Worker population limit (WPL)
GA, GB	0.000003 (3×10^{-6})	0.0001 (1×10^{-4}).
VX	0.000003 (3×10^{-6})	0.00001 (1×10^{-5}).
H, HD, HT	0.0001 (1×10^{-4})	0.003 (3×10^{-3}).
L	0.003 (3×10^{-3})	0.003 (3×10^{-3}).
Averaging Time	72 hours	8 hours.

*Referred to as ''Control Limits'' in Federal Register, Volume 53, No. 50, March 15, 1988, pp. 8504–07.

The GPL is the maximum concentration to which members of the general population may be continually exposed 24 hours per day, 7 days per week. The GPL is intended for application to the entire general population, including all ages and medical conditions (e.g., infants, elderly, infirm, and healthy). Historically, the GPL for VX did not reflect a tenfold reduction from GB GPL as was the case for the WPLs. The primary reason for the difference was the technical inability to conduct VX air monitoring at such low concentrations. The analytical limitations are reflected further in the 72-hour averaging period rather than a more conventional 24-hour period.

The WPL is intended to be assessed as a time-weighted average for a conventional 8-hour workday and a 40-hour week. This WPL represents a concentration to which it is believed that virtually all workers may be repeatedly exposed, day after day, without adverse effect. CDC recommends that the WPLs be implemented in conjunction with the medical surveillance provisions and other requirements defined in Department of Army Pamphlets 40–173 and 40–8 or successive documents (5,6).

Note: The proposed risk assessment methodology derives exposure limits below concentrations where any acute or chronic effects would be expected to occur. The existing and proposed exposure limits are intended to protect workers and the public from potentially adverse effects from short-term or long-term exposure to GA, GB, and VX. The existence of potential adverse health effects resulting from long-term, low-dose exposure to these agents has not been demonstrated clearly.

Now, 13 years later, CDC is re-evaluating the limits for GA, GB, VX, and mustard based on the latest risk assessment models and any updated scientific data. On August 23–24, 2000, CDC convened a public meeting in Atlanta, Georgia, where outside scientists joined CDC scientists to discuss the exposure limits for GA, GB, and VX. The re-evaluation consisted of lengthy review of all available information about the agents, including some information previously classified by allied nations, and therefore, are unavailable for the open review process used by CDC in the past. A public meeting to discuss the exposure limits for mustard was held on September 11–12, 2001. The proposed mustard exposure limits will be presented in a separate **Federal Register** announcement. The L stockpile is relatively small and located at only one storage site; therefore, revisions to the exposure limits for L are not being considered at the present time.

II. Approach and Methodology

A. Purpose of the Public Meeting

The purpose of the public meeting was to discuss the airborne exposure limits for GA, GB, and VX recently proposed by the US Army. Attendees at the August 23–24, 2000, public meeting convened by CDC included risk assessors, toxicologists, physicians, a veterinarian, and several chemists. These experts were from universities, state environmental agencies, and non-CDC federal agencies. The scientific experts were asked whether or not there was a need to modify exposure limits to reflect current risk assessment methodologies and any newly available data. The meeting agenda included the following:

- Presentations on risk assessment models and scientific data and recommended modifications to existing exposure limits based on comments from individual scientific experts,
- Panel discussions by scientific experts, and
- Discussions of the technical feasibility to monitor at proposed modified exposure limits by air monitoring experts.

The meeting was not held as a federal advisory committee; therefore, CDC did not seek unanimity or consensus; take votes; or rely solely on the attendees to formulate federal policy. Statements by members of the working group, which are included in this **Federal Register** notice, represent only one part of the information considered by CDC. The experts attended the meeting solely to provide their individual expert advice to CDC and the public for consideration.

B. Method for Deriving Exposure Limit Criteria

The EPA risk assessment approach, which was used in this assessment, is used to extrapolate potential biological effects in humans at low-level exposures where such epidemiologic or toxicologic data are not directly available. This method for deriving exposure criteria has evolved over 30 years. This evaluation's approach was based on guidance described in an EPA publication (7). The derivation of a non-cancer exposure criteria involve the following:

- Defining the critical adverse effect (which is assumed protective for all other, often more serious, effects);
- Selecting the most appropriate animal or human study or studies, if more than one yields the same end point, to serve as the basis for a limit;
- Establishing a threshold dose below which adverse health effects are not expected to occur or are extremely unlikely; and
- Defining appropriate uncertainty factors (UFs) to apply to the threshold dose.

In selecting a study, a no-observed-effect-level (NOEL)—a product of concentration and time (Ct) at which subjects showed no detectable effects-or a no-observed-adverse-effect-level (NOAEL)—a Ct at which subjects showed no detectable harmful effects—is preferred over a lowest-observed-effect-level (LOEL) or a lowest-observed-adverse-effect-level (LOAEL)—the lowest Ct at which an effect or adverse effect was seen. Studies of human responses generally are preferred over studies on laboratory animals. Such preferences are not rigid; the number of subjects and technical aspects of how the study was conducted play an important role.

As many as five uncertainty factors and one modifying factor may be applied to the selected exposure dose, which is usually a NOAEL or LOAEL (7,8). They are UF_H (heterogeneity of susceptibility within human

populations), UF_A (animal to human extrapolation), UF_S (subchronic to chronic exposure extrapolation), UF_L (LOAEL to NOAEL extrapolation), UF_D (database incomplete), and MF (modifying factors). By convention, these factors assume values of 1, 3, or 10 and are multiplied together to yield an overall uncertainty factor. The observed Ct product (LOAEL or NOAEL) is divided by the overall UF and then adjusted for duration of exposure (40 hours per week for workers and 168 hours per week for the general population). This basic method was applied by EPA to many common toxicants to establish chronic reference doses for human exposure. In summary, the general equation for deriving the WPL would be as follows:

$$\mathrm{WPL} = \frac{\mathrm{LOAEL}_{\mathrm{inhal}} \times \mathrm{Resp}_{\mathrm{exptl}} \times \mathrm{Exp}_{\mathrm{exptl}}}{\mathrm{Resp}_{\mathrm{occup}} \times \mathrm{Exp}_{\mathrm{occup}}} \times \frac{1}{\mathrm{UFs} \times \mathrm{MF}}$$

WPL = Worker population limit
$LOAEL_{inhal}$= Lowest observed adverse effect level (if available, use no observed adverse effect level)
$Resp_{exptl}$ = Experimental subject minute volume
$Resp_{occup}$ = Occupational minute volume
Exp_{occup} = Occupational exposure time (480 minutes/day x 5 days)
Exp_{exptl} = Experimental exposure time
UFs = Uncertainty factors
MF = Modifying factor

The GPL would be derived in an analogous manner, adjusting for continuous exposure, differences in assumed respiratory rates, and possible differences in application of certain UFs.

The exposure criteria resulting from this risk assessment approach should be evaluated in context with the uncertainties and default assumptions used in the risk assessment approach. One of the uncertainties that needs to be considered is the ''order-of-magnitude'' imprecision associated with the exposure criteria estimate (8). From a purely mathematical standpoint, this refers to a $\log_{10}$ interval around the exposure criteria estimate (i.e., approximately threefold above and below). It is important to recognize that this imprecision includes only the statistical uncertainty in interpreting the underlying data. Uncertainties inherent in the choice of the model to conduct the extrapolation are potentially far larger and cannot be quantified easily. Research into specific areas of uncertainty associated with the EPA methodology has been reported. Most studies support the belief that the uncertainty factors described above provide estimates that are protective or err toward lower limits (9). That is, the composite uncertainty factor tends to result in an estimate of the dose (or exposure limit) that is likely not to cause adverse health effects.

III. Presentations at the Public Meeting

A. U.S. Army Proposal

The U.S. Army completed reviews of exposure limits for G-agents and VX and suggested lowering the GPL for one of the agents (10,11). (See Table 2.) The Army's proposals decreased the GPL for VX by one order of magnitude, from 3×10^{-6} milligrams per cubic meter air (mg/m^3) to 3×10^{-7} mg/m^3, and decreased the averaging time from 72 hours to 24 hours.

TABLE 2.—U.S. ARMY-PROPOSED EXPOSURE LIMITS

[All values expressed as milligrams per cubic meter air [mg/m^3]]

Agent		General population limit (GPL)	Worker population limit (WPL)	Short-term exposure limit (STEL) ‡	Immediately dangerous to life and Health (IDLH) ‡
GA, GB	Proposed	0.000003 ($3x10^{-6}$) †	0.0001 ($1x10^{-4}$)	0.0004 ($4x10^{-4}$)**	0.1 ($1x10^{-1}$).
VX	Proposed	0.0000003 ($3x10^{-7}$)†	0.00001 ($1x10^{-5}$)	0.00004 ($4x10^{-5}$)	0.01 ($1x10^{-2}$).
GD	Proposed	0.000001 ($1x10^{-6}$)†	0.00003 ($3x10^{-5}$)	0.001 ($1x10^{-3}$)**	0.05 ($5x10^{-2}$).
GF	Proposed	0.000001 ($1x10^{-6}$)†	0.00003 ($3x10^{-5}$)	0.001 ($1x10^{-3}$)**	0.05 ($5x10^{-2}$).
Averaging time	24 hours	8 hours	15 min, 4x/day	30 miyn..	

†24-hour time-weighted average.
** 8-hour time-weighted average worker limit may not be exceeded.

The U.S. Army proposed exposure limits for agents GD (Soman, O-pinacolyl-methylphosphonofluoridate, CAS 96–64–0) and GF (O-cyclohexyl-methylphosphonofluoridate, CAS 329–99–7). These agents are not part of the U.S. stockpile, and neither transportation nor open-air testing is being considered for these agents. Therefore, they fall outside the scope of the DHHS/CDC mandate and were not considered in this process.

The U.S. Army-proposed WPL for GB, expressed as an 8-hour time-weighted average, is identical to the existing WPL but was derived from a different source. The proposed WPL was based on a human study conducted in 1949 by McKee and Woolcott, which yielded a LOAEL of 0.06 mg/m^3, 20 minutes/day for 4 days per week (12). Proposed uncertainty factors were $UF_H = 1$, $UF_A = 1$, $UF_S = 10$, $UF_L = 3$, $UF_D = 1$, MF = 1 for an overall uncertainty factor of 30. Adjusting for differences in breathing rates and exposure durations yielded 3.3×10^{-5} mg/m^3, expressed as an 8-hour time-weighted average. This differs from the existing limit, 1×10^{-4} mg/m^3 by a factor of 3. The U.S. Army authors concluded that the methodology was not sufficiently precise to warrant a change from the existing limit to the newly calculated limit and proposed leaving the current limit unchanged. The same study was used as a basis for a GPL of 1.1×10^{-6} mg/m^3, which differed from the present GPL (3×10^{-6} mg/m^3) by a factor of 3 and was deemed within an acceptable uncertainty range.

The Army proposed a STEL of 0.0004 mg/m^3 for GB. The STEL is defined as a 15-minute time-weighted average exposure that should not be exceeded during the workday, even if the 8-hour WPL is not exceeded. Exposures up to the STEL should not be longer than 15 minutes and should not occur more than 4 times a day, and there should be at least 60 minutes between successive exposures in this range. The proposed STEL would have the effect of permitting four, 15-minute exposures per day up to 0.0004 mg/m^3 of GB or GA

with the added requirement that the 8-hour WPL may not be exceeded.

The Army proposed a value of 0.1 mg/m^3 as the immediately dangerous to life or health (IDLH) concentration for GB. The GB IDLH was based on an acute human toxicity study, and the value was calculated in accordance with National Institute for Occupational Safety and Health (NIOSH) guidance (10). The Army adjusted the IDLH down by a factor of 2 to address the female occupational worker population, which is potentially more sensitive than the male occupational worker population to GB vapor.

There are limited data on VX compared to some of the other G-agents, but the WPL recommendation was based on a relative potency estimate of 10 for pupillary constriction; so the Army-proposed WPL for VX is 1/10 of the corresponding value for GB or 1×10^{-5} mg/m^3, and the Army-proposed GPL is 3×10^{-7} mg/m^3. A STEL of 4×10^{-5} mg/m^3 for VX was proposed. The value was based ultimately on the WPL, such that four exposures per day at the STEL would not cause the WPL to be exceeded. The Army-proposed VX IDLH of 0.01 mg/m^3 was also determined using a relative potency estimate of 10.

B. Airborne Exposure Limits for GB

1. WPL for GB

The U.S. Army document served as the starting point for discussion at the public meeting (10). The expert panel members differed in their assessment of how best to derive limits from the available data. Most of the members thought that limits for GB should be based on the McKee and Woolcott study, which yielded a LOAEL of 0.06 mg/m^3 (12). However, one member was concerned about deriving long-term exposure limits from short-term experimental data, particularly when little long-term toxicity data are available.

One member noted that application of an interspecies uncertainty factor greater than 1 is unjustified when evidence suggests that the species studied is as sensitive or more sensitive than man. A calculation based on the Weimer animal data using an interspecies uncertainty factor of 1 would yield a GB WPL of 5×10^{-5} mg/m^3 (13). However, this member also thought that human studies should be given more weight and joined others in recommending a limit based on the McKee and Woolcott report (12). Another member argued for a limit of 4×10^{-6} mg/m^3 based on uncertainty factors of 10 for short-term to long-term extrapolation and 3 for interindividual variability. Yet another member argued that studies by Harvey and Johns would be better critical studies to utilize (14, 15). Working from these data would yield a 15-minute STEL of 0.008 mg/m^3 and a WPL for GB of 2.5×10^{-6} mg/m^3 after an eightfold adjustment for time of exposure and a tenfold adjustment for cumulative effect.

Four members recommended that if the U.S. Army-proposed derivation were used, CDC should accept the calculated exposure limit value (3.3×10^{-5} mg/m^3) rather than utilizing the rounded-up value 1×10^{-4} mg/m^3 that was recommended by the Army.

Several members speculated that information concerning human exposures during manufacture and disposal of GB could be more relevant than the studies cited. Unfortunately, records of environmental conditions from the time period GB was manufactured are not adequate to support such analysis. Conversely, worker and environmental monitoring records for recent GB demilitarization activities are well documented. However, engineering controls to prevent exposure have been rigorous; therefore, GB exposures have been very rare, have occurred primarily during maintenance operations, and have been minimal. Consequently, these data are not useful for developing exposure limits.

2. STEL for GB

The U.S. Army-proposed STEL was based on the WPL, such that four exposures per day at the STEL would not result in the WPL being exceeded. At the public meeting, the proposed STEL elicited considerable discussion. Several members of the expert panel thought that the Army-proposed STEL was too low numerically because of the method used to calculate it. Using the critical effect LOAEL, several experts recalculated a new value—a Temporary Excursion Limit (TEL). The TEL for GB was calculated to be 0.01 mg/m^3 for a 5-minute exposure not more than once per day.

3. General Population Limit for GB

The Army-proposed GPL for GB was based on the same study and the same method used for deriving the WPL. The GPL was calculated by adjusting for the longer time of exposure and greater population variability. The uncertainty factors were as follows: 10 for short-term to long-term extrapolation, 10 for variability among individuals, and 3 for low-effect to no-effect extrapolation. Three members of the working group thought the Army-proposed GPL was adequate. One thought that the proposed limits were probably at least tenfold lower than needed to protect public health. That is, the GPL could be at least tenfold greater and still be protective. The member who proposed a WPL of 2.5×10^{-5} mg/m^3 advised adding an uncertainty factor of 3 for variation within the population and an uncertainty factor of 3 for extrapolating from low-effect to no-effect yielding the proposed value 3×10^{-6} mg/m^3 but by a different line of reasoning. One member argued for a GPL of 1×10^{-6} mg/m^3, noting that using the lower value incorporated an uncertainty factor of 3 for variability within population. It was noted that the Johns data indicate that doses causing a given degree of pupillary constriction generally range over a factor of less than 2.0 from the geometric mean (that is, from about half the geometric mean to about twice the geometric mean), providing at least some evidence for small variability within human populations to this particular low-dose effect (15).

C. Airborne Exposure Limits for VX

Exposure limits for VX were more difficult for the experts to address because the experimental VX data were considered inadequate and do not form a good basis for VX exposure limits. Nonetheless, one of the working group members noted that the VX studies by Bramwell and Crook argue for a VX WPL of 4×10^{-7} mg/m^3 and 3×10^{-9} mg/m^3, respectively (16, 17). However, several panel members had scientific concerns about these studies. Regarding the Bramwell study, some panel members were concerned that benzene, which was used as a solvent in the VX generation, could alter the exposure characteristic of VX. As for the Crook study, the accuracy of the VX vapor concentrations was questioned.

Because the available experimental VX data were considered inadequate, the derivation of the exposure limit was based on the relative potency of VX as compared to GB. The exposure limits proposed by the Army are based on a tenfold difference (relative potency) in the ability of VX to cause miosis compared to GB. This tenfold potency difference was questioned because some publications stated that the potency difference may be twelvefold to thirty-threefold or higher, especially at low concentrations (18,19).

The Army's publication proposing VX exposure limits included little detail used in deriving the tenfold potency factor (11). However, discussion in a previous U.S. Army study indicated that recovery from the miosis effects of VX is about four times as fast as recovery from the effects of GB (19). According to

this publication, if VX potency is about twenty-five times greater than GB but the effective recovery is four times greater, the relative VX potency for continuous exposure would be approximately 25/4 that of GB. The overall factor of 10 is a approximation (rounding) of 25/4. Compared to GB, VX does not undergo a second, irreversible, reaction known as aging as quickly when it reacts with acetylcholinesterase; this may be one reason that the biological effects of VX exposure recover more quickly when compared to GB.

CDC notes that the EPA NAC/AEGL committee for VX recently proposed a relative potency of 12 with application of a modification factor of 3 for the incomplete VX data set. The potency factor of 12 was based on a 1971 British study that measured the ability of VX to cause 90% pupil constriction in rabbits (18). The application of a relative potency of 12 with a modifying factor of 3 for the inadequate VX data base effectively resulted in a relative potency of 36 (3×12) (20).

All experts would have preferred better, VX-specific data and would have preferred avoiding the use of relative potency, but four of the experts concurred with the use of an overall tenfold difference in relative potency for extrapolating from GB to VX. Given the preference of several experts for a GB WPL of 3×10^{-5} mg/m^3, that would call for a WPL of 3×10^{-6} mg/m^3 for VX rather than the 1×10^{-5} mg/m^3 that was proposed by the Army. Accordingly, preference by several experts for a GB GPL of 1×10^{-6} mg/m^3 would suggest a VX GPL of 1×10^{-7} mg/m^3.

D. CDC's Proposed Recommendations

1. Airborne Exposure Limits for GB

Noting the opinions of the experts at the public meeting, CDC proposes a change from the present exposure limit to the lower exposure limit derived from the McKee and Woolcott studies (12). CDC believes that the calculated WPL value of 3×10^{-5} mg/m^3, expressed as an 8-hour time weighted average, will protect workers from short-term or long-term health effect exposures for a working lifetime. The CDC-proposed WPL value, consistent with the calculation from this risk assessment, is approximately threefold lower than the Army-recommended value of 1×10^{-4} mg/m^3. CDC recognizes that the risk assessment methodology is imprecise, and quantitative differences in risk between exposure concentrations of less than an order of magnitude generally are not discernable. However, CDC could not identify relevant examples from other risk assessments where such rounding-up had been conducted. Additionally, since the ''calculated'' WPL was thought to be technically feasible and four experts at the public meeting recommended using the ''calculated'' values from the risk assessment, CDC proposes the 3×10^{-5} mg/m^3 as the WPL for GB.

In addition to the WPL, CDC recommends a STEL of 1×10^{-4} mg/m^3 to be used in conjunction with the WPL. The STEL is defined as a 15-minute time-weighted average exposure that should not be exceeded during the workday, even if the 8-hour WPL is not exceeded. Exposures up to the STEL should not be longer than 15 minutes and should not occur more than 4 times a day, and there should be at least 60 minutes between successive exposures in this range. The purpose of this value is to provide a reasonable limit to excursions over the WPL. The value associated with the STEL is numerically identical to the existing 8-hour time-weighted worker exposure limit.

CDC proposes 1×10^{-6} mg/m^3 as the GB GPL, expressed as a 24-hour time-weighted average. This GPL value, which is consistent with the calculation from the risk assessment, is threefold lower than the Army-recommended value and the current GPL. CDC believes current analytical methods can be modified to monitor at this new concentration.

The expert panel members did not focus on, or object to, the Army-proposed immediately dangerous to life or health (IDLH) value of 0.1 mg/m^3 for GB (10). Accordingly, CDC proposes an IDLH of 0.1 mg/m^3.

2. Airborne Exposure Limits for GA

Although not as well-studied, GA is approximately equal in potency to GB. The Army proposed, and members of the expert groups agreed, that it would be reasonable to use the same exposure limits for both. CDC proposes the same exposure limits (WPL, STEL, GPL, and IDLH) for GA as those recommended for GB.

3. Airborne Exposure Limits for VX

Since the toxicity data for VX are inadequate, CDC proposes derivation of the VX WPL, STEL, and GPL from the calculated exposure limits for GB, using a relative potency of 12 compared to GB and application of a modifying factor of 3 for the incomplete VX data set. This approach, which effectively results in a relative potency of 36, is the same as that recently proposed by the EPA NAC/AEGL committee (20). CDC proposes that the WPL for VX should be decreased to 1×10^{-6} mg/m^3 (a factor of 10 lower compared to the current value and the U.S. Army's recommendation). Additionally, CDC proposes VX STEL of 4×10^{-6} mg/m^3.

CDC proposes a VX GPL of 6×10^{-7} mg/m^3, expressed as a 24-hour time-weighted average. The VX GPL, derived from the GB GPL to which the relative potency of 12 and a modifying factor of 3 was applied, was initially calculated as 3×10^{-8} mg/m^3. However, currently available monitoring methods are unable to reliably detect VX at this concentration. CDC believes that reliable monitoring is a crucial aspect for implementing the exposure limits and therefore proposes to increase the GPL to a concentration that can reliably be monitored. The CDC proposes 6×10^{-7} mg/m^3 for the VX GPL, a value that is both protective and technically feasible to monitor.

The proposed VX GPL of 6×10^{-7} mg/m^3, used in conjunction with the existing perimeter montoring programs, will be protective because long-term releases of VX are unlikely. Routine maintenance and monitoring procedures implemented for worker safety near the potential sources of releases (where concentrations potentially would be higher than at the perimeter) prevent long-term releases. At demilitarization sites, perimeter monitoring results for 12-hour samples are typically available within 72 hours. Detections of chemical agent above the action level result in (1) an investigation to determine the source of the vapor and (2) corrective action to eliminate the source. In the derivation of the GPL in accordance with EPA methodology, the exposure period of the critical study is adjusted for a continuous 7-day exposure for the general population. The perimeter monitoring results at demilitarization sites are obtained within 72 hours (3 days) following sampling. To correct the assumption of continuous exposure for 7 days, a factor of 3 days potential exposure per 7 days was applied to the calculated VX GPL of 3×10^{-8} mg/m^3. Additionally, in the derivation of the GPL, an uncertainty factor of 10 was applied to extrapolate from sub-chronic to chronic exposures. Since a chronic exposure is unlikely, this extrapolation would not be needed. These calculations result in adjusting the initially calculated VX GPL of 3×10^{-10} mg/m^3 to 6×10^{-7} and support the conclusion that the proposed GPL of 6×10^{-7} is protective of human health. This adjustment of the VX GPL was made in acknowledgment of the technical limitations of current air monitoring methods, while assuring that the GPL would be protective of public health.

The expert group members did not object to the Army-proposed IDLH values for VX (0.01 mg/m^3), although there was little specific discussion among the panel. In accordance with relative potency approach used for WPL and GPL (potency factor of 12 with a modifying factor of 3), CDC proposes a VX IDLH of 0.003 mg/m^3.

4. Proposed Implementation of the VX GPL

Current data suggest that air monitoring at the proposed VX GPL concentration is on the fringe of technical feasibility for current methods. CDC investigated this issue with representatives from NIOSH, the U.S. Army, and other independent consultants. CDC representatives heard compelling evidence that current VX air monitoring methods may need further development. At the proposed VX GPL, the mass of other ambient organic materials normally found in the air (background chemicals) will greatly exceed the mass of VX to be measured. These background materials cause analytical problems in discerning and quantifying VX.

Halting disposal until improved monitoring methodology can be developed presents at least three grave problems:

a. There is greater cumulative risk from continued storage compared to continued disposal under the existing exposure limits.

b. The desired level of sensitivity and selectivity may not be easily attainable.

c. The United States has treaty obligations to complete the disposal within a specified time.

Inasmuch as delay in disposal presents an unacceptable risk to public health and safety, CDC proposes the following interim measures regarding monitoring at the proposed VX GPL:

a. CDC proposes a multifaceted research program to look at commercially available systems that have the potential to improve air monitoring at the proposed VX GPL. Further, CDC recommends that the Army use one or more Ph.D.-level analytical chemist(s) who have air monitoring experience to direct this program.

b. CDC proposes suspension of the 20% action level for the VX GPL until the monitoring methodology can be improved.

c. For all demilitarization sites handling VX, CDC proposes that all qualitative responses above a 3:1 signal-to-noise ratio for VX from perimeter stations be evaluated (i.e., those that are below the limit of quantification for VX). When VX is qualitatively detected, action should be taken to investigate the possible sources of these responses.

E. Summary of Proposed Recommendations

CDC's foremost concern is protecting human health and safety. This concern requires a carefully considered balance of utilizing best possible risk analysis while considering technical feasibility and avoiding unintended consequences of recommendations that could increase total risk. CDC's recommendations are made with this balance in mind.

CDC proposes adjustments to the exposure limits for GA, GB, and VX to the values shown in Table 3.

TABLE 3.—DC CURRENT AND PROPOSED AIRBORNE EXPOSURE LIMITS

[All values expressed as milligrams per cubic meter air [mg/m^3]

Agent	General population limit* (GPL)		Worker population limit** (WPL)	Worker short-term exposure limit*** (STEL)	Immediately dangerous to life or health*** (IDLH)
GA, GB	Current proposed	3×10^{-6}	1×10^{-4}		
		1×10^{-6}	†3×10^{-5}	1×10^{-4}	0.1
VX	Current proposed	3×10^{-6}	1×10^{-5}		
		6×10^{-7}	‡1×10^{-6}	4×10^{-6}	0.003

* 24-hour time-weighted average. For the VX GPL, analyses of sample results within 72 hours is required.
** 8-hour time-weighted average.
† To be implemented in conjunction with the GB STEL.
‡ To be implemented in conjunction with a VX STEL.
*** Not previously considered by CDC.

Acknowledging the gaps in the database for VX, CDC considers the proposed VX exposure limits subject to re-evaluation in 3 years. New VX toxicity studies, which are anticipated to be completed within 3 years, have been recommended recently by the EPA NAC/AEGL Committee. CDC agrees that additional toxicity studies could be helpful in the derivation of exposure limits for VX.

CDC does not specifically recommend the use of these airborne exposure limits for uses other than transportation, demilitarization, or general population protection. For example, the 8-hour WPL value historically has been used for the Army-designated 3X decontamination, surveillance activities of leakers in storage, and charcoal unit mid-beds. CDC believes that the WPL is not necessarily applicable to all these activities, and the specific technical and safety requirements for each activity need to be considered individually.

The allowable limits for stack emissions were not discussed at the meeting. The allowable stack concentration (ASC) is a ceiling value that serves as a source emission limit and not as a health standard. It is used for monitoring the furnace ducts and common stack. The ASC provides an early indication of an upset condition and must be measurable in a timely manner. Modeling of worst-case credible events and conditions at each installation should confirm that the GPL monitoring level is not exceeded at the installation boundary as a consequence of a release at or below the ASC. Lowering the GPL might have the effect of lowering the stack concentration limit; therefore, modeling will need to be conducted to determine if the existing ASCs continue to be appropriate.

Dated: January 2, 2002.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–10001]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare and Medicaid Services.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA)), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* HIPAA Nondiscrimination Provisions; *Form No.:* CMS–10001 (OMB# 0938–0827); *Use:* Self-funded nongovernmental plans are required to give individuals who were previously discriminated against an opportunity to enroll, including notice of an opportunity to enroll; *Frequency:* Once; *Affected Public:* Business or other for-profit, not-for-profit institutions, Individuals or households, State, local, or tribal government; *Number of Respondents:* 583; *Total Annual Responses:* 583; *Total Annual Hours:* 200.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS's Web Site address at *http://www.hcfa.gov/regs/prdact95.htm*, or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@hcfa.gov*, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the CMS Paperwork Clearance Officer designated at the following address: CMS, Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards, Attention: Julie Brown, CMS 10001, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: December 20, 2001.

Julie E. Brown,

Acting Reports Clearance Officer, Security and Standards Group, Division of CMS Enterprise Standards.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–P–0015SPA, CMS–250 through 254, CMS–10008, and CMS–287]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare and Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA)), Department of Health and Human Services, is publishing the

following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

(1) *Type of Information Collection Request:* New Collection; *Title of Information Collection:* Medicare Current Beneficiary Survey—Supplement on Patient Activation; *Form No.:* CMS–P–0015SPA (OMB# 0938–NEW); *Use:* A primary theme of the NMEP education efforts has been to help Medicare beneficiaries make choices. Simply providing uniform information to an undifferentiated audience is not sufficient. CMS needs to know whether beneficiaries have the communication skills, motivation and basic knowledge of their own health status to be partners in their own health care. The purpose of this survey supplement is to assess the degree to which Medicare beneficiaries participate actively in their own health care decisions; *Frequency:* Annually; *Affected Public:* Individuals or Households; *Number of Respondents:* 16,000; *Total Annual Responses:* 16,000; *Total Annual Hours:* 2,666.

(2) *Type of Information Request:* Revision of a currently approved collection; *Title of Information Collection:* Medicare Secondary Payer Information Collection and Supporting Regulations in 42 CFR 411.25, 489.2, and 489.20; *Form Number:* CMS–250 through CMS–254 (OMB# 0938–0214); *Use:* Medicare Secondary Payer (MSP) is essentially the same concept known in the private insurance industry as coordination of benefits and refers to those situations where Medicare does not have primary responsibility for paying the medical expenses of a Medicare beneficiary. CMS contracts with health insuring organizations, herein referred to as intermediaries and carriers, to process Medicare claims. CMS charges its Medicare intermediaries and carriers with various tasks to detect MSP cases; develops and disseminates tools to enable them to better perform their tasks; and monitors their performance in achievement of their assigned MSP functions. Because intermediaries and carriers are also marketing health insurance products that may have liability when Medicare is secondary, the MSP provisions create the potential for conflict of interest. Recognizing this inherent conflict, CMS has taken steps to ensure that its intermediaries and carriers process claims in accordance with the MSP provisions, regardless of what other insurer is primary.

These information collection requirements describe the MSP requirements and consist of the following:

1. Initial enrollment questionnaire;

2. MSP claims investigation, which consists of first claim development, trauma code development, self-reporting MSP liability development, notice to responsible third party development (411.25 notice), secondary claims development, and ''08'' development (involving claims where information cannot be obtained from the beneficiary);

3. Provider MSP development, which requires the provider to request information from the beneficiary or representative during admission and other encounters; *Frequency:* On occasion; *Affected Public:* Individuals or households, Business or other for-profit, and Not-for-profit institutions; *Number of Respondents:* 867,867,540; *Total Annual Responses:* 867,863,540; *Total Annual Hours Requested:* 2,926,254.

(3) *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Recognition of Pass-Through Payment for Drugs and Biologicals Under the Outpatient Prospective Payment System and Supporting Regulations in 42 CFR, Section 419.43 formerly known as ''Recognition of New Technology/Pass-Through Items Under the Prospective Payment System for Hospital Outpatient Services''; *Form No.:* CMS–10008 (OMB# 0938–0802); *Use:* This information is necessary to determine items eligible for payment as new technology within the ambulatory payment classification (APC) system as well as items eligible for the transitional pass-through payment provision as required by section 201 of the BBRA. This collection will enable CMS to implement those special payment provisions; *Frequency:* On Occasion; *Affected Public:* Business or other for-profit; *Number of Respondents:* 55; *Total Annual Responses:* 55; *Total Annual Hours:* 193.

(4) *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Home Office Cost Statement and Supporting Regulations in 42 CFR 413.17 and 413.20; *Form No.:* CMS–287 (OMB# 0938–0202); *Use:* Medicare law permits components of chain organizations to be reimbursed for certain costs incurred by the chain home offices. The Home Office Cost Statement is required by the fiscal intermediary to verify Home Office Costs claimed by the components. *Frequency:* Annually; *Affected Public:* Not-for-profit institutions and Business or other for-profit; *Number of Respondents:* 1,231; *Total Annual Responses:* 1,231; *Total Annual Hours Requested:* 573,646.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS's Web site address at *http://www.hcfa.gov/regs/prdact95.htm,* or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@hcfa.gov,* or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the CMS Paperwork Clearance Officer designated at the following address: CMS, Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards, Attention: Dawn Willinghan, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: December 20, 2001.

Julie Brown,

Acting, Reports Clearance Officer, Security and Standards Group, Division of CMS Enterprise Standards.

[FR Doc. 02–423 Filed 1–7–02; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–R–283]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare and Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA)), Department of Health and Human Services, is publishing the following summary of proposed

collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* Market Survey of Fraud, Waste and Abuse Detection Software; *Form No.:* CMS–R–0283 (OMB# 0938–0783); *Use:* This information collection tool is essential to providing the Centers for Medicare and Medicaid Services (CMS) a vehicle to ascertain cutting edge fraud, waste, and abuse detection products. CMS and its contractors presently use a number of these tools, as do other segments of government, the health care industry, and industry generally. New products taking advantage of new technologies are in continuous development. This completely voluntary survey will ensure that CMS is vigilant in identifying new advances to help fight the scourge of Medicare fraud and abuse; *Frequency:* Annually; *Affected Public:* Business or other for profit, and Not for profit institutions; *Number of Respondents:* 200; *Total Annual Responses:* 250; *Total Annual Hours:* 500.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the CMS Paperwork Clearance Officer designated at the following address: CMS, Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards, Attention: Julie Brown, CMS 10001, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: December 20, 2001.

Julie Brown,

Acting Reports Clearance Officer, Security and Standards Group, Division of CMS Enterprise Standards.

[FR Doc. 02–424 Filed 1–7–02; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–R–273 and CMS–2088]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare and Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency=s functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

(1) *Type of Information Collection Request:* Revision of a currently approved collection. *Title of Information Collection:* Site Visit Assessment Tool (previously known as Community Mental Health Center Site Visit Assessment Tool) and Supporting Regulations in 42 CFR 410.2. *Form No.:* CMS–R–0273 (OMB# 0938–0770). *Use:* This information collection tool is essential for CMS to ensure that new and existing Community Mental Health Centers (CMHC) are in compliance with Medicare provider requirements, as well as applicable Federal and State requirements. This revision is requested to implement the collection of information required by the Benefit Improvement and Protection Act of 2000 regarding the CMHC's provision of pre-admission screening to State mental health facilities and to expand the collection tool's use into other program areas as a means to screen applicants, enrollees, and existing providers/suppliers to ensure their legitimacy to participate in the Medicare program. *Frequency:* Upon initial application or re-enrollment into the Medicare program. *Affected Public:* Business or other for profit, Not for profit institutions, and state, local, or tribal Government. *Number of Respondents:* 4,550; *Total Annual Responses:* 4,550. *Total Annual Hours:* 17,400.

(2) *Type of Information Collection Request:* Extension of a currently approved collection. *Title of Information Collection:* Outpatient Rehabilitation Cost Report and Supporting Regulations in 42 CFR 413.20 and 413.24. *Form No.:* CMS–2088. *Use:* This form is used by Outpatient Rehabilitation Facilities to report their health care costs to determine the amount reimbursable for services furnished to Medicare beneficiaries. *Frequency:* Annually. *Affected Public:* Business or other for-profit, Not-for-profit institutions, and state, local or tribal government. *Number of Respondents:* 716. *Total Annual Responses:* 716. *Total Annual Hours:* 71,600.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web site address at *http://www.hcfa.gov/regs/prdact95.htm*, or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@hcfa.gov,* or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Allison Herron Eydt, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: December 20, 2001.

Julie Brown,

Acting, CMS Reports Clearance Officer, CMS Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards.

[FR Doc. 02–425 Filed 1–7–02; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–R–0148]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare and Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection. *Title of Information Collection:* Limitation on Provider-Related Donations and Health Care-Related Taxes; Limitations on Payments to Disproportionate Share Hospitals; Medicaid and Supporting Regulations in 42 CFR 433.68, 433.74, 447.74 and 447.272; *Form No.:* HCFA–R–148 (OMB#0938–0618); *Use:* These information collection requirements specify limitations on the amount of Federal financial participation available for medical assistance expenditures in a fiscal year. States receive donated funds from providers and revenues are generated by health care related taxes. These donations and revenues are used to fund medical assistance programs; *Frequency:* Quarterly; *Affected Public:* State, Local, or Tribal Government; *Number of Respondents:* 50; *Total Annual Responses:* 40; *Total Annual Hours:* 2,880.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web Site address at *http://www.hcfa.gov/regs/prdact95.htm,* or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@hcfa.gov*, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Brenda Aguilar, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: December 27, 2001.

Julie Brown,

Acting CMS Reports Clearance Officer, CMS Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards.

[FR Doc. 02–426 Filed 1–7–02; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Library of Medicine Special Emphasis Panel, Site Visit MMR B J2.

Date: January 6–8, 2002.

Time: January 6, 2002, 7 pm to 9 pm.

Agenda: To review and evaluate grant applications (Pre-Site Visit Meeting).

Place: Univ. of Florida Doubletree Hotel & Conf. Center, 1714 SW 34th Street, Gainesville, FL 32607.

Time: January 7, 2002, 7 am to 5 pm.

Agenda: To review and evaluate grant applications.

Place: University of Florida, Gainesville, FL 32610.

Time: January 7, 2002, 7 am to 8 pm.

Agenda: To review and evaluate grant applications (Post-Site Visit Meeting).

Place: Univ. of Florida Doubletree Hotel & Conf. Center, 1714 SW 34th Street, Gainesville, FL 32607.

Time: January 8, 2002, 8 am to 12 pm.

Agenda: To review and evaluate grant applications (Post-Site Visit Meeting).

Place: Univ. of Florida Doubletree Hotel & Conf. Center, 1714 SW 34th Street, Gainesville, FL 32607.

Contact Person: Merlyn M. Rodrigues, MD, PhD, Medical Officer/SRA, National Library of Medicine, Extramural Programs, 6705 Rockledge Drive, Suite 301, Bethesda, MD 20894.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: December 28, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–475 Filed 1–7–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

National Park Service

Record of Decision; Final Environmental Impact Statement; General Management Plan; Washita Battlefield National Historic Site, Oklahoma

Introduction

The Department of the Interior, National Park Service (NPS), has prepared this Record of Decision (ROD) on the Final General Management Plan/Environmental Impact Statement for Washita Battlefield National Historic Site, Oklahoma. This ROD includes a statement of the decision made, synopses of other alternatives considered, the basis for the decision, a description of the environmentally preferable alternative, a discussion of impairment of park resources or values, a listing of measures to minimize environmental harm, and an overview of public involvement in the decision-making process.

Decision (Selected Action)

The National Park Service will implement the preferred alternative as described in the Final General Management Plan/Environmental Impact Statement issued in August 2001. Under the selected action, park managers will make several changes to in order to provide a better visitor experience and protect the resource values at Washita Battlefield National Historic Site. The site will be zoned to ensure that resources are protected and opportunities exist to provide a quality

visitor experience. Most of the site (about 90%) will be restored to native vegetation as directed by the site's enabling legislation. A new loop trail system will allow visitors to access the site. At the US Forest Service's Black Kettle National Grassland ranger station a shared administrative, maintenance, visitor facility will be constructed. The existing overlook will be redesigned to provide a better interpretive experience for the visitor.

Other Alternatives Considered

Three other alternatives for managing Washita Battlefield National Historic Site were evaluated in the draft and final environmental impact statements.

The no-action alternative provides a baseline for evaluating the changes and impacts of the three action alternatives. Under the no-action alternative, park managers would continue to manage the park as it is currently managed, relying on the interim plans and other related existing plans. No new construction or major changes would take place, except for previously approved developments. All of the park's existing facilities would continue to be operated and maintained as they are currently.

Alternative A would provide a new administrative, maintenance and visitor facility at the US Forest Service's Black Kettle National Grassland. There would not be any trail access down onto the site. However, the overlook would be redesigned to provide for better interpretation of the site.

Alternative B would provide visitors with an onsite learning experience with an administrative, maintenance, and visitor facility on site. A loop trail would cross the river and return to the visitor area. The overlook would also be redesigned under this alternative.

Basis for Decision

The Organic Act established the National Park Service in order to ''promote and regulate the use of parks.* * *'' The Organic Act defined the purpose of the national parks as ''to conserve the scenery and natural and historic objects and wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.'' The Organic Act provides overall guidance for the management of Washita Battlefield National Historic Site.

In reaching its decision to select the preferred alternative, the National Park Service considered the purposes for which Washita Battlefield National Historic Site was established, and other laws and policies that apply to lands at Washita Battlefield National Historic Site, including the Organic Act, National Environmental Policy Act, and the NPS Management Policies. The National Park Service also carefully considered public comments received during the planning process.

Each alternative in the General Management Plan presents a different framework for managing Washita Battlefield National Historic Site. As a result, each alternative would have different impacts on park resources and visitors.

Compared to all of the alternatives considered, the preferred alternative (selected action) best accomplishes protection of park resources while providing of a range of quality visitor experiences. The preferred alternative would have both beneficial and adverse impacts on the park's resources, but most of the adverse impacts would be minor and localized. The new management zones would help ensure that opportunities exist for experiencing education and solitude for the visitor while protecting the site's cultural and natural resource values.

The preferred alternative provides the visitors with a better experience than Alternative A by allowing trail access down onto the site.

Compared to alternative B, the preferred alternative would result in far fewer adverse impacts on the cultural and natural resources of the site by having the major facility located off site. Unlike the preferred alternative, under Alternative B there would be the potential for moderate adverse impacts to the park resource values.

Environmentally Preferable Alternative

Records of decision are required under Council on Environmental Quality regulations to identify the environmentally preferable alternative. Environmentally preferable is defined as ''the alternative that will promote the national environmental policy as expressed in section 101 of the National Environmental Policy Act. Section 101 states that ''* * * it is the continuing responsibility of the Federal Government to * * * (1) fulfill the responsibilities of each generation as trustee of the environment for succeeding generations; (2) assure for all Americans safe, healthful, productive, and aesthetically and culturally pleasing surroundings; (3) attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences; (4) preserve important historic, cultural, and natural aspects of our national heritage, and maintain, wherever possible, an environment which supports diversity, and variety of individual choice; (5) achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and (6) enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.''

The environmentally preferable alternative is the NPS preferred alternative in the Final Washita Battlefield National Historic Site General Management Plan/ Environmental Impact Statement because it surpasses the other alternatives in realizing the full range of national environmental policy goals in section 101. This alternative provides a high level of protection of natural and cultural resources while concurrently providing for a wide range of neutral and beneficial uses of the environment. The alternative maintains an environment that supports a diversity and variety of individual choices. Also it integrates resource protection with an appropriate range of visitor uses.

The no-action alternative does not provide as much resource protection as the preferred alternative. Adverse visitor experience impacts also would likely increase under this alternative. Thus, compared to the preferred alternative, the no-action alternative is not as effective at meeting national environmental policy goals 3 (attain the widest range of beneficial uses of the environment without degradation), 4 (preserve important cultural and natural aspects and maintain an environment that supports diversity and variety of individual choice), 5 (achieve a balance between population and resource use), and 6 (enhance the quality of renewable resources).

Although alternative A provides a higher level of resource protection than the preferred alternative, it restricts visitor experiences and thus does not fully achieve goals 3 (providing the widest range of beneficial uses of the environment without degradation) and 5 (achieving a balance between population and resource use)—alternative A does not realize these national environmental policy goals to the same extent as the preferred alternative.

Alternative B does provide for more localized visitor experiences and access to the site. However, there would be a higher potential for adverse impacts to cultural and natural resources under this alternative compared to the preferred alternative. Thus, alternative B does not meet policy goals 3 (attain the widest range of beneficial uses without degradation), 4 (preserve important cultural and natural aspects), and 6

(enhance the quality of renewable resources) to the same degree as the preferred alternative.

Findings on Impairment of Park Resources and Values

The National Park Service may not allow the impairment of park resources and values unless directly and specifically provided for by legislation or proclamation establishing the park. Impairment that is prohibited by the NPS Organic Act and the General Authorities Act is an impact that, in the professional judgment of the responsible NPS manager, would harm the integrity of park resources or values, including the opportunities that otherwise would be present for the enjoyment of those resources or values. In determining whether an impairment would occur, park managers examine the duration, severity and magnitude of the impact; the resources and values affected; and direct, indirect, and cumulative effects of the action. According to NPS policy, ''An impact would be more likely to constitute an impairment to the extent that it affects a resource or value whose conservation is: (a) Necessary to fulfill specific purposes identified in the establishing legislation or proclamation of the park; (b) Key to the natural or cultural integrity of the park or to opportunities for enjoyment of the park; or (c) Identified as a goal in the park's general management plan or other relevant NPS planning documents.''

This policy does not prohibit all impacts to park resources and values. The National Park Service has the discretion to allow impacts to park resources and values when necessary and appropriate to fulfill the purposes of a park, so long as the impacts do not constitute an impairment.

Moreover, an impact is less likely to constitute an impairment if it is an unavoidable result, which cannot be further mitigated, of an action necessary to preserve or restore the integrity of park resources or values.

After analyzing the environmental impacts described in the Final General Management Plan/Environmental Impact Statement and public comments received, the National Park Service has determined that implementation of the preferred alternative will not constitute an impairment to Washita Battlefield National Historic Site's resources and values. The actions comprising the preferred alternative are intended to protect and enhance the park's natural and cultural resources, and provide for high-quality visitor experiences. Overall, the alternative would have minor, beneficial effects on such resources as cultural landscapes, ethnography and park collections; and a moderate, beneficial effect on visitor experience. From an overall, parkwide perspective, no major adverse impacts to the park's resources or the range of visitor experiences and no irreversible commitments of resources (other than a small loss of soil) would be expected. While the alternative would have some adverse effects on park resources and visitor experiences, most of these impacts would be site-specific, minor to moderate, short-term impacts.

Measures To Minimize Environmental Harm

Measures to avoid or minimize environmental harm that could result from implementation of the selected action have been identified and incorporated into the preferred alternative and are described in detail in the Final General Management Plan/ Environmental Impact Statement. Cultural and natural resource mitigation measures are described in the ''Alternatives'' chapter, the description of the preferred alternative, and in the analysis of environmental impacts. Measures to minimize environmental harm include, but are not limited to: tribal consultations; siting projects and facilities in previously disturbed or developed locations; employing erosion control measures, restoration of habitats using native plant materials; visitor education programs, ranger patrols, erecting barriers and signs to reduce or prevent impacts; allowing only the use of weed-free materials and equipment in the park; conducting visitor surveys and monitoring visitor use patterns; monitoring changes in the condition of natural and cultural resources; monitoring construction activities; and consulting with the Oklahoma Historical Society, office of the state historic preservation officer and U.S. Fish and Wildlife Service when appropriate.

Public Involvement

The National Park Service provided numerous opportunities for the public to participate in the Washita Battlefield National Historic Site general management planning process. The planning team primarily used newsletters and public meetings to solicit public comments and suggestions for the plan. During the course of the planning process two newsletters were sent to the site's mailing list, which consisted of over 400 names. Each of the newsletters provided the opportunity for feedback and comments from the public. The planning team held three sets of public meetings to gain public input during scoping, preliminary alternatives development and the draft plan public review. In addition, members of the planning team consulted with and sought the views of several agencies and governments, including the Southern Cheyenne and Arapaho tribes, Northern Cheyenne, Apache, Wichita tribes, the Bureau of Indian Affairs, U.S. Fish and Wildlife Service, US Forest Service, and the Oklahoma Historical Society.

The comment period on the draft plan initially ran from February 15, 2001, through May 20, 2001. A notice of availability was published in the March 20, 2001, **Federal Register**. The planning team held six public meetings on the draft environmental impact statement from March 27 through March 30, 2001. Meetings were held in Anadarko, Concho, Clinton, and Cheyenne, Oklahoma. About fifteen separate written responses were received during the comment period.

Two individuals commented on the Final General Management Plan/ Environmental Impact Statement during the 30-day no-action period. No new substantive issues were raised in the two comment letters.

The notice of availability for the final environmental impact statement was published in the September 21, 2001 **Federal Register**. The 30-day ''no action'' period ended on October 15, 2001.

Conclusion

Among the alternatives considered, the preferred alternative best protects the diversity of park resources while also maintaining a range of quality visitor experiences, meets NPS purposes and goals for managing Washita Battlefield National Historic Site, and meets national environmental policy goals. The preferred alternative would not result in the impairment of park resources and would allow the National Park Service to conserve park resources and provide for their enjoyment by visitors. The officials responsible for implementing the selected alternative are the Director, Intermountain Region, and the Superintendent, Washita Battlefield National Historic Site.

Dated: November 6, 2001.

John T. Crowley,

Acting Director, Intermountain Region, National Park Service.

[FR Doc. 02–380 Filed 1–7–02; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Urban Park and Recreation Recovery Program

AGENCY: National Park Service, Interior.

ACTION: Notice of FY 2002 grant round—UPARR Rehabilitation grants.

SUMMARY: This notice announces the availability of grant funds under the Rehabilitation phase of the Urban Park and Recreation Recovery (UPARR) Program and provides information on the application process including eligible recipients and deadlines for submission of proposals.

DATES: NPS will accept preapplications received on or before March 29, 2002.

ADDRESSES: See **SUPPLEMENTARY INFORMATION** section for NPS addresses.

FOR FURTHER INFORMATION CONTACT: Michael D. Wilson, Chief, Recreation Programs Division, or Wayne Strum, National Park Service, Department of the Interior, 1849 ''C'' Street, NW., Washington, DC 20240; (202) 565–1200.

SUPPLEMENTARY INFORMATION: For Fiscal Year 2002, $28,900,000 is available for funding of Rehabilitation projects under the Urban Park and Recreation Recovery Act of 1978 (Pub. L. 95–625). NPS will consider proposals for funding projects with a dollar limit of $1 million (Federal share of total project cost). Grants made in any one State shall not exceed in the aggregate 15 percent of the total available ($4,335,000). Preapplications must be received by the appropriate NPS field office by no later than March 29, 2002.

In order to minimize errors and to clarify program requirements, potential applicants are strongly encouraged to consult with the NPS field office during preparation of their proposals and to submit their preapplications prior to the above deadline.

Rehabilitation grants will be targeted to rehabilitate existing neighborhood recreation areas and facilities that have deteriorated to the point where health and safety are endangered or the community's range of quality recreation service is impaired. Proposals must be designed to provide recreation services within a specified area identified by the applicant. Proposals may identify improvements at multiple sites or facilities, each of which must be individually addressed. Grants may be used to remodel, rebuild, or develop existing outdoor or indoor recreation areas and facilities. Proposals that are entirely, or substantially oriented to expansion of existing facilities are not encouraged and will be closely scrutinized. If a UPARR project is part of a larger effort, the UPARR project, and its associated costs must be clearly separable and have a distinct budget for the UPARR portion of the effort.

Eligible Jurisdictions: Urban jurisdictions which have been determined eligible for the UPARR program are listed in 36 CFR part 72, appendix B. Eligible jurisdictions may compete for Rehabilitation grant funds if an approved Recovery Action Program (RAP) is on file with and approved by NPS. If a jurisdiction's RAP plan expired since FY 1995, the chief executive officer of that jurisdiction may submit either (1) a new or updated RAP for NPS review and approval, or (2) a letter of recertification. A letter of recertification must state that no significant changes have occurred in its assessment and action plan, and that the RAP remains current as a guide to community action and decision-making. In those cases where a jurisdiction has never submitted a RAP for participation in the UPARR program or its previously approved RAP plan expired prior to FY 1995, the chief executive officer of that jurisdiction may submit either (1) a new or updated RAP for NPS review and approval, or (2) copies of current budget, planning or other documents that reflect the jurisdiction's recreation priorities, policies, actions and decision-making processes; which when taken together, either satisfactorily update the pre-1995 RAP for the purposes of recertification or otherwise satisfies the RAP planning requirements for participation in the FY 2002 grant round. NPS may accept a recertification or approve the alternative RAP documentation through December 31, 2002, after which a new RAP is required. NPS may allow urban jurisdictions not on the list of eligibles to compete as a ''discretionary'' applicant if the jurisdiction is located in a Metropolitan Statistical Area and meets the criteria described in 36 CFR part 72, appendix A. All projects must be in accord with the priorities outlined in the recertified or approved RAP document.

Grant Implementation and Timing: Grantees must comply with all applicable Federal laws and regulations for the UPARR program, which includes completion of a final grant agreement within 120 days of a grant offer based on NPS evaluation of preapplications submitted for consideration.

Preapplication Requirements: The chief executive officer applying for a UPARR grant will be required to certify, in the preapplication, that the grantee will comply with all requirements of the UPARR program. Applicants must certify that they have adequate control and tenure over properties to be assisted through UPARR and must identify in their applications the type of control they have over those properties. Additional requirements are outlined in the ''UPARR Preapplication Handbook'' available from the NPS field offices (or on the internet at *http://www.nps.gov/uparr*).

Matching Requirements: UPARR Rehabilitation grants are awarded on a 70/30 (Federal/local) matching basis. As an incentive for state involvement in the program, the Federal Government will match, dollar for dollar, state contributions to the local share of the total project cost, up to 15 percent of the approved grant. The Federal share is limited to no more than 85 percent of the approved grant cost and the overall dollar limitations established above for Rehabilitation grants.

Pass-Through Funding: At the discretion of the applicant jurisdiction, grants may be transferred, in whole or in part, to independent general or special purpose local governments, private nonprofit agencies or community groups, and county or regional park authorities that provide recreation opportunities to the general population within the jurisdictional boundaries of the applicant jurisdiction. In such situations, the applicant jurisdiction will bear full legal responsibility and liability for passed-through funds.

Post-Completion Requirements: In accordance with section 1010 of the UPARR Act of 1978, assisted properties may not be converted to other than public recreation use without the prior approval of NPS and the replacement of the converted site or facility with one of reasonably equivalent usefulness and location. This provision applies to all Rehabilitation projects.

FOR FURTHER INFORMATION CONTACT: Interested jurisdictions should consult their NPS field office for further information including grant round schedule and for technical assistance in applying for funding. The NPS field offices are listed below:

Northeast

(CT, DC, DE, MA, MD, ME, NH, NJ, NY, PA, RI, VA, VT, WV)

Stewardship and Partnerships Team, Philadelphia Support Office, National Park Service, 200 Chestnut Street, 3rd Floor, Philadelphia, PA 19106, Tele: (215) 597–9195 (for all).

Southeast

(AL, FL, GA, KY, LA, MS, NC, PR, SC, TN, VI)

Recreation Programs Branch, Southeast Regional Office, National Park Service, Atlanta Federal Center, 1924 Building, 100 Alabama Street, SW., Atlanta, GA 30303, Tele: (404) 562–3175 (x530) (AL, FL, LA, MS, PR); (404) 562–3175 (x520) (GA, KY, TN); (404) 562–3175 (x519) (NC, SC).

Midwest

(AR, AZ, CO, IA, IL, IN, KS, MI, MN, MO, MT, ND, NE, NM, OH, OK, SD, TX, UT, WI, WY)

Partnerships—Grants, Midwest Regional Office, National Park Service, 1709 Jackson Street, Omaha, NE 68102–2571, Tele: (402) 221–7282 (AR, IL, MI); (402) 221–3292 (AZ, IN, OH); (402) 221–7283 (CO, MO, NE); (402) 221–3310 (IA, OK, TX); (402) 221–3205 (KS, MN, WI); (402) 221–3202 (MT, UT, WY); (402) 221–7270 (NM, ND, SD).

Pacific West

(AS, CA, CM, GU, HI, NV)

Planning and Partnerships Team, Pacific Great Basin Support Office, National Park Service, Suite 700, 1111 Jackson Street, Oakland, CA 94607, Tele: (510) 817–1445, 1324, 1454 (for all).

(AK, ID, OR, WA)

Partnerships Programs, Columbia Cascades Support Office, National Park Service, 909 First Avenue, Seattle, WA 98104–1060, Tele: (206) 220–4126 (for all).

Dated: December 11, 2001.

D. Thomas Ross,

Assistant Director, Recreation and Conservation.

[FR Doc. 02–382 Filed 1–7–02; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Announcement of Subsistence Resource Commission Meeting

AGENCY: National Park Service, Interior.

ACTION: Announcement of Subsistence Resource Commission meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770, 5 U.S.C. App. 1, section 10), notice is hereby given that the National Park Service will hold a public meeting of the Denali National Park Subsistence Resource Commission. The following agenda items will be discussed:

(1) Call to Order (Chairman).
(2) Roll Call: Confirmation of Quorum.
(3) Introduction of guests.
(4) Review Agenda.
(5) Review and approval of minutes from the last meeting.
(6) Superintendent's welcome and review of the Commission purpose.
(7) Commission membership status.
(8) Public and other agency comments.
(9) Old Business:
  a. Denali Backcountry Management Plan Status Report.
  b. Review comment on draft hunting plan recommendations.
(10) New Business:
  a. October 2001 Chairs Workshop Report.
  b. Federal Subsistence Board Report.
  1. Review Wildlife Proposals.
  2. Review Fisheries Proposals.
(11) Public and other agency comments.
(12) Subsistence Resource Commission Work Session.
(13) Set time and place of next Subsistence Resource Commission meeting.
(14) Adjourn meeting.

DATES: The meeting will begin at 9 a.m. on Friday, February 22, 2002 and conclude at approximately 5 p.m. The meeting will adjourn earlier if the agenda items are completed.

LOCATION: The Meeting will be held at the Cantwell Community Hall, Cantwell, Alaska, Telephone (907) 768–2122.

FOR FURTHER INFORMATION CONTACT: Hollis Twitchell, Subsistence Manager, Denali National Park and Preserve, P.O. Box 9 Denali Park, Alaska, 99755. Phone (907) 456–0595.

SUPPLEMENTARY INFORMATION: The Subsistence Resource Commissions are authorized under Title VIII, section 808, of the Alaska National Interest Lands Conservation Act, Public Law 96–487 and operate in accordance with the provisions of the Federal Advisory Committees Act.

In light of a recent attempt to relocate National Park Service administrative personnel and offices in Washington, DC, this notice may not be published at least 15 days prior to the meeting. The National Park Service regrets these events, but is compelled to hold the meeting as scheduled because of the significant sacrifice re-scheduling would require of commission members who have adjusted their schedules to accommodate the proposed meeting dates.

Draft minutes of the meeting will be available for public inspection approximately 6 weeks after the meeting at the Denali National Park and Preserve Office, PO Box 9, Denali Park, Alaska 99755.

Robert L. Arnberger,

Regional Director.

[FR Doc. 02–381 Filed 1–7–02; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Announcement of Subsistence Resource Commission Meeting

AGENCY: National Park Service, Interior.

ACTION: Announcement of Subsistence Resource Commission meeting.

SUMMARY: As required by the Federal Advisory Committee Act, the Superintendent of Lake Clark National Park and Preserve and the Chair of the Lake Clark Subsistence Resource Commission announce a forthcoming meeting of the Subsistence Resource Commission for Lake Clark National Park. The following agenda items will be discussed:

(1) Call to order.
(2) Roll call—Confirm Quorum.
(3) Introductions.
(4) Superintendent's Welcome.
(5) Additions, corrections and agenda approval.
(6) Approval of SRC meeting minutes.
(7) SRC Purpose and Role.
(8) Status of Membership.
(9) Park Subsistence Coordinator's Report.
(10) October 2001 Chairs Workshop Report.
(11) Status of Lake Clark Subsistence Management Plan.
(12) Federal Subsistence Board Actions/Proposals.
(13) Agency Reports and Public Comments.
(14) SRC Work Session—Prepare correspondence/recommendations.
(15) Set time and place of next meeting.
(16) Adjournment.

DATES: The meeting will begin at 10:00 a.m. on Thursday, February 21, 2002 and conclude around 4:30 p.m.

LOCATION: The meeting will be held at the Lake Clark National Park and Preserve Office in Port Alsworth, Alaska, Telephone (907) 781–2218.

FOR FURTHER INFORMATION CONTACT: Mary McBurney, Subsistence Manager, 2525 Gambell St., Anchorage, Alaska, 99503, Telephone (907) 257–2633.

SUPPLEMENTARY INFORMATION: The Subsistence Resource Commissions are authorized under Title VIII, Section 808, of the Alaska National Interest Lands

Conservation Act, Pub. L. 96–487, and operate in accordance with the provisions of the Federal Advisory Committees Act.

In light of a recent attempt to relocate National Park Service administrative personnel and offices in Washington, DC, this notice may not be published at least 15 days prior to the meeting. The National Park Service regrets these events, but is compelled to hold the meeting as scheduled because of the significant sacrifice re-scheduling would require of commission members who have adjusted their schedules to accommodate the proposed meeting dates.

Draft minutes of the meeting will be available for public inspection approximately 6 weeks after the meeting at the Lake Clark National Park and Preserve Office in Port Alsworth, Alaska, Phone (907) 781–2218.

Robert L. Arnberger,

Regional Director.

[FR Doc. 02–379 Filed 1–7–02; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Possession of the U.S. Department of the Interior, National Park Service, Natchez Trace Parkway, Tupelo, MS

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects in the possession of the U.S. Department of the Interior, National Park Service, Natchez Trace Parkway, Tupelo, MS.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the National Park Service unit that has control or possession of these Native American human remains. The Assistant Director, Cultural Resources Stewardship and Partnerships is not responsible for the determinations within this notice.

A detailed assessment of the human remains was made by National Park Service professional staff in consultation with representatives of the Absentee-Shawnee Tribe of Indians of Oklahoma; Alabama-Coushatta Tribes of Texas; Alabama-Quassarte Tribal Town, Oklahoma; Cherokee Nation, Oklahoma; Chickasaw Nation, Oklahoma; Chitimacha Tribe of Louisiana; Choctaw Nation of Oklahoma; Eastern Band of Cherokee Indians of North Carolina; Eastern Shawnee Tribe of Oklahoma; Jena Band of Choctaw Indians, Louisiana; Kialegee Tribal Town, Oklahoma; Miccosukee Tribe of Indians of Florida; Mississippi Band of Choctaw Indians, Mississippi; Muskogee (Creek) Nation, Oklahoma; Poarch Band of Creek Indians of Alabama; Seminole Nation of Oklahoma; Seminole Tribe of Florida, Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations; Thlopthlocco Tribal Town, Oklahoma; Tunica-Biloxi Indian Tribe of Louisiana; and United Keetoowah Band of Cherokee Indians of Oklahoma. The Shawnee Tribe, also known also as the ''Loyal Shawnee'' or ''Cherokee Shawnee,'' a nonfederally recognized Native American group at the time that they were consulted, has since been recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians under provisions of P.L. 106-568.

The 50 human remains and 5,257 associated funerary objects described below were recovered from 5 different sites.

In 1939, human remains representing 13 individuals were recovered from Alton's Chickasaw Village during a legally authorized National Park Service excavation. No known individuals were identified. The 2,174 associated funerary objects are 2,107 glass beads, 55 kettle fragments, 2 brass buckles, 2 ear plugs, 2 pieces of wood, 2 cloth fragments, 1 animal bone fragment, 1 bell, 1 iron hoe, and 1 metal spring.

In 1940, human remains representing 26 individuals were recovered from the Ackia Village site during a legally authorized National Park Service excavation to gather information on historic Chickasaw sites. No known individuals were identified. The 88 associated funerary objects are 28 musket balls, 17 metal spring fragments, 12 buttons, 7 pieces of worked bone, 5 gunflints, 4 flake tools, 2 glass beads, 2 projectile points, 2 knife fragments, 2 bracelets, 1 brass bell, 1 nail, 1 metal fragment, 1 stone biface, 1 scraper, 1 cup, and 1 tobacco pipe.

In 1940, human remains representing three individuals were recovered from the Beldin's Ridge site during a legally authorized National Park Service project. No known individuals were identified. The 977 associated funerary objects are 972 glass beads, 2 copper ornaments, 2 Wilson Plain-variety Oktibbeha ceramic vessel fragments, and 1 stone tool.

In 1947 and 1948, human remains representing seven individuals were recovered from the Bynum Mounds site during a legally authorized project. No known individuals were identified. The 2,014 associated funerary objects are 1,916 glass beads, 27 metal fragments, 9 silver spoons, 9 flintlock fragments, 6 cloth fragments, 5 metal files, 4 metal knives, 4 wire fragments, 4 copper earrings, 4 ornaments, 3 metal cups, 2 shell gorgets, 2 musket balls, 2 rivets, 2 blades, 2 utensils, 1 tobacco pipe, 1 gunflint, 1 whetstone, 1 silver brooch, 1 silver crown, 1 metal spike, 1 metal spring, 1 button, 1 snuffbox, 1 bell, 1 powder flask, 1 ground stone, 1 polishing stone, 1 basket fragment, 1 worked antler, 1 metal screw, and 1 unidentifiable object.

In 1955, human remains representing one individual were recovered from the site of the Futorian Furniture Company. The site, which is located off of park property, was legally excavated. No known individual was identified. No associated funerary objects are present.

Ackia Village, Alton's Chickasaw Village, Beldin's Ridge, and the Futorian Furniture Company sites are all located in the vicinity of Tupelo, MS, within the area known as ''Chickasaw Old Fields.'' In the early 18th century, the Chickasaw consolidated their settlements into this area. The locations of these villages are recorded on several historic maps. On the basis of historic maps and records, as well as the archeological data gathered during the excavations, the occupation of these sites has been dated to the first half of the 18th century (A.D. 1700-1750). Historical accounts also document that each of these sites was the location of a Chickasaw village and is within the historic homeland of the Chickasaw Nation.

The Bynum Mounds site is located south of Tupelo in Chickasaw County, MS. The site consists of a village and burial mound dating to the Woodland period (200-300 B.C.), and a historic period (A.D. 1750-1850) village occupation. On the basis of the artifacts associated with the burials, the human remains from the historic component are believed to date to the early 19th century (A.D. 1800-1830). The site is located within the historic homeland of the Chickasaw Nation.

Based on the above-mentioned information, the superintendent of Natchez Trace Parkway has determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of 50 individuals of Native American ancestry. The

superintendent of Natchez Trace Parkway also has determined that, pursuant to 43 CFR 10.2 (d)(2), the 5,257 objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of a death rite or ceremony. Lastly, the superintendent of Natchez Trace Parkway has determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects recovered from Ackia Village, Alton's Chickasaw Village, Beldin's Ridge, the historic component the Bynum Mounds, and the Futorian Furniture Company sites, and the Chickasaw Nation, Oklahoma.

This notice has been sent to officials of the Absentee-Shawnee Tribe of Indians of Oklahoma; Alabama and Coushatta Tribes of Texas; Alabama-Quassarte Tribal Town, Oklahoma; Cherokee Nation, Oklahoma; Chickasaw Nation, Oklahoma; Chitimacha Tribe of Louisiana; Choctaw Nation of Oklahoma; Eastern Band of Cherokee Indians of North Carolina; Eastern Shawnee Tribe of Oklahoma; Jena Band of Choctaw Indians, Louisiana; Kialegee Tribal Town, Oklahoma; Miccosukee Tribe of Indians of Florida; Mississippi Band of Choctaw Indians, Mississippi; Muskogee (Creek) Nation, Oklahoma; Poarch Band of Creek Indians of Alabama; Seminole Nation of Oklahoma; Seminole Tribe of Florida, Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations; Shawnee Tribe, Oklahoma; Thlopthlocco Tribal Town, Oklahoma; Tunica-Biloxi Indian Tribe of Louisiana; and United Keetoowah Band of Cherokee Indians of Oklahoma. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Wendell Simpson, Superintendent, Natchez Trace Parkway, 2680 Natchez Trace Parkway, Tupelo, MS 38803, telephone (662) 680-4005, before February 7, 2002. Repatriation of the human remains and associated funerary objects to the Chickasaw Nation, Oklahoma may begin after that date if no additional claimants come forward.

Dated: October 19, 2001.

John Robbins,

Assistant Director, Cultural Resources Stewardship and Partnerships.

[FR Doc. 02–385 Filed 1–7–02; 8:45 am]

BILLING CODE 4310–70–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Possession of the U.S. Department of the Interior, National Park Service, Natchez Trace Parkway, Tupelo, MS

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects in the possession of the U.S. Department of the Interior, National Park Service, Natchez Trace Parkway, Tupelo, MS.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the National Park Service unit that has control or possession of these Native American human remains. The Assistant Director, Cultural Resources Stewardship and Partnerships is not responsible for the determinations within this notice.

A detailed assessment of the human remains was made by National Park Service professional staff in consultation with representatives of the Absentee-Shawnee Tribe of Indians of Oklahoma; Alabama-Coushatta Tribes of Texas; Alabama-Quassarte Tribal Town, Oklahoma; Cherokee Nation, Oklahoma; Chickasaw Nation, Oklahoma; Chitimacha Tribe of Louisiana; Choctaw Nation of Oklahoma; Eastern Band of Cherokee Indians of North Carolina; Eastern Shawnee Tribe of Oklahoma; Jena Band of Choctaw Indians, Louisiana; Kialegee Tribal Town, Oklahoma; Miccosukee Tribe of Indians of Florida; Mississippi Band of Choctaw Indians, Mississippi; Muskogee (Creek) Nation, Oklahoma; Poarch Band of Creek Indians of Alabama; Seminole Nation of Oklahoma; Seminole Tribe of Florida, Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations; Thlopthlocco Tribal Town, Oklahoma; Tunica-Biloxi Indian Tribe of Louisiana; and United Keetoowah Band of Cherokee Indians of Oklahoma. The Shawnee Tribe, also known also as the ''Loyal Shawnee'' or ''Cherokee Shawnee,'' a nonfederally recognized Native American group at the time that they were consulted, has since been recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians under provisions of P.L. 106-568.

In 1951 and 1963, human remains representing 124 individuals were recovered from the Mangum site during authorized National Park Service survey and excavation projects. No known individuals were identified. There are no funerary objects associated with the one individual recovered in 1951. The 123 individuals recovered in 1963 are associated with 34 funerary objects: 12 ceramic vessel fragments, 7 projectile points, 3 shell ornaments, 3 stone tools, 2 stone artifacts, 1 ceramic frog effigy, 1 celt, 1 polished stone, 1 tobacco pipe, 1 dipper, 1 ceramic jar, and 1 cupreous metal fragment.

The Mangum site is a large hilltop cemetery located in Claiborne County, MS. Objects recovered from the burials indicate that the site was in use during the Mississippian period (A.D. 1000-1650). The principal investigator of the 1963 excavation states that the burials date to approximately A.D. 1500, or possibly even more recently. In 1540, the De Soto expedition likely encountered the Taënsa people in the vicinity of the Mangum site. In 1682, the de La Salle expedition documented the Taënsa and Tunica in the same area. In 1706, the Taënsa were driven from the area, migrating first to Bayogula, and then to Mobile, where they may have settled with the Choctaw. In 1764, the Taënsa again moved, first to the Red River in south Louisiana, and finally to the Bayou Boeuf area where they lived with the Chitimacha. Representatives of the Chitimacha Tribe of Louisiana have identified similarities between the burial practices observed at the Mangum site and those of the Chitimacha. Historical documentation also indicates that the Tunica buried individuals in hilltop cemeteries in open country, matching the burial practice observed on the Mangum site. Historical documentation indicates that some Taënsa may have married into the Alabama tribe, the descendants of whom now constitute the Alabama-Coushatta Tribes of Texas and the Alabama-Quassarte Tribal Town, Oklahoma.

Based on the above mentioned information, the superintendent of Natchez Trace Parkway has determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of 124 individuals of Native American ancestry. The superintendent of Natchez Trace Parkway also has determined that, pursuant to 43 CFR 10.2 (d)(2), the 34 objects listed above are reasonably believed to have been placed with or

near individual human remains at the time of death or later as part of a death rite or ceremony. Lastly, the superintendent of Natchez Trace Parkway has determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these Native American human remains and associated funerary objects recovered and the Alabama-Coushatta Tribes of Texas; Alabama-Quassarte Tribal Town, Oklahoma; Chitimacha Tribe of Louisiana; Choctaw Nation of Oklahoma; Mississippi Band of Choctaw Indians; Jena Band of Choctaw Indians, Louisiana; and Tunica-Biloxi Indian Tribe of Louisiana.

This notice has been sent to officials of the Absentee-Shawnee Tribe of Indians of Oklahoma; Alabama-Coushatta Tribes of Texas; Alabama-Quassarte Tribal Town, Oklahoma; Cherokee Nation, Oklahoma; Chickasaw Nation, Oklahoma; Chitimacha Tribe of Louisiana; Choctaw Nation of Oklahoma; Eastern Band of Cherokee Indians of North Carolina; Eastern Shawnee Tribe of Oklahoma; Jena Band of Choctaw Indians, Louisiana; Kialegee Tribal Town, Oklahoma; Miccosukee Tribe of Indians of Florida; Mississippi Band of Choctaw Indians, Mississippi; Muskogee (Creek) Nation, Oklahoma; Poarch Band of Creek Indians of Alabama; Seminole Nation of Oklahoma; Seminole Tribe of Florida, Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations; Shawnee Tribe, Oklahoma; Thlopthlocco Tribal Town, Oklahoma; Tunica-Biloxi Indian Tribe of Louisiana; and United Keetoowah Band of Cherokee Indians of Oklahoma. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Wendell Simpson, Superintendent, Natchez Trace Parkway, 2680 Natchez Trace Parkway, Tupelo, MS 38803, telephone (662) 680-4005, before February 7, 2002. Repatriation of the human remains and associated funerary objects to Alabama-Coushatta Tribes of Texas; Alabama-Quassarte Tribal Town, Oklahoma; Chitimacha Tribe of Louisiana; Choctaw Nation of Oklahoma; Mississippi Band of Choctaw Indians; Jena Band of Choctaw Indians, Louisiana; and Tunica-Biloxi Indian Tribe of Louisiana may begin after that date if no additional claimants come forward.

Dated: October 19, 2001.

John Robbins,

Assistant Director, Cultural Resources Stewardship and Partnerships.

[FR Doc. 02–386 Filed 1–7–02; 8:45 am]

BILLING CODE 4310–70–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Possession of the U.S. Department of the Interior, National Park Service, Natchez Trace Parkway, Tupelo, MS

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects in the possession of the U.S. Department of the Interior, National Park Service, Natchez Trace Parkway, Tupelo, MS.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the National Park Service unit that has control or possession of these Native American human remains. The Assistant Director, Cultural Resources Stewardship and Partnerships is not responsible for the determinations within this notice.

A detailed assessment of the human remains was made by National Park Service professional staff in consultation with representatives of the Absentee-Shawnee Tribe of Indians of Oklahoma; Alabama-Coushatta Tribes of Texas; Alabama-Quassarte Tribal Town, Oklahoma; Cherokee Nation, Oklahoma; Chickasaw Nation, Oklahoma; Chitimacha Tribe of Louisiana; Choctaw Nation of Oklahoma; Eastern Band of Cherokee Indians of North Carolina; Eastern Shawnee Tribe of Oklahoma; Jena Band of Choctaw Indians, Louisiana; Kialegee Tribal Town, Oklahoma; Miccosukee Tribe of Indians of Florida; Mississippi Band of Choctaw Indians, Mississippi; Muskogee (Creek) Nation, Oklahoma; Poarch Band of Creek Indians of Alabama; Seminole Nation of Oklahoma; Seminole Tribe of Florida, Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations; Thlopthlocco Tribal Town, Oklahoma; Tunica-Biloxi Indian Tribe of Louisiana; and United Keetoowah Band of Cherokee Indians of Oklahoma. The Shawnee Tribe, also known also as the ''Loyal Shawnee'' or ''Cherokee Shawnee,'' a nonfederally recognized Native American group at the time that they were consulted, has since been recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians under provisions of P.L. 106-568.

In 1984 and 1985, human remains representing eight individuals were recovered from the Mayberry site during an authorized National Park Service contract with the University of Tennessee. No known individuals were identified. The eight associated funerary objects are four archeological field bags of limestone slab fragments believed to have been intentionally placed with the human remains to line the grave, three ceramic trowels, and one celt.

The Mayberry site is located in Hickman County, TN, on the southern river terrace of the Duck River. The human remains and associated funerary objects were excavated from five ''box burials'' and one bell-shaped burial discovered at the site. Box burials are characterized by placement of the flexed body into a limestone-, sandstone-, or pottery-lined pit. Artifacts associated with the human remains indicate that these individuals were buried during the Mississippian cultural period (A.D. 900-1650). The box burial practice was common in an area generally bounded by the Tennessee, Missouri, and Ohio Rivers. It appears to be most commonly practiced on the Cumberland Plateau, around Nashville, TN, during the Mississippian period. Box graves in this region are attributed to the Middle Cumberland Culture. Descendants of this prehistoric group have never been firmly established. One account of Delaware burial practice from the 18th century does closely match one burial from the Mayberry site. However, at the time of first sustained European contact in the 17th century, the tribes of the Delaware confederacy were located along the Atlantic slope in the present-day States of Pennsylvania, New Jersey, New York, and Delaware. Another early historic account links box burials with burial practices of the widespread Shawnee bands whose aboriginal range did extend into the area of the Mayberry site. The area is considered part of the traditional hunting lands of Cherokee and Chickasaw tribes, and -- according to Chickasaw representatives consulted on June 28, 2001 -- may have been part of the Chickasaw's traditional homelands during the Mississippian cultural period. The first documented long-term contact between Europeans and Native Americans in the area

occurred around A.D. 1700 when a French trader, Charles Charleville, began trading with the Shawnee at French Lick in what is now Nashville, TN. The Mayberry site is located within the area ceded to the United States by the Cherokee on January 7, 1807, and by the Chickasaw on September 20, 1816.

Based on the above-mentioned information, the superintendent of Natchez Trace Parkway has determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of eight individuals of Native American ancestry. The superintendent of Natchez Trace Parkway also has determined that, pursuant to 43 CFR 10.2 (d)(2), the eight objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of a death rite or ceremony. Lastly, the superintendent of Natchez Trace Parkway has determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these Native American human remains and associated funerary objects and the Absentee-Shawnee Tribe of Indians of Oklahoma; Eastern Shawnee Tribe of Oklahoma; Shawnee Tribe, Oklahoma, Cherokee Nation of Oklahoma; Eastern Band of Cherokee Indians of North Carolina; United Keetoowah Band of Cherokee Indians of Oklahoma; and the Chickasaw Nation.

This notice has been sent to officials of the Absentee-Shawnee Tribe of Indians of Oklahoma; Alabama and Coushatta Tribes of Texas; Alabama-Quassarte Tribal Town, Oklahoma; Cherokee Nation of Oklahoma; Chickasaw Nation, Oklahoma; Chitimacha Tribe of Louisiana; Choctaw Nation of Oklahoma; Delaware Tribe of Indians; Delaware Nation; Eastern Band of Cherokee Indians of North Carolina; Eastern Shawnee Tribe of Oklahoma; Jena Band of Choctaw Indians, Louisiana; Kialegee Tribal Town, Oklahoma; Miccosukee Tribe of Indians of Florida; Mississippi Band of Choctaw Indians, Mississippi; Muskogee (Creek) Nation, Oklahoma; Poarch Band of Creek Indians of Alabama; Seminole Nation of Oklahoma; Seminole Tribe of Florida, Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations; Shawnee Tribe, Oklahoma; Stockbridge-Munsee Community of Mohican Indians of Wisconsin; Thlopthlocco Tribal Town, Oklahoma; Tunica-Biloxi Indian Tribe of Louisiana; and United Keetoowah Band of Cherokee Indians of Oklahoma. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Wendell Simpson, Superintendent, Natchez Trace Parkway, 2680 Natchez Trace Parkway, Tupelo, MS 38803, telephone (662) 680-4005, before February 7, 2002. Repatriation of the human remains and associated funerary objects to the Absentee-Shawnee Tribe of Indians of Oklahoma; Eastern Shawnee Tribe of Oklahoma; Shawnee Tribe, Oklahoma; Cherokee Nation of Oklahoma; Eastern Band of Cherokee Indians of North Carolina; United Keetoowah Band of Cherokee Indians of Oklahoma; and Chickasaw Nation may begin after that date if no additional claimants come forward.

Dated: October 19, 2001.

John Robbins,

Assistant Director, Cultural Resources Stewardship and Partnerships.

[FR Doc. 02–387 Filed 1–7–02; 8:45 am]

BILLING CODE 4310–70–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Possession of the U.S. Department of the Interior, National Park Service, Natchez Trace Parkway, Tupelo, MS

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects in the possession of the U.S. Department of the Interior, National Park Service, Natchez Trace Parkway, Tupelo, MS.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the National Park Service unit that has control or possession of these Native American human remains. The Assistant Director, Cultural Resources Stewardship and Partnerships is not responsible for the determinations within this notice.

A detailed assessment of the human remains was made by National Park Service professional staff in consultation with representatives of the Absentee-Shawnee Tribe of Indians of Oklahoma; Alabama-Coushatta Tribes of Texas; Alabama-Quassarte Tribal Town, Oklahoma; Cherokee Nation, Oklahoma; Chickasaw Nation, Oklahoma; Chitimacha Tribe of Louisiana; Choctaw Nation of Oklahoma; Eastern Band of Cherokee Indians of North Carolina; Eastern Shawnee Tribe of Oklahoma; Jena Band of Choctaw Indians, Louisiana; Kialegee Tribal Town, Oklahoma; Miccosukee Tribe of Indians of Florida; Mississippi Band of Choctaw Indians, Mississippi; Muskogee (Creek) Nation, Oklahoma; Poarch Band of Creek Indians of Alabama; Seminole Nation of Oklahoma; Seminole Tribe of Florida, Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations; Thlopthlocco Tribal Town, Oklahoma; Tunica-Biloxi Indian Tribe of Louisiana; and United Keetoowah Band of Cherokee Indians of Oklahoma. The Shawnee Tribe, also known also as the ''Loyal Shawnee'' or ''Cherokee Shawnee'' a nonfederally recognized Native American group at the time they were consulted, has since been recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians under provisions of P.L. 106-568.

In 1981, human remains representing five individuals were recovered from the Rock Creek site during a legally authorized excavation by Memphis State University under contract with the National Park Service. No known individuals were identified. The 77 associated funerary objects are fragments of ceramic jars and bowls.

The Rock Creek site is an open-air village and midden located in Colbert County, AL. All of human remains were found buried beneath the floor of living areas or immediately adjacent to dwellings, possibly in some sort of ceremonial structure. Ceramic fragments found associated with the human remains include examples of the Mississippi Plain and Dallas Noded pottery types.

On the basis of the objects recovered during the excavations, the Rock Creek site is believed to have been occupied during the late Mississippian period (A.D. 1400-1750). The Rock Creek site falls within the area thought to have been occupied by the Chickasaw when DeSoto camped near Tupelo, MS, in A.D. 1540-1541. Burial of human remains beneath the floor of living areas is a known Chickasaw practice. John Adair also identifies the Shawnee as traveling through the area in the A.D. 1700-1740 period. The Dallas ceramic tradition has been associated with ancestral Cherokee peoples.

Based on the above mentioned information, the superintendent of Natchez Trace Parkway has determined that, pursuant to 43 CFR 10.2 (d)(1), the

human remains listed above represent the physical remains of five individuals of Native American ancestry. The superintendent of Natchez Trace Parkway also has determined that, pursuant to 43 CFR 10.2 (d)(2), the 77 objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of a death rite or ceremony. Lastly, the superintendent of Natchez Trace Parkway has determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these Native American human remains and associated funerary objects and the Absentee-Shawnee Tribe of Indians of Oklahoma; Cherokee Nation of Oklahoma; Chickasaw Nation, Oklahoma; Eastern Band of Cherokee Indians of North Carolina; Eastern Shawnee Tribe of Oklahoma; Shawnee Tribe, Oklahoma; and United Keetoowah Band of Cherokee Indians of Oklahoma.

This notice has been sent to officials of the Absentee-Shawnee Tribe of Indians of Oklahoma; Alabama and Coushatta Tribes of Texas; Alabama-Quassarte Tribal Town, Oklahoma; Cherokee Nation, Oklahoma; Chickasaw Nation, Oklahoma; Chitimacha Tribe of Louisiana; Choctaw Nation of Oklahoma; Eastern Band of Cherokee Indians of North Carolina; Eastern Shawnee Tribe of Oklahoma; Jena Band of Choctaw Indians, Louisiana; Kialegee Tribal Town, Oklahoma; Miccosukee Tribe of Indians of Florida; Mississippi Band of Choctaw Indians, Mississippi; Muskogee (Creek) Nation, Oklahoma; Poarch Band of Creek Indians of Alabama; Seminole Nation of Oklahoma; Seminole Tribe of Florida, Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations; Shawnee Tribe, Oklahoma; Thlopthlocco Tribal Town, Oklahoma; Tunica-Biloxi Indian Tribe of Louisiana; and United Keetoowah Band of Cherokee Indians of Oklahoma. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Wendell Simpson, Superintendent, Natchez Trace Parkway, 2680 Natchez Trace Parkway, Tupelo, MS 38803, telephone (662) 680-4005, before February 7, 2002. Repatriation of the human remains and associated funerary objects to the Absentee-Shawnee Tribe of Indians of Oklahoma; Cherokee Nation, Oklahoma; Chickasaw Nation, Oklahoma; Eastern Band of Cherokee Indians of North Carolina; Eastern Shawnee Tribe of Oklahoma; Shawnee Tribe, Oklahoma; and United Keetoowah Band of Cherokee Indians of Oklahoma.

Dated: October 19, 2001.

John Robbins,

Assistant Director, Cultural Resources Stewardship and Partnerships.

[FR Doc. 02–388 Filed 1–7–02; 8:45 am]

BILLING CODE 4310–70–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Possession of the Oregon State Museum of Anthropology, Eugene, OR

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects in the possession of the Oregon State Museum of Anthropology, Eugene, OR.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations within this notice.

A detailed assessment of the human remains was made by Oregon State Museum of Anthropology professional staff in consultation with representatives of the Klamath Indian Tribe of Oregon; the Burns Paiute Tribe of the Burns Paiute Indian Colony of Oregon; the Confederated Tribes of the Warm Springs Reservation of Oregon; the Confederated Tribes of the Grande Ronde Community of Oregon; and the Confederated Tribes of the Siletz Reservation, Oregon.

In 1940, human remains representing one individual were donated to the Oregon State Museum of Anthropology by a person whose name is withheld. No known individual was identified. No associated funerary objects are present.

Museum records note that a former museum director, L. S. Cressman, attributed the remains to ''Klamath Country.'' It is unknown at the present time whether ''Klamath Country'' refers to the Klamath people or to a geographic locality.

Based on skeletal evidence, these remains are determined to be Native American. The reference in the museum records to ''Klamath Country'' suggests that the remains were removed from south-central Oregon or northeastern California. Historical documents, ethnographic sources, and oral history indicate that the Klamath-Modoc, Northern Paiute, and Shasta peoples have occupied these areas since precontact times.

Based on the above-mentioned information, officials of the Oregon State Museum of Anthropology have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of one individual of Native American ancestry. Officials of the Oregon State Museum of Anthropology also have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these Native American human remains and the Klamath Indian Tribe of Oregon; the Burns Paiute Tribe of the Burns Paiute Indian Colony of Oregon; the Confederated Tribes of the Warm Springs Reservation of Oregon; the Confederated Tribes of the Grande Ronde Community of Oregon; and the Confederated Tribes of the Siletz Reservation, Oregon.

This notice has been sent to officials of the Klamath Indian Tribe of Oregon; the Burns Paiute Tribe of the Burns Paiute Indian Colony of Oregon; the Confederated Tribes of the Warm Springs Reservation of Oregon; the Confederated Tribes of the Grande Ronde Community of Oregon; and the Confederated Tribes of the Siletz Reservation, Oregon. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains should contact C. Melvin Aikins, Oregon State Museum of Anthropology, 1224 University of Oregon, Eugene, OR 97403-1224, telephone (541) 346-5115, before February 7, 2002. Repatriation of the human remains to the Klamath Indian Tribe of Oregon; the Burns Paiute Tribe of the Burns Paiute Indian Colony of Oregon; the Confederated Tribes of the Warm Springs Reservation of Oregon; the Confederated Tribes of the Grande Ronde Community of Oregon; and the Confederated Tribes of the Siletz Reservation, Oregon may begin after that date if no additional claimants come forward.

Dated: November 14, 2001.

Robert D. Stearns,

Manager, National NAGPRA Program

[FR Doc. 02–383 Filed 1–7–02; 8:45 am]

BILLING CODE 4310–70–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Possession of the U.S. Department of the Interior, National Park Service, Western Archeological and Conservation Center, Tucson, AZ

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects in the control of the U.S. Department of the Interior, National Park Service, Western Archeological and Conservation Center, Tucson, AZ.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the National Park Service unit that has control or possession of these Native American human remains. The Manager, National NAGPRA Program is not responsible for the determinations within this notice.

A detailed assessment of the human remains and associated funerary objects was made by National Park Service professional staff in consultation with representatives of the Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; Tohono O'odham Nation of Arizona; and Zuni Tribe of the Zuni Reservation, New Mexico. Members of the Ak-Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona, were contacted, but did not attend the consultation meeting and were represented by members of the Gila River Indian Community of the Gila River Indian Reservation, Arizona.

In 1959-1960, human remains representing 13 individuals were recovered from 4 sites during legally authorized excavations under the direction of National Park Service archeologist Wesley L. Bliss. The four sites were located along a linear transect through Cibola and McKinley Counties, NM, and Apache County, AZ, as part of the Transwestern Pipeline Project. No known individuals were identified.

Human remains representing two individuals were recovered from the TRW PPL L-WR-32 site. The three associated funerary objects are a Puerco black-on-white bowl, and a bowl and sherd of the White Mound black-on-white ceramic type. Diagnostic artifacts found associated with the burials indicate that the human remains were buried during the Basketmaker III-Pueblo I phases (A.D. 500-950).

Human remains representing nine individuals were recovered from the TRW PPL L-WR-39 site. The six associated funerary objects are a Gallup black-on-white pitcher and bowl, Escavada black-on-white pitcher and bowl, Red Mesa black-on-white duck-shaped pitcher, and a corrugated style ceramic jar. Diagnostic artifacts found associated with the burials indicate that the human remains were buried during the Pueblo II-III phases (A.D. 1100-1300).

Human remains representing one individual were recovered from the TRW PPL L-WR-43 site. The one associated funerary object is a Puerco black-on-red bowl. The diagnostic artifact found associated with the burials indicates that the human remains were buried during the Pueblo III phase (A.D. 1250-1300).

Human remains representing one individual were recovered from the TRW PPL L-WR-47 site. Osteological documentation of the remains shows cranial deformation. No associated funerary objects are present.

Similarities in site architecture, ceramics, and other items recovered from the sites in Cibola and McKinley Counties, NM, and Apache County, AZ, indicate a single, socially integrated early group lasting from the Basketmaker III phase through Pueblo III phase (A.D. 500-1300). The archeological literature refers to this community as a local variant of the widespread Anasazi cultural tradition. Cranial deformation is common to many Anasazi remains and is believed to reflect their widespread use of cradleboards to carry infants. A combination of less bountiful environment, changes in the social structure of the community, and drought are believed to have precipitated rapid migration out of this area in the late 1200s. Most researchers who have worked in the area have concluded that these populations moved to Zuni and Acoma. Some of the populations from the western portion of the area may have moved to Hopi.

Based on the above-mentioned information, the manager of the Western Archeological and Conservation Center has determined that, pursuant to 43 CFR 10 (d)(1), the human remains listed above represent the physical remains of 13 individuals of Native American ancestry. The manager of the Western Archeological and Conservation Center also has determined that, pursuant to 43 CFR 10.2 (d)(2), the 10 objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of a death rite or ceremony. Lastly, the manager of the Western Archeological and Conservation Center has determined that, pursuant to 43 CFR 10.2 (e) there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Hopi Tribe of Arizona; Pueblo of Acoma, New Mexico, Pueblo of Santa Ana, New Mexico; Pueblo of Zia, New Mexico; and Zuni Tribe of the Zuni Reservation, New Mexico.

This notice has been sent to officials of the Ak-Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Pueblo of Acoma, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Zia, New Mexico; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; Tohono O'odham Nation of Arizona; and Zuni Tribe of the Zuni Reservation, New Mexico. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact George Teague, Manager, Western Archeological and Conservation Center, National Park Service, 1415 North 6th Avenue, Tucson, AZ 85705, telephone (520) 670-6501, extension 235, before February 7, 2002. Repatriation of the human remains and associated funerary objects may begin after that date if no additional claimants come forward.

Dated: November 30, 2001.

Robert Stearns,

Assistant Director, Cultural Resources Stewardship and Partnerships.

[FR Doc. 02–384 Filed 1–7–02; 8:45 am]

BILLING CODE 4310–70–S

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Information Collection Activities; Proposed Collection; Comment Request

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces that the Bureau of Reclamation (Reclamation) intends to seek approval of the following proposed new information collection form LS–924 entitled Summary of Water Requirements for Crops on Eligible Land. Before submitting the information collection request to the Office of Management and Budget for approval, Reclamation is soliciting comments on specific aspects of that form.

DATES: Comments on this notice must be received by March 11, 2002.

ADDRESSES: Address all comments concerning this notice to Bureau of Reclamation, Northern California Area Office, Attention: Donald A. Bultema, PO Box 988, Willows, California 95988.

FOR FURTHER INFORMATION CONTACT: For further information or a copy of the proposed collection of information form, contact Rita F. Hoofard at (530) 934–7069.

SUPPLEMENTARY INFORMATION: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of Reclamation's functions, including whether the information will have practical use; (b) the accuracy of Reclamation's estimated time and cost burdens of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, use, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including increased use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Title: Summary of Water Requirements for Crops on Eligible Land.

Abstract: Reclamation developed Form LS–924, Summary of Water Requirements for Crops Grown on Eligible Land, to facilitate and standardize the submission of data from the Sacramento River settlement contractors that divert water from Sacramento River sources. The information requested is required to ensure the proper implementation of 43 CFR 426.15 and the commingling provisions in the Sacramento River settlement contracts.

Description of respondents: There are approximately 44 Sacramento River settlement contractors (individuals/districts) that are required to file Form LS–924 for the purpose of contract administration.

Frequency: Annually.

Estimated completion time: An average of 60 minutes per respondent.

Annual responses: 44 respondents.

Annual burden hours: 44.

Public Comments

Our practice is to make comments, including names and home addresses of respondents, available for public review. Individual respondents may request that we withhold their home address from public disclosure, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold a respondent's identity from public disclosure, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public disclosure in their entirety.

Dated: December 7, 2001.

Murlin H. Coffey,

Manager, Property and Office Services.

[FR Doc. 02–397 Filed 1–7–02; 8:45 am]

BILLING CODE 4310–MN–M

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Information Collection Activities; Proposed Collection; Comment Request; Extension

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces that the Bureau of Reclamation (Reclamation) intends to submit for approval the following Reinstatement of an information collection. Rights-of-Use Applications. Before submitting the information collection request for the Office of Management and Budget for approval, Reclamation is soliciting comments on specific aspects of the information collection.

DATES: Comments on this notice must be received by March 11, 2002.

ADDRESSES: Address all comments concerning this notice to the Bureau of Reclamation, Office of Policy, Attention: Diane Trujillo (D–5300), PO Box 25007, Denver, CO 80225–0007.

FOR FURTHER INFORMATION CONTACT: Diane Trujillo, 303–445–2914.

SUPPLEMENTARY INFORMATION: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of Reclamation's functions, including whether the information will have practical use; (b) the accuracy of Reclamation's estimated time and costs burdens of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, use, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including increased use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Title: Rights-of-Use Applications.

OMB No.: 1006–0003.

Abstract: Reclamation is responsible for over 8 million acres of land in the 17 western States. Parties wishing to use any of that land must submit a Right-of-Use application. Reclamation will review the application and determine whether the granting of the right-of-use is compatible with the future uses of the land. After preliminary review of the application, the applicant will be advised of the estimated administrative costs for processing the application. In addition to the administrative costs, the applicant will also be required to pay a land use fee based on the fair market value for such land use, as determined by Reclamation. If the Right-of-Use application is for a bridge, building, or other types of major structure, Reclamation may require that all plans and specifications be signed and sealed by a professional engineer licensed by the State where the work is proposed. Linear facilities such as roads, pipelines, and transmission lines require a centerline survey of defining of limits of the requested right-of-use.

Description of respondents: Individuals, corporations, companies, and State and local entities that desire to use Reclamation lands.

Frequency: Each time a Right of Use is requested.

Estimated completion time: An average of 2 hours per respondent.

Annual responses: 500 respondents.

Annual burden hours: 1,000.

Our practice is to make comments, including names and home addresses of respondents, available for public review. Individual respondents may request that we withhold their home address from public disclosure, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold a respondent's identity from public disclosure, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public disclosure in their entirety.

Dated: December 3, 2001.

Elizabeth Cordova-Harrison,

Deputy Director, Office of Policy.

[FR Doc. 02–398 Filed 1–7–02; 8:45 am]

BILLING CODE 4310–94–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–932 (Final)]

Certain Folding Metal Tables and Chairs From China

AGENCY: United States International Trade Commission.

ACTION: Scheduling of the final phase of an antidumping investigation.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping investigation No. 731–TA–932 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of less-than-fair-value imports from China of certain folding tables and chairs, provided for in subheadings 9401.71.00, 9401.79.00, and 9403.20.00 of the Harmonized Tariff Schedule of the United States.[1]

For further information concerning the conduct of this phase of the investigation, hearing procedures, and rules of general application, consult the Commission's rules of practice and procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

EFFECTIVE DATE: December 3, 2001.

FOR FURTHER INFORMATION CONTACT: Olympia DeRosa Hand (202–205–3182), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS-ON-LINE) at *http://dockets.usitc.gov/eol/public.*

SUPPLEMENTARY INFORMATION:

Background

The final phase of this investigation is being scheduled as a result of an affirmative preliminary determination by the Department of Commerce that imports of certain folding metal tables and chairs from China are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigation was requested in a petition filed on April 27, 2001, by MECO Corporation, Greeneville, TN.

Participation in the Investigation and Public Service List

Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigation need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of this investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigation. A party granted access to BPI in the preliminary phase of the investigation need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff Report

The prehearing staff report in the final phase of this investigation will be placed in the nonpublic record on April 10, 2002, and a public version will be issued thereafter, pursuant to § 207.22 of the Commission's rules.

[1] For purposes of this investigation, the Department of Commerce has defined the subject merchandise as assembled and unassembled folding tables and folding chairs made primarily or exclusively from steel or other metal, as described below:

(1) Assembled and unassembled folding tables made primarily or exclusively from steel or other metal (''folding metal tables''). Folding metal tables include square, round, rectangular, and any other shapes with legs affixed with rivets, welds, or any other type of fastener, and which are made most commonly, but not exclusively, with a hardboard top covered with vinyl or fabric. Folding metal tables have legs that mechanically fold independently of one another, and not as a set. The subject merchandise is commonly, but not exclusively, packed singly, in multiple packs of the same item, or in five piece sets consisting of four chairs and one table. Specifically excluded from the scope of folding metal tables are the following: Lawn furniture; Trays commonly referred to as ''TV trays'' Side tables; Child-sized tables; Portable counter sets consisting of rectangular tables 36″ high and matching stools; and Banquet tables. A banquet table is a rectangular table with a plastic or laminated wood table top approximately 28″ to 36″ wide by 48″ to 96″ long and with a set of folding legs at each end of the table. One set of legs is composed of two individual legs that are affixed together by one or more cross-braces using welds or fastening hardware. In contrast, folding metal tables have legs that mechanically fold independently of one another, and not as a set.

(2) Assembled and unassembled folding chairs made primarily or exclusively from steel or other metal (''folding metal chairs''). Folding metal chairs include chairs with one or more cross-braces, regardless of shape or size, affixed to the front and/or rear legs with rivets, welds or any other type of fastener. Folding metal chairs include: those that are made solely of steel or other metal; those that have a back pad, a seat pad, or both a back pad and a seat pad; and those that have seats or backs made of plastic or other materials. The subject merchandise is commonly, but not exclusively, packed singly, in multiple packs of the same item, or in five piece sets consisting of four chairs and one table. Specifically excluded from the scope of folding metal chairs are the following: Folding metal chairs with a wooden back or seat, or both; Lawn furniture; Stools; Chairs with arms; and Child-sized chairs.

Hearing

The Commission will hold a hearing in connection with the final phase of this investigation beginning at 9:30 a.m. on April 23, 2002, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before April 15, 2002. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on April 18, 2002, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by §§ 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written Submissions

Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is April 17, 2002. Parties may also file written testimony in connection with their presentation at the hearing, as provided in § 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of § 207.25 of the Commission's rules. The deadline for filing posthearing briefs is April 30, 2002; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before April 30, 2002. On May 16, 2002, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before May 20, 2002, but such final comments must not contain new factual information and must otherwise comply with § 207.30 of the Commission's rules. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of § 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.21 of the Commission's rules.

Issued: January 2, 2002.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 02–393 Filed 1–7–02; 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, 28 CFR 50.7, notice is hereby given that a consent decree in *United States and State of Marine* v. *A&S Motors, Inc., et al.,* Civil Nos. 01–238–B, was lodged on November 30, 2001 with the United States District Court for the district of Maine.

The proposed consent decree embodies an agreement with 60 potentially responsible parties, pursuant to section 107 of CERCLA, 42 U.S.C. 9607, to pay $155,281, in aggregate, in reimbursement of past response costs at the Hows Corner Superfund Site in Plymouth, Maine. A total of $128,748 of these amounts will be paid to the United States and the balance will be paid to the State of Maine.

The monies paid by the settling defendants under the consent decree is to reimburse past and future costs incurred and to be incurred at the Site. The consent decree provides the settling defendants with releases for civil liability for EPA's and the State's past and future response costs at the Site.

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, U.S. Department of Justice, PO Box 7611, Washington, DC 20044–7611, and should refer to *United States and State of Maine* v. *A&S Motors, Inc., et al., DOJ Ref. No. 90–11–3–1733/2.*

The proposed consent decree may be examined at the Office of the United States Attorney, 99 Franklin Street, 2nd Floor, Bangor, ME 04401, and at the Region I Office of the Environmental Protection Agency, Region I records Center, 1 Congress Street, Suite 1100, Boston, MA 02114–2023. A copy of the proposed consent decree may be obtained by mail from the Consent Decree Library, PO Box 7611, Washington, DC 20044–7611. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $22.00 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Ronald G. Gluck,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 02–363 Filed 1–7–02; 8:45 am]

BILLING CODE 44410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with the Departmental Policy, 28 CFR 50.7 and section 122(d) of the Comprehensive Environmental Response, Compensation and Liability Act (''CERCLA''), notice is hereby given that a Consent Decree in *United States* v. *Cytec Industries, Inc., Ford Motor Company, SPS Technologies, Inc. and TI Automotive Systems Corp.,* Civil Action No. 01–CV–6109, was lodged with the United States District Court for the Eastern District of Pennsylvania on December 6, 2001. This Consent Decree resolves certain claims of the United States' against Cytec Industries, Inc., Ford Motor Company, SPS Technologies, Inc., and TI Automotive Systems Corp. (''Settling Defendants'') under sections 106 and 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act (''CERCLA''), 42 U.S.C. 9606 and 9607(a). The Consent Decree requires the Settling Defendants to perform remedial work at the Site consisting of all Operable Unit 2 response activities (as defined in the Decree) and to reimburse the Superfund for past response costs in the amount of $7 million and to pay future response costs for the Boarhead Farms Superfund Site

located in Bridgeton Township, Pennsylvania.

The Department of Justice will accept written comments on the proposed Consent Decree for thirty (30) days from the date of publication of this notice. Please address comments to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, PO Box 7611, Ben Franklin Station, Washington, DC 20044 and refer to *United States* v. *Cytec Industries, Inc., Ford Motor Company, SPS Technologies, Inc., and TI Automotive Systems Corp.,* DOJ # 90–11–2–06036/2.

Copies of the proposed Consent Decree may be examined at the Office of the United States Attorney, Eastern District of Pennsylvania, 615 Chestnut Street, Philadelphia, PA 19106 and at EPA Region III, 1650 Arch Street, Philadelphia, PA 19103. A copy of the proposed Consent Decree may be obtained by mail from the U.S. Department of Justice, Consent Decree Library, PO Box 7611, Washington, DC 20044–7611. When requesting a copy of the proposed Consent Decree, please enclose a check to cover the twenty-five cents per page reproduction costs payable to the ''Consent Decree Library'' in the amount of $23.25 (for Decree without appendices) or $29.00 (for Decree with appendices), and please reference *United States* v. *Cytec Industries, Inc., Ford Motor Company, SPS Technologies, Inc., and TI Automotive Systems Corp.,* DOJ No. 90–11–2–06036/2.

Catherine McCabe,

Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division, Department of Justice.

[FR Doc. 02–364 Filed 1–7–02; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Phillips Petroleum Company, et al.*, No. 3:00–CV–620–J–25c (M.D. Fla.) was lodged on November 19, 2001, with the United Stated District Court for the Middle District of Florida. The consent decree settles the United States' claims against numerous defendants, as well as counterclaims and third party claims against the United States, under sections 107 and 113 of the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. 9607 and 9613, for past response costs incurred in connection the Bill Johns Waste Oil Superfund Site in Jacksonville, Florida. Under the proposed decree the defendants, and the United States as a counter defendant, would reimburse the Superfund $1,450,000.00 out of $2,611,662.86 in past costs. The contribution of the settling federal agencies is $140,184.00.

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 the *United States* v. *Phillips Petroleum Company et al.,* No. 3:00–CV–620–J–25c (M.D. Fla.) and DOJ# 90–11–3–07139.

The proposed consent decree may be examined at the office of the United States Attorney, Middle District of Florida 200 W. Forsyth Street, Suite 700 Jacksonville, Florida 32201 and the Region 4 Office of the Environmental Protection Agency, 61 Forsyth Street, SW., Atlanta, GA 30303. A copy of the proposed consent decree may also be obtained by mail from the Consent Decree Library, PO Box 7611, Washington, DC 20044–7611. In requesting a copy please refer to the referenced case and enclose a check in the amount of $7.00 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Ellen M. Mahan,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 02–360 Filed 1–7–02; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Resource Conservation and Recovery Act (''RCRA'')

Consistent with Departmental policy, 28 CFR 50.7, notice is hereby given that on December 20, 2001, a proposed Consent Decree in *United States et al.* v. *Precision Fabricating and Cleaning Co. Inc.,* Civil Action No. 6:99–CF–1529–ORL–22DAB was lodged with the United States District Court for the Middle District of Florida.

In this action the United States sought injunctive relief and penalties against Precision Fabricating and Cleaning Co., Inc. (''PFC'') pursuant to the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (''RCRA'') section 7003, 42 U.S.C. 6973; and the Safe Drinking Water Act (''SDWA'') section 1431, 42 U.S.C. 300i. The United States sought to enjoin PFC to comply with an Administrative Order issued by EPA on September 30, 1996, in order to abate an imminent and substantial endangerment to public health, welfare, and the environment connected with the contamination of soil and groundwater at PFC's Facility at 3975 East Railroad Avenue, Sharpes, Brevard County, Florida. The United States also sought civil penalties for Defendant's violations of the Administrative Order pursuant to section 7003(b) of RCRA, 42 U.S.C. 6973(b), and section 1431 of the SDWA, 42 U.S.C. 300i.

The Complaint was amended to include claims by the State of Florida which sought to enjoin Defendant to comply with Consent Orders OGC No. 89–0257 (dated September 8, 1989) and No. 91–0825 (dated December 12, 1991) and to comply with Postclosure permit No. HF05–214090 (dated May 20, 1999).

The proposed Consent Decree, which settles the liability of PFC, for violations alleged in the Amended Complaint, provides that PFC will perform the environmental remedy at the Site estimated to cost $1.1 to $1.4 million, as set forth in the Remedial Measures Plan incorporated by reference in and attached to the Decree. Under the Decree, PFC will also pay to the United States a penalty of $75,000.

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, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *Precision Fabricating and Cleaning Co.,* D.J. Ref. 90–7–1–891.

The proposed Consent Decree may be examined at the Office of the United States Attorney, 400 North Tampa Street, Suite 3200, Tampa, Florida 33602, and at the U.S. EPA Region IV, 61 Forsyth Street, Atlanta, Georgia 30303. A copy of the proposed Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611. In requesting a copy, please enclose a check in the amount of $52.00 (25 cents per page reproduction cost) payable to the Consent Decree Library. In requesting a copy exclusive of exhibits,

please enclose a check in the amount of $16.75 payable to the Consent Decree Library.

Walker B. Smith,

Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 02–365 Filed 1–7–02; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Rentokil Initial Environmental Services, et al.*, No. 00–0395–BH–S (S.D. Ala.) was lodged on December 21, 2001, with the United States District Court for the Southern District of Alabama. The consent decree settles claims against Rentokil Initial Environmental Services, Inc. (''Rentokil''), Saraland Apartments, Ltd., The Roar Company, The Estate of Robert S. Coit (deceased) and Meador Contracting Company under section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. 9607, in connection with the Redwing Carriers, Inc., (Saraland) Superfund Site located Saraland, Alabama (the ''Site''). The consent decree requires Rentokil to perform the remedial action at the Site and the settling defendants will contribute, in cash or through the performance of the remedy, at least $9.26 million of $10.9 in total Site costs. The consent decree also resolves the United States' claims for treble punitive damages and fines against Rentokil and Saraland Apartments, Ltd. pursuant to section 107(c)(3), 42 U.S.C. 9607(c)(3) and section 106(b), 42 U.S.C. 9606(b). Finally, the consent decree provides for full payment of Saraland's debt, secured by the Site, to the United States Department of Housing and Urban Development (HUD); provided the payment does not exceed $500,000. The settling defendants are also settling claims among themselves through the consent decree.

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. *Rentokil Initial Environmental Services, et al.*, No. 00–0395–BH–S (S.D. Ala.) and DOJ# 90–11–2–635/1.

The proposed consent decree may be examined at the office of the United States Attorney, Southern District of Alabama 63 Royal Street, Suite 600, Mobile, Alabama 36602 and the Region 4 Office of the Environmental Protection Agency, 61 Forsyth Street, SW., Atlanta, GA 30303. A copy of the proposed consent decree may also be obtained by mail from the Consent Decree Library, PO Box 7611, Washington, DC 20044–7611. In requesting a copy please refer to the referenced case and enclose a check in the amount of $45.25 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Ellen M. Mahan,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 02–361 Filed 1–7–02; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Departmental policy and 28 CFR 50.7, notice is hereby given that a Consent Decree in *United States* v. *Square D Co.,* Civ. A. 01–CV–6048, was lodged on December 4, 2001 with the United States District Court for the Eastern District of Pennsylvania. The Consent Decree resolves the claims of the United States under section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act against Square D Co. for reimbursement of $138,193, one hundred percent of outstanding response costs incurred in responding to contamination at the Rodale Manufacturing Superfund Site (''the Site'') located in the Borough of Emmaus, Lehigh County, Pennsylvania. The Commonwealth of Pennsylvania is also a party to the Consent Decree, which will reimburse the Commonwealth for all its past and future response costs.

The Consent Decree also requires Square D Co. to pay all future response costs not inconsistent with the National Contingency Plan and to finance and to perform remedial work at the Site.

The Department of Justice will receive, for a period of not less than 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. *Square D. Co.* (01–CV–6048), DOJ Ref. #90–11–2–06943.

The Consent Decree may be examined at the Office of the United States Attorney, 615 Chestnut Street, Suite 1250, Philadelphia, PA, 19106, and at the Region III Office of the Environmental Protection Agency, 1650 Arch Street, Philadelphia, Pennsylvania 19103. A copy of the proposed Consent Decree may be obtained by mail from the Consent Decree Library, Department of Justice, PO Box 7611, Washington, DC 20044–7611. In requesting a copy from the Consent Decree Library, please refer to the referenced case and enclose a check in the amount of $23.25 (25 cents per page reproduction cost), payable to the Consent Decree Library.

Robert Brook,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division, United States Department of Justice, PO Box 7611, Washington, DC 20044–7611.

[FR Doc. 02–362 Filed 1–7–02; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated March 14, 2001, and published in the **Federal Register** on April 4, 2001, (66 FR 17930), Noramco of Delaware, Inc., 500 Old Swedes Landing Road, Wilmington, Delaware 19801, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Opium, raw (9600)	II
Poppy Straw Concentrate (9670)	II

The firm intends to import the listed controlled substances for the bulk manufacture of other controlled substances.

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Noramco of Delaware, Inc. to import the listed controlled substances is consistent with the public interest and with United States obligations under international treaties,

conventions, or protocols in effect on May 1, 1971, at this time. DEA has investigated Noramco of Delaware, Inc., on a regular basis to ensure that the company's continued registration is consistent with the public interest. These investigations have included inspection and testing of the company's physical security systems, audits of the company's records, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to Section 1008(a) of the Controlled Substances Import and Export Act and in accordance with Title 21, Code of Federal Regulations, Section 1301.34, the above firm is granted registration as an importer of the basic classes of controlled substances listed above.

Dated: December 21, 2001

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 02–416 Filed 1–7–02; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on May 1, 2001, OraSure Technologies, Inc., 1745 Eaton Avenue, Bethlehem, Pennsylvania 18018, made application by letter to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Alphamethadol (9605)	I
Benzoylecgonine (9180)	II
Morphine (9300)	II

The firm plans to bulk manufacture the listed controlled substances to be used in-house to manufacture other controlled substances.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than March 11, 2002.

Dated: December 21, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 02–420 Filed 1–7–02; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on April 10, 2001, Polaroid Corporation, 1265 Main Street, Building W6, Waltham, Massachusetts 02454, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of 2, 5-dimethoxyamphetamine (7396), a basic class of controlled substance listed in Schedule I.

The firm plans to manufacture bulk 2, 5-dimethoxyamphetamine for conversion into a non-controlled substance.

Any other such applicant and any person who is presently registered with DEA to manufacture such substance may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than March 11, 2002.

Dated: December 21, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 02–421 Filed 1–7–02; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By notice dated August 9, 2001, and published in the **Federal Register** on August 10, 2001, (66 FR 42240), Sigma Aldrich Research Biochemicals, Inc., Attn: Richard Milius, 1–3 Strathmore Road, Natick, Massachusetts 01760, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Cathinone (1235)	I
Methcathinone (1237)	I
Aminorex (1585)	I
Alpha-Ethyltryptamine (7249)	I
Lysergic acid diethylamide (7315).	I
Tetrahydrocannabinols (7370)	I
4-Bromo-2, 5-dimethoxyamphetamine (7391).	I
4-Bromo-2, 5-dimethoxyphenethylamine (7392).	I
2, 5-Dimethoxyamphetamine (7396).	I
3, 4-Methylenedioxyamphetamine (7400).	I
N-Hydroxy-3, 4-methylenedioxyamphetamine (7402).	I
3, 4-Methylenedioxy-N-ethylamphetamine (7404).	I
3, 4-Methylenedioxymethampheta-mine (7405).	I
1-[(2-Thienyl) cyclohexyl]piperidine (7470).	I
Heroin (9200)	I
Normorphine (9313)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Phenylcyclohexylamine (7460)	II
Phencyclidine (7471)	II
Cocaine (9041)	II
Codeine (9050)	II
Diprenorphine (9058)	II
Benzoylecogonine (9180)	II
Levomethorphan (9210)	II
Levorphanol (9220)	II
Meperidine (9230)	II
Metazocine (9240)	II
Methadone (9250)	II
Morphine (9300)	II
Thebaine (9333)	II
Canfentanil (9773)	II
Levo-alphacetylmethadol (LAAM) (9648).	II
Fentanyl (9801)	II

The firm plans to manufacture the listed controlled substances for laboratory reference standards and neurochemicals.

DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Sigma Aldrich Research Biochemicals, Inc. to manufacture the listed controlled substances is consistent with the public interest at this time. DEA has investigated Sigma Aldrich Research Biochemicals, Inc. on a regular basis to ensure that the company's continued registration is consistent with the public interest.

These investigations have included inspection and testing of the company's physical security systems, audits of the company's records, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823 and 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: December 28, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 02–415 Filed 1–7–02; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Bureau of Justice Statistics; Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of information collection under review: Annual Parole Survey, Annual Probation Survey, and Annual Probation Survey (Short Form).

The Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. This proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until March 11, 2002.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Lauren Glaze, (202) 305–9628, or via facsimile at (202) 307–1463, Bureau of Justice Statistics, Office of Justice Programs, U.S. Department of Justice, 810 7th Street, NW, Washington, DC 20531.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the variety of the methodology and assumptions used;

(3) Enhance the quality, utility and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of information collection:* Revision of currently approved collection.

(2) *The title of the Form/Collection:* Annual Parole Survey, Annual Probation Survey, and Annual Probation Survey (Short Form).

(3) *The agency form number and the applicable component of the Department sponsoring the collection:* Forms: CJ–7; CJ–8; and CJ–8A. Corrections Statistics, Bureau of Justice Statistics, Office of Justice Programs, United States Department of Justice.

(4) *Affected public who will be asked to respond, as well as a brief abstract:* Primary: State Departments of Corrections or State probation and Parole authority. Others: The Federal Bureau of Prisons, city and county courts and probation officers for which a central reporting authority does not exist. For the CJ–7 form, 54 central reporters (two State jurisdictions in California and one each from the remaining States, the District of Columbia, the Federal Bureau of Prisons, and one local authority) responsible for keeping records on parolees will be asked to provide information for the following categories:

(a) As of January 1, 2002 and December 31, 2002, the number of adult parolees under their jurisdiction;

(b) The number of adults entering parole during 2002 through discretionary release from prison, mandatory release from prison, or reinstatement of parole;

(c) The number of adults released from parole during 2002 through successful completion, incarceration, transfer to another parole jurisdiction, or death;

(d) Whether adult parolees supervised out of State have been included in the total number of parolees on December 31, 2002, and the number of adult parolees supervised out of State;

(e) As of December 31, 2002, the number of male and female parolees under their jurisdiction;

(f) As of December 31, 2002, the number of white (not of Hispanic origin), black (not of Hispanic origin), Hispanic or Latino, American Indian or Alaska Native, Asian or Pacific Islander, or additional categories in their information systems;

(g) As of December 31, 2002, the number of adult parolees under their jurisdiction with a sentence of more than one year, or a year or less;

(h) As of December 31, 2002, the number of adult parolees under their jurisdiction who were active, inactive, absconders, or supervised out of state;

(i) As of December 31, 2002, the number of adult parolees under their jurisdiction who were supervised following a discretionary release, a mandatory release, a special conditional release, or other type of release from prison;

(j) Whether the parole authority operated an intensive supervision program, a program involving electronic monitoring, or had any parolees enrolled in a program that approximates a bootcamp, and the number of adult parolees in each of the programs as of December 31, 2002; and

(k) Of the adult parolees who died between January 1 and December 31, 2002, the number of deaths by gender and the number of deaths by race.

For the CJ–8 form, 333 reporters (one from each State, the District of Columbia, and the Federal Bureau of Prisons; and 295 from local authorities) responsible for keeping records on probations will be asked to provide information for the following categories:

(a) As of January 1, 2002 and December 31, 2002, the number of adult probationers under their jurisdiction;

(b) The number of adults entering probation during 2002 with and without a sentence to incarceration;

(c) The number of adults discharged from probation during 2002 through successful completion, incarceration, a detainer or warrant, transfer to another parole jurisdiction, and death;

(d) Whether adult parolees supervised out of State have been included in the total number of parolees on December 31, 2002, and the number of adult parolees supervised out of State;

(e) As of December 31, 2002, the number of male and female probationers under their jurisdiction;

(f) As of December 31, 2002, the number of white (not of Hispanic origin), black (not of Hispanic origin), Hispanic or Latino, American Indian or

Alaska Native, Asian or Pacific Islander, or additional categories in their information system;

(g) As of December 31, 2002, the number of adult probationers under their jurisdiction who were sentenced for a felony, misdemeanor, or other offense type;

(h) As of December 31, 2002, the number of adult probationers who had as their most serious offense a drug law violation, driving while intoxicated, other traffic offense, or domestic violence offense.

(i) Whether the probation authority supervised any probations held in local jails, prisons, or an INS holding facility, and the number of adult probationers held in each on December 31, 2002;

(j) As of December 31, 2002, the number of adult probationers under their jurisdiction who had entered probation with a direct sentence to probation, a split sentence to probation, a suspended sentence to incarceration, or a suspended imposition of sentence;

(k) As of December 31, 2002, the number of adult probationers under their jurisdiction who were active, inactive, absconders, or supervised out of state; and

(l) Whether the probation authority operated an intensive supervision program, a program involving electronic monitoring, or had any probationers enrolled in a program that approximates a bootcamp, and the number of adult probationers in each of the programs as of December 31, 2002.

(m) Whether the probation authority contracted out to a private agency for supervision, and the number of probationers supervised by a private agency that were included in the total population on December 31, 2002.

For the CJ–8A form, 150 reporters (from local authorities) responsible for keeping records on probationers will be asked to provide information for the following categories:

(a) As of January 1, 2002 and December 31, 2002, the number of adult probationers under their jurisdiction;

(b) The number of adults entering probation and discharged from probation during 2002;

(c) As of December 31, 2002, the number of male and female probationers under their jurisdiction; and

(d) As of December 31, 2002, the number of adult probationers under their jurisdiction who were sentenced for a felony, misdemeanor, or other offense type. The Bureau of Justice Statistics uses this information in published reports and for the U.S. Congress, Executive Office of the President, practitioners, researchers, students, the media, and others interested in criminal justice statistics.

(5) An estimate of the total number of respondents and the amount of time needed for an average respondent to respond: Five hundred and thirty-seven respondents each taking an average 1.17 hours to respond.

(6) An estimate of the total public burden (in hours) associated with the collection: Six hundred and fifty six annual burden hours.

If additional information is required contact: Mrs. Brenda E. Dyer, Deputy Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 1600, 601 D Street, NW, Washington, DC 20530, or via facsimile at (202) 514–1590.

Dated: December 31, 2001.

Brenda E. Dyer,

Department Deputy Clearance Officer, United States Department of Justice.

[FR Doc. 02–427 Filed 1–7–02; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importation of Controlled Substances; Notice of Application

Pursuant to section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with § 1301.34 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on August 17, 2001, Cerilliant Corporation, 14050 Summit Drive, Suite 121, PO Box 80189, Austin, Texas 78708–0189, made application by renewal to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Cathinone (1235)	I
Methcathinone (1237)	I
N-Ethylamphetamine (1475)	I
Gamma hydroxybutyric acid (2010).	I
Ibogaine (7260)	I
Tetrahydrocannabinols (7370)	I
Mescaline (7381)	I
4-Bromo-2, 5-dimetnoxyamphetamine (7391).	I
4-Bromo-2, 5-dimethoxyphenethylamine (7392).	I
4-Methyl-2, 5-dimethoxyamphetamine (7395).	I
2, 5-Dimethoxyamphetamine (7396).	I
3, 4-Methylenedioxyamphetamine (7400).	I
3, 4-Methylenedioxy-N-ethylamphetamine (7404).	I
3, 4-Methylenedioxymethamphetamine (7405).	I
4-Methoxyamphetamine (7411)	I
Psilocybin (7437)	I
Psilocyn (7438)	I
Heroin (9200)	I
Pholcodine (9314)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Amobarbital (2125)	II
Pentobarbital (2270)	II
Cocaine (9041)	II
Codeine (9050)	II
Etorphine (9056)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Benzoylecgonine (9180)	II
Ethylmorphine (9190)	II
Meperidine (9230)	II
Methadone (9250)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273).	II
Morphine (9300)	II
Thebaine (9333)	II
Levo-alphacetylmethadol (9648)	II
Oxymorphone (9652)	II

The firm plans to import small quantities of the listed controlled substances for the manufacturer of analytical reference standards.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of these basic classes of controlled substances may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.43 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than February 7, 2002.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1301.34(b), (c), (d), (e), and (f). As noted

in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import the basic classes of any controlled substances in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1301.34(a), (b), (c), (d), (e), and (f) are satisfied.

Dated: December 21, 2001.

Laura M. Nagel,

Deputy Assistant Adminstrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 02–419 Filed 1–7–02; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated July 31, 2001, and published in the **Federal Register** on August 10, 2001, (66 FR 42239) Chattem Chemicals, Inc., 3801 St. Elmo Avenue, Building 18, Chattanooga, Tennessee 37409, made applications by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Methamphetamine (1105)	II
Phenylacetone (8501)	II

The firm plans to import the phenylacetone to manufacture methamphetamine and amphetamine and to import racemic methamphetamine for resolution into the d- and 1- steroisomers.

No comments or objections have been received regarding these controlled substances. DEA has considered the factors in Title 21, United States Code, section 823(a) and determined that the registration of Chattem Chemicals, Inc. is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. DEA has investigated Chattem Chemicals, Inc. on a regular basis to ensure that the company's continued registration is consistent with the public interest. These investigations have included inspection and testing of the company's physical security systems, audits of the company's records, verification of the company's compliance with state and local laws, and a review of the company's background and history.

Therefore, pursuant to section 1008(a) of the Controlled Substances Import and Export Act and in accordance with Title 21, Code of Federal Regulations, § 1301.34, the above firm is granted registration as an importer of the basic classes of controlled substances listed above.

Dated: December 21, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 02–417 Filed 1–7–02; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated May 14, 2001, and published in the **Federal Register** on May 30, 2001, (66 FR 29344), Mallinckrodt, Inc., Mallinckrodt & Second Streets, St. Louis, Missouri 63147, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Tetrahydrocannabinols (7370)	I
Dihydromorphine (9145)	I
Amphetamine (1100)	II
Methylphenidate (1724)	II
Cocaine (9041)	II
Codeine (9050)	II
Diprenorphine (9058)	II
Etorphine Hydrochloride (9059)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Diphenoxylate (9170)	II
Hydrocodone (9193)	II
Levorphanol (9220)	II
Meperidine (9230)	II
Methadone (9250)	II
Methadone-intermediate (9254)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273).	II
Morphine (9300)	II
Thebaine (9333)	II
Opium extracts (9610)	II
Opium fluid extract (9620)	II
Opium tincture (9630)	II
Opium powdered (9639)	II
Opium granulated (9640)	II
Levo-alphacetylmethadol (9648)	II
Oxymorphone (9652)	II
Noroxymorphone (9668)	II
Alfentanil (9737)	II
Sulfentanil (9740)	II
Fentanyl (9801)	II

The firm plans to manufacture the controlled substances for distribution as bulk products to its customers.

No comments or objections were received. DEA has considered the factors in Title 21, United States Code, section 823(a) and determined that the registration of Mallinckrodt, Inc. to manufacture listed controlled substances is consistent with the public interest at this time. DEA has investigated a Mallinckrodt, Inc. on a regular basis to ensure that the company's continued registration is consistent with the public interest. These investigations have included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823 and 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of the controlled substances listed above is granted.

Dated: December 21, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 02–418 Filed 1–7–02; 8:45 am]

BILLING CODE 4410–09–M

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 Wednesday, January 16, 2002, and Thursday, January 17, 2002, 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 January 16, and at 9 a.m. on January 17.

Topics for discussion include: Should Medicare payments take into account other payers' behavior?; assessing payment adequacy and updating Medicare payments for physician services, outpatient dialysis services, inpatient and outpatient hospital services, skilled nursing facility care, and home health services, measuring changes in input prices in traditional Medicare; Medicare+Choice; adjusting for local differences in resident training

costs, and assessing the Medicare benefit package.

Agendas will be mailed on January 8, 2002. 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. 02–368 Filed 1–7–02; 8:45 am]

BILLING CODE 6820–BW–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (02–002)]

Notice of Agency Report Forms Under OMB Review

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of Agency report forms under OMB review.

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (Public Law 104–13, 44 U.S.C. 3506(c)(2)(A)). This information collection provides records of accountability, responsibility, transfer, location, and disposition of radioactive materials.

DATES: Comments on this proposal should be received within 30 calendar days from the date of this publication.

ADDRESSES: All comments should be addressed to Desk Officer for NASA; Office of Information and Regulatory Affairs; Office of Management and Budget; Room 10236; New Executive Office Building; Washington, DC, 20503.

FOR FURTHER INFORMATION CONTACT: Ms. Nancy Kaplan, NASA Reports Officer, (202) 358–1372.

Title: Radioactive Material Transfer Receipt.

OMB Number: 2700–0007.

Type of review: Extension.

Need and Uses: NASA Johnson Space Center is required by federal law to keep records of the receipt, transfer, and disposal of radioactive items and information on accountability, responsibility, transfer, disposition, and location.

Affected Public: Business or other for-profit; Federal Government, state, local or tribal government.

Number of Respondents: 25.

Responses Per Respondent: 2.

Annual Responses: 50.

Hours Per Request: Approximately ½ hr.

Annual Burden Hours: 29.

Frequency of Report: On occasion.

David B. Nelson,

Deputy Chief Information Officer, Office of the Administrator.

[FR Doc. 02–378 Filed 1–7–02; 8:45 am]

BILLING CODE 7510–01–P

NUCLEAR REGULATORY COMMISSION

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law 97–415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from December 7, 2001, through December 27, 2001. The last biweekly notice was published on December 26, 2001 (66 FR 64461).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments may be examined at the NRC Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By February 7, 2002 , the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to

intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available 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 Document Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html*. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Branch, or may be delivered to the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor) Rockville, Maryland, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor) Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm./adams.html*. Persons who 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 e-mail to *pdc@nrc.gov.*

Calvert Cliffs Nuclear Power Plant, Inc., Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of amendments request: November 19, 2001.

Description of amendments request: The proposed amendments would change the Loss of Feedwater Flow analysis in the Updated Final Safety Analysis Report (UFSAR). The current analysis contained several non-conservative assumptions, which would be corrected by the reanalysis. These corrections include: incorporating a single-failure of the Auxiliary Feedwater System, including steam generator blowdown, accounting for the change in density of water once the feedwater flow has stopped, and assuming sludge deposition in the steam generators. Also assumed in the analysis is the installation of a modification to isolate steam generator blowdown on an auxiliary feedwater actuation signal and an operator action to adjust the auxiliary feedwater flow after the event initiation.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below:

1. Does the amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

No. The proposed amendments would modify several assumptions in the UFSAR Loss of Feedwater Flow analysis to more accurately reflect the plant response to the event. The significant changes to the accident include the addition of an operator action to increase auxiliary feedwater (AFW) flow and the implementation of an automatic steam generator blowdown isolation following the event initiation. These changes do not affect any accident initiators or precursors because they only alter the operation of the plant following the accident initiation. Thus, the proposed amendments do not increase the probability of occurrence of any previously analyzed accidents. In addition, besides the aforementioned changes, the proposed amendments would not alter any design parameter, condition, equipment configuration, or manner in which Calvert Cliffs Units 1 and 2 are operated. Furthermore, the proposed modifications do not alter or prevent the ability of existing structures, systems, or components to perform their intended safety or accident-mitigating functions depicted in the UFSAR. The proposed modifications to the analysis account for a single-failure and update the assumptions to more recent standards. With these changes, the plant continues to meet the current acceptance criteria. Therefore, the proposed amendments do not involve a significant increase in the consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

No. The proposed amendments alter the design function of the steam generator blowdown valves to isolate upon receipt of an auxiliary feedwater actuation system signal. The isolation of the steam generator blowdown will not create the possibility of a new or a different kind of accident because blowdown isolation already occurs on a high radiation signal or a containment spray actuation signal. The operator action to increase AFW flow only alters the operation of the AFW in the conservative direction. The other changes to the accident analysis do not alter any design parameter, condition, equipment configuration, or manner in which the units are operated. Furthermore, none of the changes alter or prevent the ability of structures, systems, or components to perform their intended safety or accident mitigating functions. Accordingly, the proposed amendment does not create any new or different kind of accident from any accident previously evaluated.

3. Does the change involve a significant reduction in a margin of safety?

No. The proposed amendments do not change any design parameter, safety limit, or acceptance criteria. However, the amendments do change an analysis methodology. This change, performed with the objective of imposing conservative assumptions on the accident analysis, keeps the accident within the acceptance criteria for anticipated operational occurrences. Therefore, operation in accordance with the proposed amendment will not involve a significant reduction in a margin of safety.

Based on the NRC staff's review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the proposed amendment involves no significant hazards consideration.

Attorney for licensee: Jay E. Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Section Chief: L. Raghavan, Acting.

Calvert Cliffs Nuclear Power Plant, Inc., Docket No. 50–318, Calvert Cliffs Nuclear Power Plant, Unit No. 2, Calvert County, Maryland

Date of amendment request: November 19, 2001.

Description of amendment request: The proposed amendment would provide a one-time extension, from 10 to 14 days, of the allowed outage time (AOT) for one train of the Control Room Emergency Ventilation System (CREVS) to be inoperable due to the emergency power supply being inoperable.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below:

1. Does the amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

No. The proposed amendment would allow a one-time extension of the AOT of one train of the CREVS. Since the CREVS is an accident mitigation system, the AOT extension would not affect any accident initiators or precursors. Therefore, the AOT extension would not increase the probability of an accident previously evaluated. Similarly, since the consequences of a design-basis accident coincident with a failure of the redundant CREVS train during a 14-day outage are the same as those during the already approved 10-day outage, the proposed change does not increase the consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

No. The proposed amendment does not affect accident initiators or precursors because the CREVS is not being modified nor will any unusual operator actions be required. The CREVS is not an accident initiator, but is an accident mitigator. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the change involve a significant reduction in a margin of safety?

No. The proposed amendment would allow a one-time extension of the AOT of one train of the CREVS from the currently allowed 10 days to 14 days. This action decreases the margin of safety. However, based upon the licensee's management of plant risk, the change increases the Core Damage Frequency (CDF) and Large Early Release Frequency (LERF) to less than the Regulatory Guide 1.174 criteria of 1E–6 per reactor year for CDF and 1E–07 per reactor year for LERF. Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

Based on the NRC staff's review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the proposed request involves no significant hazards consideration.

Attorney for licensee: Jay E. Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Section Chief: L. Raghavan, Acting.

Carolina Power & Light Company, et al., Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant (BSEP), Units 1 and 2, Brunswick County, North Carolina

Date of amendments request: November 26, 2001.

Description of amendments request: The proposed amendments will add Technical Specification 5.5.12.f, ''Programs and Manuals, Primary Containment Leakage Rate Testing Program.'' This addition will provide a one-time exception to the frequency of the performance-based leakage rate testing program.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed license amendments do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change to Technical Specification 5.5.12 provides a one-time extension to the testing frequency for containment integrated leakage rate (i.e., Type A) testing. The existing 10-year test interval is based on past test performance. The proposed Technical Specification change will extend the Type A testing frequency to 15 years, one month from the last Type A test for Unit 1 and to 15 years for Unit 2. The proposed Technical Specification change does not involve a physical change to the plant or a change in the manner in which the plant is operated or controlled. The primary containment is designed to provide an

essentially leak tight barrier against the uncontrolled release of radioactivity to the environment for postulated accidents. As such, the primary containment does not involve the prevention or identification of any precursors of an accident. Therefore, the proposed Technical Specification change does not involve a significant increase in the probability of an accident previously evaluated.

The proposed change involves only a one-time change to the interval between Type A containment leakage tests. Type B and C containment leakage testing will continue to be performed at the frequency currently required by the BSEP Technical Specifications. As documented in NUREG–1493, ''Performance-Based Containment Leakage-Test Program,'' industry experience has shown that Type B and C containment leakage tests have identified a very large percentage of containment leakage paths and that the percentage of containment leakage paths that are detected only by Type A testing is very small. In fact, an analysis of 144 integrated leak rate tests results, including 23 failures, found that no failures were due to containment liner breach. NUREG–1493 also concluded, in part, that reducing the frequency of Type A containment leakage rate testing to once per 20 years was found to lead to an imperceptible increase in risk. The BSEP, Unit 1 and 2 test history and risk-based evaluation of the proposed extension to the Type A test frequency supports this conclusion. The design and construction requirements of the primary containment, combined with the containment inspections performed in accordance with the American Society of Mechanical Engineers (ASME) Code, Section XI and the Maintenance Rule (i.e., 10 CFR 50.65) provide a high degree of assurance that the primary containment will not degrade in a manner that is detectable only by Type A testing. Therefore, the proposed Technical Specification change does not involve a significant increase in the consequences of an accident previously evaluated.

2. The proposed license amendments will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change to the Technical Specification 5.5.12 involves a one-time extension to the testing interval for Type A containment leakage rate testing. The primary containment and the testing requirements invoked to periodically demonstrate the integrity of the primary containment exist to ensure the ability to mitigate the consequences of an accident. The primary containment and its associated testing requirements do not involve the prevention or identification of any precursors of an accident. The proposed change to the Type A leakage rate testing frequency does not involve any physical changes being made to the facility. In addition, the proposed changes to the Type A leakage rate testing frequency [do] not change the operation of the plants such that a new failure mode involving the possibility of a new or different kind of accident from any accident previously evaluated is created. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed license amendments do not involve a significant reduction in a margin of safety.

The proposed extension to the Type A testing frequency will not significantly reduce the margin of safety. The NUREG–1493 generic study of the effects of extending containment leakage testing found that a 20-year extension for Type A leakage testing resulted in an imperceptible increase in risk to the public. NUREG–1493 found that, generically, the design containment leakage rate contributes a very small amount to the individual risk and that the decrease in Type A testing frequency would have a minimal [effect] on this risk since most potential leakage paths are detected by Type B and C testing. The proposed change involves only an extension of the frequency for Type A containment leakage testing; the overall primary containment leakage rate limit specified by Technical Specifications is being maintained. Type B and C containment leakage testing will continue to be performed at the frequency currently required by the BSEP Technical Specifications. The regular containment inspections being performed in accordance with the ASME, Section XI, and the Maintenance Rule (i.e., 10 CFR 50.65) provide a high degree of assurance that the containment will not degrade in a manner that is only detectable by Type A testing. In addition, the on-line containment monitoring capability that is inherit to [a] boiling water reactor using an inert containment atmosphere allows for the detection of gross containment leakage that may develop during power operation. The combination of these factors ensures that the margin of safety is maintained. Therefore, the proposed license amendments do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: William D. Johnson, Vice President and Corporate Secretary, Carolina Power & Light Company, Post Office Box 1551, Raleigh, North Carolina 27602.

NRC Section Chief: Richard P. Correia.

FirstEnergy Nuclear Operating Company, Docket No. 50–440, Perry Nuclear Power Plant, Unit 1, Lake County, Ohio

Date of amendment request: December 5, 2001.

Description of amendment request: The proposed amendment incorporates Technical Specification Task Force (TSTF) Standard Technical Specification Traveler, TSTF–364, Revision 0, ''Revision to Technical Specification Bases Control Program to Incorporate Changes to 10 CFR 50.59.'' The proposed change deletes reference to the term ''unreviewed safety question,'' and replaces it with the phrase ''requires NRC approval pursuant to 10 CFR 50.59.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change is consistent with the changes described in TSTF change TSTF–364, ''Revision to Technical Specification Bases Control Program to Incorporate Changes to 10 CFR 50.59.'' Specifically, the proposed change deletes the reference to the term ''unreviewed safety question'' as defined in 10 CFR 50.59 (pre-1999 revision) and replaces it with the phrase ''requires NRC approval pursuant to 10 CFR 50.59.'' The deletion of the definition of ''unreviewed safety question'' was approved by the NRC in the current revision of the 10 CFR 50.59 regulation (October 1999). Changes to the Technical Specification Bases will still be evaluated in accordance with the requirements of 10 CFR 50.59. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change is to an administrative program. The change does not involve any physical modifications to the facility nor add new equipment. The methods of plant operation have not been altered. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed change is administrative in nature, based upon the current version of 10 CFR 50.59 regulation. Changes to the Technical Specification Bases will still be evaluated by 10 CFR 50.59. The proposed change has no direct impact upon any plant safety analyses. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mary E. O'Reilly, Attorney,

FirstEnergy Corporation, 76 South Main Street, Akron, OH 44308

NRC Section Chief: Anthony J. Mendiola.

Nine Mile Point Nuclear Station, LLC, Docket No. 50–220, Nine Mile Point Nuclear Station, Unit No. 1, Oswego County, New York

Date of amendment request: October 19, 2001.

Description of amendment request: The proposed amendment would revise the Technical Specifications (TSs) by the following: (1) Implement programmatic controls for radiological effluent technical specifications in the Administrative Controls section of the TSs, (2) relocate existing procedural details to licensee-controlled documents or new programs to accommodate the incorporation of Generic Letter 89–01 and relevant portions of the Improved Standard Technical Specifications (NUREG–1433), and (3) update the references to current regulatory requirements such as those set forth in 10 CFR 20.1–20.262 and 10 CFR 20.1001–20.2402.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee provided its analysis of the issue of no significant hazards consideration. The NRC staff reviewed the licensee's analysis and has performed its own, which is presented below:

1. Does the amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

No. The proposed amendment does not affect accident initiators or precursors because it does not alter any design parameter, condition, equipment configuration, or manner in which the unit is operated. Furthermore, it does not alter or prevent the ability of existing structures, systems, or components to perform their intended safety or accident-mitigating functions depicted in the Updated Final Safety Analysis Report. The proposed amendment is administrative and it only alters the format and location of programmatic controls and procedural details. These changes will not prevent the unit to continue to comply with applicable regulatory requirements. As a result, the proposed amendment will not alter the conditions or assumptions used in previous accident analyses. Therefore, operation in accordance with the proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

No. The proposed amendment does not affect accident initiators or precursors because it does not alter any design parameter, condition, equipment configuration, or manner in which the unit is operated. Furthermore, it does not alter or prevent the ability of structures, systems, or components to perform their intended safety or accident mitigating functions. Accordingly, the proposed amendment does not create any new or different kind of accident from any accident previously evaluated.

3. Does the change involve a significant reduction in a margin of safety?

No. The proposed amendment does not change any design parameter, analysis methodology, safety limits or acceptance criteria. It is administrative as outlined above, with the objective to assure continued compliance with applicable regulatory requirements governing the radiation protection plan, radioactive effluents, radioactive sources, and radiological environmental monitoring. Therefore, operation in accordance with the proposed amendment will not involve a significant reduction in a margin of safety.

Based on the NRC staff's review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the proposed amendment involves no significant hazards consideration.

Attorney for licensee: Mark J. Wetterhahn, Esquire, Winston & Strawn, 1400 L Street, NW., Washington DC 20005–3502.

NRC Section Chief: L. Raghavan, Acting.

Nine Mile Point Nuclear Station, LLC, Docket No. 50–220, Nine Mile Point Nuclear Station, Unit No. 1 (NMP–1), Oswego County, New York

Date of amendment request: October 26, 2001.

Description of amendment request: Section 6.0 of the Technical Specifications (TSs) delineates the required administrative controls, including plant management responsibilities, station organization, staff qualifications and training, review and audit activities, procedures, reporting requirements, record retention, radiation area control, and various plant programs. The licensee proposed an amendment to revise Section 6.0 of the TSs to make it consistent with its counterpart, Section 5.0, of the Nine Mile Point Nuclear Station, Unit No. 2 (NMP–2) TSs. The NMP–2 TSs was fully converted to the format and style of the Improved Standard Technical Specifications (NUREG–1433 and NUREG–1434) by Amendment No. 91, dated February 15, 2000. While NMP–1 and NMP–2 are of different reactor designs, the administrative controls are, by necessity, either identical or very similar. Consistency of administrative controls between the two units is essential to avoid confusion and to improve efficiency.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis, and performed its own, which is presented below:

1. Does the amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

No. The proposed amendment is concerned only with administrative controls, and does not affect accident initiators or precursors because it does not alter any design parameter, condition, equipment configuration, or manner in which NMP–1 is operated. Furthermore, it does not alter or prevent the ability of existing structures, systems, or components to perform their intended safety or accident-mitigating functions depicted in the Updated Final Safety Analysis Report. The proposed amendment only affects the administrative controls in accordance with NUREG–1433 and NUREG–1434. These changes will not prevent NMP–1 to continue to comply with applicable regulatory requirements. As a result, the proposed amendment will not alter the conditions or assumptions used in previous accident analyses. Therefore, operation in accordance with the proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

No. The proposed amendment does not affect accident initiators or precursors because it does not alter any design parameter, condition, equipment configuration, or manner in which the unit is operated. Furthermore, it does not alter or prevent the ability of structures, systems, or components to perform their intended safety or accident mitigating functions. Accordingly, the proposed amendment does not create any new or different kind of accident from any accident previously evaluated.

3. Does the change involve a significant reduction in a margin of safety?

No. The proposed amendment does not change any design parameter, analysis methodology, safety limits or acceptance criteria. It is administrative as outlined above, with the objective to assure continued compliance with applicable regulatory requirements governing the various topics of administrative controls. Therefore, operation in accordance with the proposed amendment will not involve a significant reduction in a margin of safety.

Based on the NRC staff's review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the

proposed amendment involves no significant hazards consideration.

Attorney for licensee: Mark J. Wetterhahn, Esquire, Winston & Strawn, 1400 L Street, NW., Washington, DC 20005–3502.

NRC Section Chief: L. Raghavan (Acting).

Pacific Gas and Electric Company, Docket Nos. 50–275 and 50–323, Diablo Canyon Nuclear Power Plant (DCPP), Unit Nos. 1 and 2, San Luis Obispo County, California

Date of amendment requests: October 17, 2001.

Description of amendment requests: The proposed license amendments would modify Technical Specification 3.9.4, ''Containment Penetrations,'' to allow the equipment hatch, both personnel air lock doors and both emergency air lock doors to remain open, and penetration flow path(s) providing direct access from the containment atmosphere to the outside atmosphere to be unisolated under administrative control, during core alterations and movement of irradiated fuel assemblies. In addition, the amendments revise Technical Specification 1.1, ''Definitions,'' for Dose Equivalent I–131, to allow the use of the thyroid dose conversion factors, listed in the International Commission on Radiological Protection Publication 30, ''Limits for Intakes of Radionuclides by Workers.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change would allow the containment equipment hatch, Personnel Air Lock (PAL) doors, Emergency Air Lock (EAL) doors, and penetrations to remain open during fuel movement and core alterations. These penetrations are normally closed during this time period in order to prevent the escape of radioactive material in the event of a Fuel Handling Accident (FHA) inside containment. These penetrations are not initiators of any accident and the probability of a FHA is unaffected by the position of these penetrations.

The new FHA analysis with an open containment demonstrates the maximum offsite doses are well within (less than 25%) the limits specified in 10 CFR 100. These offsite dose values are also well within the acceptable limits provided in NUREG–0800, Section 15.7.4. This FHA analysis results in a maximum offsite dose of 60.62 Rem to the thyroid and 0.4281 Rem to the whole body. The calculated control room dose is also well below the acceptance criteria specified in General Design Criteria (GDC) 19. The analysis results in thyroid and whole body doses to the control room operator of 11.56 Rem and 0.0072 Rem, respectively. Although the offsite and control room dose values are increased by the proposed changes, the resulting values are still well within acceptable limits and do not significantly increase the consequences of a FHA.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change does not involve the addition or modification of any plant equipment. However, the proposed change does alter the containment closure configuration and method of operation of the plant during certain operational activities. The proposed change involves a change to the technical specification (TS) that would allow the equipment hatch door, the PAL doors, the EAL doors, and containment penetrations to be open during core alterations and fuel movement inside containment. This change only affects the containment barrier configuration of the plant during certain operational activities. Even allowing these doors and penetrations to be open, all of the resulting radiological consequences remain within acceptable limits and this configuration does not create the possibility of a new or different accident than previously evaluated.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

This proposed change creates the potential for increased dose in the control room and at the site boundary due to a FHA. However, the new analysis demonstrates that the resultant doses are well within the 10 CFR 100 limits and well below the GDC [General Design Criterion] 19 limits. In the case of the offsite dose values, they remain less than 25% of the 10 CFR 100 limits, which is considered acceptable in NUREG–0800 [Standard Review Plan], Section 15.7.4. Based on this, even though the dose values have increased from the previously calculated values, the margin of safety is not significantly reduced.

In the new analysis, the offsite and control room doses due to a FHA with an open containment have been evaluated using conservative assumptions, such as all airborne activity caused by the FHA in the containment is released instantaneously to the outside atmosphere, which ensures the calculation bounds the expected dose. The new analysis also assumes closure of the containment within two hours. As a result, requiring immediate initiation of the closure of the containment and completion of closure within approximately 30 minutes following a containment evacuation requirement from the FHA will reduce the potential offsite doses in the event of a FHA, and provides additional margin to the calculated offsite doses.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Attorney for licensee: Christopher J. Warner, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120.

NRC Section Chief: Stephen Dembek.

Pacific Gas and Electric Company, Docket Nos. 50–275 and 50–323, Diablo Canyon Nuclear Power Plant (DCPP), Unit Nos. 1 and 2, San Luis Obispo County, California

Date of amendment requests: November 13, 2001.

Description of amendment requests: The proposed license amendments would modify Technical Specifications 5.5.9, ''Steam Generator (SG) Tube Surveillance Program,'' and 5.6.10, ''SG Tube Inspection Report,'' of the Diablo Canyon Power Plant, Unit Nos. 1 and 2 Technical Specifications, to add new surveillance and reporting requirements associated with SG tube inspection and repair. The new requirements establish alternate repair criteria for axial primary water stress corrosion cracking at dented tube support plate intersections.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Examination of crack morphology for primary water stress corrosion cracking (PWSCC) at dented intersections has been found to show one or two microcracks well aligned with only a few uncorroded ligaments and little or no other inside diameter axial cracking at the intersection. This relatively simple morphology is conducive to obtaining good accuracy in nondestructive examination (NDE) sizing of these indications. Accordingly, alternate repair criteria (ARC) are established based on crack length and average and maximum depth within the thickness of the tube support plate (TSP).

The application of the ARC requires a Monte Carlo condition monitoring assessment to determine the as-found condition of the tubing. The condition

monitoring analysis described in WCAP–15573, Revision 1, is consistent with NRC Generic Letter 95–05 [''Voltage-Based Repair Criteria for Westinghouse Steam Generator Tubes Affected by Outside Diameter Stress Corrosion Cracking''] requirements.

The application of the ARC requires a Monte Carlo operational assessment to determine the need for tube repair. The repair bases are obtained by projecting the crack profile to the end of the next operating cycle and determining the burst pressure and leakage for the projected profile using Monte Carlo analysis techniques described in WCAP–15573, Revision 1. The burst pressure and leakage are compared to the requirements in WCAP–15573, Revision 1. Separate analyses are required for the total crack length and the length outside the TSP due to differences in requirements. If the projected end of cycle (EOC) requirements are satisfied, the tube will be left in service.

A steam generator (SG) tube rupture event is one of a number of design basis accidents that are analyzed as part of a plant's licensing basis. A single or multiple tube rupture event would not be expected in a SG in which the ARC has been applied. The ARC requires repair of any indication having a maximum crack depth greater than or equal to 40 percent outside the TSP, thus limiting the potential length of a deep crack outside the TSP at EOC conditions and providing margin against burst and leakage for free span indications.

For other design basis accidents such as a MSLB [main steam line break], MFLB [main feed line break], control rod ejection, and locked reactor coolant pump motor, the tubes are assumed to retain their structural integrity.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Implementation of the proposed SG tube ARC does not introduce any significant changes to the plant design basis. A single or multiple tube rupture event would not be expected in a SG in which the ARC has been applied. Both condition monitoring and operational assessments are completed as part of the implementation of ARC to determine that structural and leakage margin exists prior to returning SGs to service following inspections. If the condition monitoring requirements are not satisfied for burst or leakage, the causal factors for EOC indications exceeding the expected values will be evaluated. The methodology and application of this ARC will continue to ensure that tube integrity is maintained during all plant conditions consistent with the requirements of Regulatory Guide (RG) 1.121 [''Bases for Plugging Degraded PWR Steam Generator Tubes''] and Revision 1 of RG 1.83 [Inservice Inspection of Pressurized Water Reactor Steam Generator Tubes].

In the analysis of a SG tube rupture event, a bounding primary-to-secondary leakage rate equal to the operational leakage limits in the Technical Specifications (TS), plus the leak rate associated with the double-ended rupture of a single tube, is assumed. For other design basis accidents, the tubes are assumed to retain their structural integrity and exhibit primary-to-secondary leakage within the limits assumed in the current licensing basis accident analyses. MSLB leakage rates from the proposed PWSCC ARC are combined with leakage rates from other approved ARC (i.e., voltage-based ARC and W* ARC). The combined leakage rates will not exceed the limits assumed in the current licensing basis accident analyses.

The 40 percent maximum depth repair limit for free span indications provides a very low likelihood of free span leakage under design basis or severe accident conditions. Leakage from indications inside the TSP is limited by the constraint of the TSP even under severe accident conditions, and leakage behavior in a severe accident would be similar to that found acceptable by the NRC under approved ARC for axial outside diameter stress corrosion cracking (ODSCC) at TSP intersections. Therefore, even under severe accident conditions, it is concluded that application of the proposed ARC for PWSCC at dented TSP locations results in a negligible difference in risk of a tube rupture or large leakage event, when compared to current 40 percent repair limits or previously approved ARC.

Diablo Canyon Power Plant (DCPP) continues to implement a maximum operating condition leak rate limit of 150 gallons per day per SG to preclude the potential for excessive leakage during all plant conditions.

The possibility of a new or different kind of accident from any previously evaluated is not created because SG tube integrity is maintained by inservice inspection, condition monitoring, operational assessment, tube repair, and primary-to-secondary leakage monitoring.

3. The proposed change does not involve a significant reduction in a margin of safety.

Tube repair limits provide reasonable assurance that tubes accepted for continued service without repair will exhibit adequate tube structural and leakage integrity during subsequent plant operation. The implementation of the proposed ARC is demonstrated to maintain SG tube integrity consistent with the criteria of draft NRC RG 1.121. The guidelines of RG 1.121 describe a method acceptable to the NRC staff for meeting General Design Criteria (GDC) 2, 4, 14, 15, 31, and 32 by ensuring the probability or the consequences of SG tube rupture remain within acceptable limits. This is accomplished by determining the limiting conditions of degradation of SG tubing, for which tubes with unacceptable cracking should be removed from service.

Upon implementation of the proposed ARC, even under the worst-case conditions, the occurrence of PWSCC at the tube support plate elevations is not expected to lead to a SG tube rupture event during normal or faulted plant conditions. The ARC involves a computational assessment to be completed for each indication left in service ensuring that performance criteria for tube integrity and leak tightness are met until the next scheduled outage.

As discussed below, certain tubes are excluded from application of ARC. Existing tube integrity requirements apply to these tubes, and the margin of safety is not reduced. In addressing the combined loading effects of a loss-of-coolant (LOCA) and safe shutdown earthquake (SSE) on the SGs (as required by GDC 2), the potential exists for yielding of the TSP in the vicinity of the wedge groups, accompanied by deformation of tubes and a subsequent postulated in-leakage. Tube deformation could lead to opening of pre-existing tight through wall cracks, resulting in secondary to primary in-leakage following the event, which could have an adverse affect on the Final Safety Analysis Report (FSAR) results. Based on a DCPP analysis of LOCA and SSE, SG tubes located in wedge region exclusion zones are susceptible to deformation, and are excluded from application of ARC.

A DCPP tube stress analysis for MFLB/MSLB plus SSE loading determined that high bending stresses occur in certain SG tubes at the seventh TSP, because the stresses exceed the maximum imposed bending stress for existing test data (equal to approximately the lower tolerance limit yield stress). These tubes are located in rows 11 to 15 and 36 to 46, and are excluded from application of ARC.

Tube intersections that contain TSP ligament cracking are also excluded from application of ARC.

Based on the above, it is concluded that the proposed license amendment request does not result in a significant reduction in margin with respect to the plant safety analyses as defined in the FSAR or TS.

Therefore, the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Attorney for licensee: Christopher J. Warner, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120.

NRC Section Chief: Stephen Dembek.

Pacific Gas and Electric Company, Docket Nos. 50–275 and 50–323, Diablo Canyon Nuclear Power Plant (DCPP), Unit Nos. 1 and 2, San Luis Obispo County, California

Date of amendment requests: November 16, 2001.

Description of amendment requests: The proposed license amendments would modify Technical Specification 5.5.16, ''Containment Leakage Rate Testing Program,'' to allow a one-time extension of the ten-year interval for the performance-based leakage rate testing program for Type A tests as prescribed by Nuclear Energy Institute (NEI) Report NEI 94–01, Revision 0, ''Industry

Guideline for Implementing Performance-Based Option of 10 CFR part 50, Appendix J,'' and applied by 10 CFR part 50, Appendix J, Option B.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed extension to the Type A testing interval from 1-in-10 years to 1-in-15 years will not increase the probability of an accident previously evaluated. The determination of containment integrity is not an accident initiator. The containment Type A testing interval extension does not involve a plant modification and the testing interval extension is not of a type that could lead to equipment failure or accident initiation.

The proposed extension to the Type A testing interval does not involve a significant increase in the consequences of an accident. Research documented in NUREG–1493 has determined that Type B and C tests can identify the vast majority (approximately 97 percent) of all potential leakage paths. Experience at Diablo Canyon Power Plant (DCPP) demonstrates that excessive containment leakage paths are detected by Type B and C local leakage rate tests. Type B and C testing will identify any containment opening, such as a valve, that would otherwise be detected by the Type A tests.

NUREG–1493 concluded that increasing the Type A test interval to 1-in-20 years leads to an imperceptible increase in risk. A DCPP plant specific probabilistic risk assessment of the change in the Type A testing interval from 1-in-10 years to 1-in-15 years determined the total integrated risk of the associated specific accident sequences increases by 0.03 percent. This risk impact when compared to other severe accident induced risks is negligible. The increase in the Regulatory Guide (RG) 1.174 [An Approach for Using Probabilistic Risk Assessment in Risk-Informed Decisions on Plant-Specific Changes to the Licensing Basis] large early release fraction (LERF) figure-of-merit criteria resulting from a change in the Type A test interval from 1-in-10 years to 1-in-15 years is risk insignificant.

Testing and inspection provide a high degree of assurance that the containment will not degrade in a manner detectable only by Type A testing. The structural capability of the containment has been shown by the Type A testing results that have established that DCPP has had acceptable containment leakage rates with considerable margin. Inspections required by 10 CFR 50.65 and American Society of Mechanical Engineers code are performed in order to identify indications of containment degradation that could affect leak tightness. The results of containment concrete examination have concluded the containment concrete has had no loss of structural capacity and no areas of the concrete shell have experienced accelerated degradation or aging. The results of containment liner inspections have not identified any significant degradations that could adversely impact the containment structural integrity or leak tightness, such as through-holes in the containment liner. Due to the large containment leakage rate margin available, and no identified mechanism that would cause significant degradation of containment, a 5 year extension of the ILRT interval would not be expected to result in containment leakage above the acceptable limit.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed extension of the Type A testing interval will not create the possibility of a new or different type of accident from any previously evaluated. There are no physical changes being made to the plant and there are no changes in operation of the plant that could introduce a new failure mode, creating an accident.

The containment structure is passive. Under normal operating conditions, there is no significant environmental or operational stress present that would contribute to its degradation. Passive failures resulting in significant containment structural leakage are therefore extremely unlikely to develop between Type A tests.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed extension of the Type A testing interval will not significantly reduce the margin of safety. The NUREG–1493 generic study of the effects of extending containment leakage testing found that a 20-year interval in Type A leakage testing results in an imperceptible increase in risk to the public. NUREG–1493 found that, generically, the design containment leakage rate contributes about 0.1 percent to the individual risk and that the increase in the Type A testing interval would have a minimal effect on this risk because 97 percent of the potential leakage paths are detected by Type B and C testing.

A DCPP plant specific probabilistic risk assessment of the change in the Type A testing interval from 1-in-10 years to 1-in-15 years determined the total integrated risk of the associated specific accident sequences increases by 0.03 percent. This risk impact when compared to other severe accident induced risks is negligible. The increase in RG 1.174 LERF figure-of-merit criteria resulting from a change in the Type A test interval from 1-in-10 years to 1-in-15 years is risk insignificant.

Deferral of Type A testing for DCPP does not increase the level of risk to the public due to loss of capability to detect and measure containment leakage or loss of containment structural capability. Other containment testing methods and inspections will assure all limiting conditions of operation will continue to be met. The margin of safety inherent in existing accident analyses is maintained.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Attorney for licensee: Christopher J. Warner, Esq., Pacific Gas and Electric Company, PO Box 7442, San Francisco, California 94120.

NRC Section Chief: Stephen Dembek.

Pacific Gas and Electric Company, Docket Nos. 50–275 and 50–323, Diablo Canyon Nuclear Power Plant (DCPP), Unit Nos. 1 and 2, San Luis Obispo County, California

Date of amendment requests: November 16, 2001.

Description of amendment requests: The proposed license amendments would modify Technical Specification (TS) 1.1, ''Definitions, Dose Equivalent I–131,'' to allow the use of the thyroid dose conversion factors listed in the International Commission on Radiological Protection (ICRP) Publication 30, ''Limits for Intakes of Radionuclides by Workers,'' 1979, in the steam generator tube rupture and main steam line break radiological consequences analyses.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The revision of Technical Specification (TS) 1.1, Definitions, ''Dose Equivalent I–131,'' to allow use of the iodine thyroid dose conversion factors from the International Commission on Radiological Protection (ICRP) Publication 30, 1979, and the revised steam generator tube rupture (SGTR) and main steam line break (MSLB) radiological consequences analyses are used to determine post-accident dose. They are not related to any accident initiator. Therefore, this change cannot increase the probability of an accident.

The revised SGTR thermal and hydraulic analysis input assumptions are consistent with actual plant limits and parameters.

The revised MSLB offsite and control room radiological consequences analysis dose results are within 10 CFR Part 100 limits and

the NUREG–0800 Standard Review Plan (SRP) section 15.1.5 and section 6.4 guideline values.

The revised SGTR control room radiological consequences analysis dose results are within the SRP section 6.4 guideline values.

The revised SGTR offsite radiological consequences analysis dose results are within the 10 CFR part 100 dose limits. The SGTR offsite dose results also meet the SRP section 15.6.3 and section 6.4 guideline values, with the exception of the 2 hour Exclusion Area Boundary (EAB) thyroid dose. The calculated 2 hour EAB thyroid dose of 30.5 Rem is 1.5 percent above the SRP 15.6.3 guideline value of 30 Rem. The 2 hour EAB thyroid dose has been compared against the conservative thyroid dose SRP 15.6.3 guideline value of 30 Rem. The 2 hour EAB dose thyroid dose would be equivalent to a Regulatory Guide (RG) 1.183 methodology Total Effective Dose Equivalent (TEDE) of approximately 1.25 Rem, which is well below the RG 1.183 TEDE limit of 2.5 Rem for the accident-initiated iodine spike case. Therefore, the 2 hour EAB thyroid dose of 30.5 Rem is not considered to be a significant increase in dose.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The use of the iodine thyroid dose conversion factors from ICRP Publication 30 and the revised SGTR and main steam line break MSLB radiological consequences analyses do not involve any physical plant changes. The change does not involve changes in operation of the plant that could introduce a new failure mode for creating an accident or affect the mitigation of an accident.

Therefore, the proposed change does not create the possibility of a new or different accident from any previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The use of ICRP Publication 30 thyroid dose conversion factors to calculate the radiological consequences for a SGTR and MSLB accident is endorsed by RG 1.183, ''Alternative Radiological Source Terms for Evaluating Design Basis Accidents at Nuclear Power Reactors,'' US Nuclear Regulatory Commission, July 2000. Therefore, the revision of TS 1.1, Definitions, ''Dose Equivalent I–131,'' to allow use of the iodine thyroid dose conversion factors from ICRP Publication 30 does not result in a significant reduction in the margin provided by TS 1.1. The revised SGTR thermal and hydraulic analysis input assumptions are consistent with actual plant limits and parameters.

The revised MSLB offsite and control room radiological consequences analysis dose results are within 10 CFR part 100 limits and the NUREG–0800 SRP section 15.1.5 and section 6.4 guideline values.

The revised SGTR control room radiological consequences analysis dose results are within the SRP section 6.4 guideline values.

The revised SGTR radiological consequences analysis dose results are within the 10 CFR part 100 dose limits. The SGTR dose results also meet the SRP section 15.6.3 and section 6.4 guideline values, with the exception of the 2 hour EAB thyroid dose. The calculated 2 hour EAB thyroid dose of 30.5 Rem is 1.5 percent above the SRP 15.6.3 guideline value of 30 Rem. The 2 hour EAB dose thyroid dose would be equivalent to a RG 1.183 methodology TEDE of approximately 1.25 Rem, which is well below the RG 1.183 TEDE limit of 2.5 Rem for the accident-initiated iodine spike case. Therefore, the 2 hour EAB thyroid dose of 30.5 Rem is not a significant reduction in the margin of safety.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Attorney for licensee: Christopher J. Warner, Esq., Pacific Gas and Electric Company, PO Box 7442, San Francisco, California 94120.

NRC Section Chief: Stephen Dembek.

Southern California Edison Company, et al., Docket Nos. 50–361 and 50–362, San Onofre Nuclear Generating Station, Units 2 and 3, San Diego County, California

Date of amendment requests: December 11, 2001.

Description of amendment requests: The proposed amendments would revise Technical Specification (TS) 3.8.3, ''Diesel Fuel Oil, Lube Oil, and Starting Air,'' on the emergency diesel generators. The revisions would change (1) Conditions A and C of the Actions for Limiting Condition for Operation 3.8.3, and (2) Surveillance Requirement 3.8.3.1. The proposed amendments would change the minimum required diesel fuel oil storage to support (1) using California Diesel fuel rather than the existing Environmental Protection Agency (EPA) Clear diesel fuel, (2) revising the diesel generator load profile in reactor Modes 1 through 4, and (3) changing the units of the required diesel fuel oil storage. A ''greater than or equal to'' would also be changed to a ''greater than'' sign.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

This proposed change revises the minimum amount of stored diesel fuel. The change is required to (1) support the use of California Diesel fuel rather than the existing EPA Clear diesel fuel, and (2) reflect a change in the diesel generator load profile in Modes 1 through 4.

In addition, this proposed change revises the units for the minimum diesel fuel storage requirements from tank level to a minimum required volume of fuel in gallons. A ''greater than or equal to'' sign is revised to a ''greater than'' sign for consistency. These are administrative changes only.

Technical Specification (TS) 3.8.3, ''Diesel Fuel Oil, Lube Oil, and Starting Air,'' requires that each diesel generator have sufficient fuel to operate for a period of 7 days, while the Diesel Generator (DG) is supplying maximum post Loss of Coolant Accident (LOCA) load demand. This requirement is currently expressed as a minimum tank level limit. In Modes 1 through 4, the existing tank level limit is 89%, which ensures that a 7-day supply of fuel is available. TS 3.8.3, Condition A, states that during Modes 1 through 4, if one or more Diesel Generators (DG) has a fuel level in the storage tank less than 89% and greater than or equal to 76%, then fuel oil level must be restored to within limits within 48 hours. The 76% level requirement is based on maintaining a 6-day supply of diesel fuel in Modes 1 through 4. If the tank level is at or below 76% (6-day supply), the associated DG must be declared inoperable immediately.

Similarity, for Modes 5 and 6, the existing tank level limit is 72%, which ensures that a 7-day supply of fuel is available. TS 3.8.3, Condition C, states that during Modes 5 and 6, if one required DG has a fuel level in the storage tank less than 72% and greater than 63%, then [the] fuel oil level must be restored to within limits within 48 hours. The 63% level requirement is based on maintaining a 6-day supply of diesel fuel in Modes 5 and 6. If the tank level is at or below 63% (6-day supply), the associated diesel generator must be declared inoperable immediately.

As described in the Bases to TS 3.8.3, these tank level requirements are based on fuel volume requirements. In Modes 1 through 4, 89% and 76% level limits are based on a 7-day (49,724 gallons) and 6-day (42,960 gallons) fuel supply, respectively [plus an allowance for instrument Total Loop Uncertainty (TLU)]. In Modes 5 and 6, the 72% and 63% tank level limits are based on a 7-day (40,472 gallons) and 6-day (34,960 gallons) fuel supply, respectively (plus an allowance for instrument TLU).

Because the Lower Heating Value (LHV) per gallon of California Diesel fuel is less than that of EPA Clear diesel fuel, it was necessary to recalculate the amount of fuel required to supply necessary loads for the required time periods. For Modes 1 through 4, the resulting minimum volumes of California Diesel fuel are 45,662 gallons and 39,468 gallons for the 7-day and 6-day fuel supply, respectively. For Modes 5 and 6, the required volumes of California Diesel fuel are

41,691 gallons and 35,735 gallons for a 7-day supply and a 6-day supply, respectively.

It should be noted that the minimum volumes for Modes 1 through 4 are decreased due to a change in the calculated [diesel generator] load profile. SONGS no longer requires the third-of-a-kind High Pressure Safety Injection (HPSI) pump to be started following a Loss of Coolant Accident (LOCA) or Main Steam Line Break (MSLB). Operation of the third-of-a-kind HPSI pump is no longer assumed as part of the DG load profile in Modes 1 through 4. This resulted in a net decrease in the amount of required stored diesel fuel in Modes 1 through 4, even when the use of the California Diesel fuel [with the lower heating value] is taken into account.

The diesel generators and the associated support systems such as the fuel oil storage and transfer systems are designed to mitigate accidents and are not accident initiators. Revising the minimum volumes of stored [diesel] fuel in the storage tanks will not result in a significant increase in the probability of any accident previously evaluated. [The revisions are to maintain the current requirements for a 7-day and 6-day supply of stored diesel fuel].

Following implementation of this proposed change, there will be no change in the ability of the diesel generators to supply maximum post-LOCA load demand for 7 days. The proposed minimum volumes of fuel, 45,662 gallons and 39,468 gallons, ensure that a 7-day and 6-day supply of fuel, respectively, are available in Modes 1 through 4. The proposed minimum volumes of fuel, 41,691 gallons and 35,735 gallons, ensure that a 7-day and a 6-day supply, respectively, of fuel is available in Modes 5 and 6. This is identical to the current requirements. Therefore this change will not result in a significant increase in the consequences of any accident previously evaluated.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

Following this change, the diesel generators will still be able to supply maximum post-LOCA load demand. The current 7-day and 6-day fuel supply requirements will be maintained following this change. [The diesel generators fuel oil storage and transfer systems are not accident initiators].

The changes in units from tank level percentage to fuel volume in gallons is an administrative change only. The change from a ''greater than or equal to'' sign to a ''greater than'' sign in TS 3.8.3, Condition A, is for consistency with other parts of TS 3.8.3 and is also an administrative change.

Therefore, this proposed change will not create the possibility of a new or different kind of accident from any accident that has been previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The Bases to TS 3.8.3 states that ''Each diesel generator (DG) is provided with a storage tank having a fuel oil capacity sufficient to operate that diesel for a period of 7 days, while the DG is supplying maximum post loss of coolant accident load demand.'' When the fuel oil tank level is less than required to support [7 days] of operation, the required action depends on whether or not a 6-day supply of fuel is available. [The proposed tank level limits for Modes 1 through 4 will maintain the 7-day and 6-day fuel supply requirements following changeout to California Diesel fuel and the change in the DG load profile for Modes 1 through 4].

The proposed tank level limits for Modes 5 and 6 will maintain these 7-day and 6-day fuel supply requirements following changeout to California Diesel fuel.

The change in units from tank level percentage to fuel volume in gallons is an administrative change only. The change from a ''greater than or equal to'' sign to a ''greater than'' sign in TS 3.8.3, Condition A, is for consistency with other parts of the TS 3.8.3 and is also an administrative change.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Attorney for licensee: Douglas K. Porter, Esquire, Southern California Edison Company, 2244 Walnut Grove Avenue, Rosemead, California 91770.

NRC Section Chief: Stephen Dembek.

Tennessee Valley Authority, Docket No. 50–296, Browns Ferry Nuclear Plant, Unit 3, Limestone County, Alabama

Date of amendment request: November 1, 2001.

Description of amendment request: The proposed amendment would revise Technical Specification (TS) 2.1.1.2, ''Reactor Core Safety Limits,'' by modifying the safety limit minimum critical power ratio (SLMCPR).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

As required by 10 CFR 50.91(a), TVA has provided its analysis of the issue of no significant hazards consideration, which is presented below:

A. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment establishes revised SLMCPR values for two recirculation loop operation and for single recirculation loop operation. The probability of an evaluated accident is derived from the probabilities of the individual precursors to that accident. The proposed SLMCPRs preserve the existing margin to transition boiling and the probability of fuel damage is not increased. Since the change does not require any physical plant modifications or physically affect any plant components, no individual precursors of an accident are affected and the probability of an evaluated accident is not increased by revising the SLMCPR values.

The consequences of an evaluated accident are determined by the operability of plant systems designed to mitigate those consequences. The revised SLMCPRs have been performed using NRC-approved methods and procedures. The basis of the MCPR Safety Limit is to ensure no mechanistic fuel damage is calculated to occur if the limit is not violated. These calculations do not change the method of operating the plant and have no effect on the consequences of an evaluated accident. Therefore, the proposed TS change does not involve an increase in the probability or consequences of an accident previously evaluated.

B. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed license amendment involves a revision of the SLMCPR for two recirculation loop operation and for single loop operation based on the results of an analysis of the Cycle 11 core. Creation of the possibility of a new or different kind of accident would require the creation of one or more new precursors of that accident. New accident precursors may be created by modifications of the plant configuration, including changes in the allowable methods of operating the facility. This proposed license amendment does not involve any modifications of the plant configuration or changes in the allowable methods of operation. Therefore, the proposed TS change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

C. The proposed amendment does not involve a significant reduction in a margin of safety.

The margin of safety as defined in the TS bases will remain the same. The new SLMCPRs are calculated using NRC-approved methods and procedures which are in accordance with the current fuel design and licensing criteria. The SLMCPRs remain high enough to ensure that greater than 99.9% of all fuel rods in the core are expected to avoid transition boiling if the limit is not violated, thereby preserving the fuel cladding integrity. Therefore, the proposed TS changes do not involve a reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET l0H, Knoxville, Tennessee 37902.

NRC Section Chief: Richard P. Correia.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: September 12, 2001 (TS 01–04).

Brief description of amendments: The proposed amendments would change the Sequoyah (SQN) Unit 1 and 2 Technical Specification (TS) 3/4 6.5.1 and associated Bases to reflect an increase in the ice condenser basket weight from 1071 pounds to 1145 pounds and the total ice condenser ice weight from 2,082,024 pounds to 2,225,880 pounds. This change is being made in response to a reanalysis by Westinghouse Electric Company that identified a modeling input error used in the original analysis.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), Tennessee Valley Authority (TVA), the licensee, has provided its analysis of the issue of no significant hazards consideration, which is presented below:

A. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The analyzed accidents of consideration in regards to changes affecting the ice condenser are a loss-of-coolant accident (LOCA) and a main steam line break (MSLB) inside containment. The ice condenser is a passive system and is not postulated as being the initiator of any LOCA or main steam line break (MSLB) and is designed to remain functional following a design basis earthquake.

In addition, the ice condenser does not interconnect or interact with any systems that have an interface with the reactor coolant or main steam systems.

For SQN, the LOCA is the more severe accident in terms of containment pressure and ice bed meltout and is therefore the more limiting accident. SQN's LOCA Containment Integrity Analysis calculates the post-LOCA peak containment pressure to be 11.44 pounds per square inch gauge (psig), which is below SQN's containment design pressure of 12.0 psig. The analysis contains an assumed ice mass that is an input value to the calculation to ensure that sufficient heat removal capability is available from SQN's ice condenser to limit the accident peak pressure inside containment. The analyzed peak accident pressure must remain below the containment design pressure.

TVA's proposed TS revision reflects the ice mass assumed in the SQN ['s] Containment Integrity Analysis. Accordingly, TVA's proposed change ensures that ice mass values retain the existing margin between the calculated peak containment accident pressure and SQN's containment design pressure.

Since the proposed changes to the TS and TS bases are solely to revise ice weight values to reflect current margins within SQN's analysis, and are not the result of or require any physical changes to the ice condenser, there is no change in the probability of an accident previously evaluated in the Safety Analysis Report.

Based on the above discussions, the proposed changes do not involve an increase in the probability or consequences of an accident previously evaluated.

B. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Because the TS and TS bases changes do not involve any physical changes to the ice condenser, or chemical changes to the ice contained therein, or make any changes in the operational aspects of the ice condenser as required by the TS, there are no new or different kind of accidents created from those already identified and evaluated.

C. The proposed amendment does not involve a significant reduction in a margin of safety.

The ice condenser TSs ensure that during a LOCA or MSLB the ice condenser will initially pass sufficient air and steam mass to preclude over-pressurizing lower containment, that it will absorb sufficient heat energy initially and over a prescribed time period to assist in precluding containment vessel failure, and that it will not alter the bulk containment sump pH and boron concentration assumed in the accident analysis.

TVA's proposed change does not physically alter the ice condenser, but rather accounts for changes to input assumptions for SQN's containment pressure analysis to correct a computer model input error. The correction to the model provides a more accurate accounting of the pressure response inside containment following a LOCA. The error correction requires an increase the ice mass assumed in the analysis to ensure that SQN's post-LOCA peak containment pressures remain unchanged. The margin that exists between the accident peak pressure and the containment design pressure is unaffected. Accordingly, TVA' s proposed change does not reduce the margin of safety.

The NRC has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 10H, Knoxville, Tennessee 37902.

NRC Section Chief: Richard P. Correia.

Vermont Yankee Nuclear Power Corporation, Docket No. 50–271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of amendment request: November 20, 2001.

Description of amendment request: The proposed amendment would change the Technical Specifications Table 3.2.6 by revising the Allowed Outage Times (AOTs) and associated action requirements for certain post-accident monitoring (PAM) instrumentation.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below:

1. Will the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

The PAM instrumentation is not considered as an initiator or contributor to any previously evaluated accident. The proposed change will not affect any Final Safety Analysis Report safety analysis. Because there are no credible failures of the PAM instrumentation that could initiate any accidents previously evaluated, changing the AOTs and related actions for PAM instrumentation will not increase the probability of any accident previously evaluated. The operability or inoperability of this instrumentation will not cause an accident because this instrumentation was not intended to and does not serve a function for preventing accidents. Therefore, the proposed change does not involve a significant increase in the probability of an accident previously evaluated.

The availability and use of PAM instrumentation ensures that the prescribed operator (manual) actions for mitigating the consequences of an accident will be implemented when necessary, and that the operator has sufficient information to verify required automatic actions have occurred as intended. The availability and use of PAM instrumentation provide assurance that the consequences of accidents will not be greater than previously evaluated. Changes to allowed outage times and shutdown completion times do not affect the consequences of accidents. The proposed change does not modify any parameters or assumptions contained in previously analyzed design-basis events. The continued availability and use of this instrumentation ensures that the prescribed manual operator actions for mitigating the consequences of an accident will be implemented when necessary, and that the operator has sufficient information to verify required automatic actions have occurred as intended. The requirements of the revised TS are adequate to ensure the required instrumentation is maintained operable such

that PAM instrumentation will be available to perform its intended safety function. Therefore, the proposed change does not involve a significant increase in the consequences of an accident previously evaluated.

2. Will the proposed changes create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change does not involve any physical modification to the plant, change in TS setpoints, plant design-basis, or the manner in which the plant is operated. Because the PAM instrumentation serves a passive function and does not provide any automatic action, there are no credible failures of the PAM instrumentation that could initiate a new or different kind of accident from any accident previously evaluated.

The change to AOTs and related action requirements for PAM instrumentation will not result in a failure mode not previously analyzed. This instrumentation is not considered an accident precursor because its existence or availability does not have any adverse impact in the pre-accident state of the reactor.

Therefore, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Will the proposed changes involve a significant reduction in a margin of safety?

PAM instrumentation is assumed to be used by operators for monitoring only after an accident occurs and performs no automatic functions. The continued availability and use of this instrumentation ensures that the prescribed manual operator actions for mitigating the consequences of an accident will be implemented when necessary, and that the operator has sufficient information to verify required automatic actions have occurred as intended. The requirements of the revised TS are adequate to ensure the required instrumentation is maintained operable such that PAM instrumentation will be available to perform its intended safety function.

Therefore, this change does not involve a significant reduction in a margin of safety.

Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. David R. Lewis, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037–1128.

NRC Section Chief: James W. Clifford.

Wolf Creek Nuclear Operating Corporation, Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: December 11, 2001.

Description of amendment request: A change is proposed to Surveillance Requirement (SR) 3.0.3 to allow a longer period of time to perform a missed surveillance. The time is extended from the current limit of '' * * * up to 24 hours or up to the limit of the specified Frequency, whichever is less'' to ''* * * up to 24 hours or up to the limit of the specified Frequency, whichever is greater.'' In addition, the following requirement would be added to SR 3.0.3: ''A risk evaluation shall be performed for any Surveillance delayed greater than 24 hours and the risk impact shall be managed.''

The NRC staff issued a notice of opportunity for comment in the **Federal Register** on June 14, 2001 (66 FR 32400), on possible amendments concerning missed surveillances, including a model safety evaluation and model no significant hazards consideration (NSHC) determination, using the consolidated line item improvement process. The NRC staff subsequently issued a notice of availability of the models for referencing in license amendment applications in the **Federal Register** on September 28, 2001 (66 FR 49714).

The licensee affirmed the applicability of the following NSHC determination in its application dated December 11, 2001.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The proposed change relaxes the time allowed to perform a missed surveillance. The time between surveillances is not an initiator of any accident previously evaluated. Consequently, the probability of an accident previously evaluated is not significantly increased. The equipment being tested is still required to be operable and capable of performing the accident mitigation functions assumed in the accident analysis. As a result, the consequences of any accident previously evaluated are not significantly affected. Any reduction in confidence that a standby system might fail to perform its safety function due to a missed surveillance is small and would not, in the absence of other unrelated failures, lead to an increase in consequences beyond those estimated by existing analyses. The addition of a requirement to assess and manage the risk introduced by the missed surveillance will further minimize possible concerns. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident From Any Previously Evaluated

The proposed change does not involve a physical alteration of the plant (no new or different type of equipment will be installed) or a change in the methods governing normal plant operation. A missed surveillance will not, in and of itself, introduce new failure modes or effects and any increased chance that a standby system might fail to perform its safety function due to a missed surveillance would not, in the absence of other unrelated failures, lead to an accident beyond those previously evaluated. The addition of a requirement to assess and manage the risk introduced by the missed surveillance will further minimize possible concerns. Thus, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in the Margin of Safety

The extended time allowed to perform a missed surveillance does not result in a significant reduction in the margin of safety. As supported by the historical data, the likely outcome of any surveillance is verification that the LCO [Limiting Condition for Operation] is met. Failure to perform a surveillance within the prescribed frequency does not cause equipment to become inoperable. The only effect of the additional time allowed to perform a missed surveillance on the margin of safety is the extension of the time until inoperable equipment is discovered to be inoperable by the missed surveillance. However, given the rare occurrence of inoperable equipment, and the rare occurrence of a missed surveillance, a missed surveillance on inoperable equipment would be very unlikely. This must be balanced against the real risk of manipulating the plant equipment or condition to perform the missed surveillance. In addition, parallel trains and alternate equipment are typically available to perform the safety function of the equipment not tested. Thus, there is confidence that the equipment can perform its assumed safety function.

Therefore, this change does not involve a significant reduction in a margin of safety. Based upon the reasoning presented above and the previous discussion of the amendment request, the requested change does not involve a significant hazards consideration.

The NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Section Chief: Stephen Dembek.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor) Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Document Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC Public Document Room Reference staff by telephone at 1–800–397–4209, 301–415–4737, or by e-mail to *pdc@nrc.gov.*

AmerGen Energy Company, LLC, et al., Docket No. 50–219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of application for amendment: December 29, 2000, supplemented on October 11, 2001.

Brief description of amendment: The amendment revises the offsite power source identified in Technical Specification 3.7.A.3 to remove one listed source and add a different source. Also, the bases have been revised to reflect the availability of the offsite sources and to revise minor administrative changes.

Date of Issuance: December 27, 2001.

Effective date: December 27, 2001, and shall be implemented within 30 days of issuance.

Amendment No.: 222.

Facility Operating License No. DPR–16: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** April 4, 2001 (66 FR 17965).

The October 11, 2001, letter provided clarifying information within the scope of the original application and did not change the staff's initial proposed no significant hazards consideration determination.

The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated December 27, 2001.

No significant hazards consideration comments received: No.

Dominion Nuclear Connecticut, Inc., Docket No. 50–336, Millstone Nuclear Power Station, Unit No. 2, New London County, Connecticut

Date of application for amendment: April 11, 2001, as supplemented June 14, 2001.

Brief description of amendment: The amendment revises the list of documents that describe the analytical methods used to determine the core operating limits specified in Technical Specification 6.9.1.8b. The revision consists of updating the list of documents to include the latest NRC-approved methodologies, along with deleting the revision numbers and dates of all documents in the list.

Date of issuance: December 19, 2001.

Effective date: As of the date of issuance and shall be implemented prior to restart from refueling outage 14 which is currently scheduled in early February of 2002.

Amendment No.: 260.

Facility Operating License No. DPR–65: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** July 25, 2001 (66 FR 38760).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 19, 2001.

No significant hazards consideration comments received: No.

Dominion Nuclear Connecticut, Inc., et al., Docket No. 50–423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of application for amendment: June 28, 2001.

Brief description of amendment: The amendment deletes the post-maintenance testing Surveillance Requirement 4.6.3.1 of containment isolation valves.

Date of issuance: December 21, 2001.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment No.: 200.

Facility Operating License No. NPF–49: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** October 17, 2001 (66 FR 52799).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 21, 2001.

No significant hazards consideration comments received: No.

Entergy Operations, Inc., Docket No. 50–368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas

Date of application for amendment: June 12, 2001, as supplemented by letters dated October 15 and November 16, 2001.

Brief description of amendment: The amendment revised certain emergency diesel generator (EDG) Technical Specifications (TSs) to remove the requirement for an accelerated test frequency, remove the requirement to subject the EDGs to an inspection in accordance with the manufacturer's recommendations, allow that certain EDG tests may be done in modes other than shutdown, and remove the EDG special reporting requirements.

Date of issuance: December 17, 2001.

Effective date: As of the date of issuance to be implemented within 60 days from the date of issuance.

Amendment No.: 237.

Facility Operating License No. NPF–6: Amendment revised the TSs.

Date of initial notice in ***Federal Register:*** July 11, 2001 (66 FR 36340). The October 15 and November 16, 2001, supplemental letters provided clarifying information and revised TSs that were within the scope of the original **Federal**

Register notice and did not change the staff's initial no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 17, 2001.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket Nos. 50–237 and 50–249, Dresden Nuclear Power Station, Units 2 and 3, Grundy County, Illinois

Docket Nos. 50–254 and 50–265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of application for amendments: February 22, as supplemented by letters dated May 4, and September 13, 2001.

Brief description of amendments: The amendments revise reactor vessel water level—low scram and isolation setpoints in order to minimize unnecessary reactor scrams that might result from events involving a temporary reduction in feedwater flow. The revision to these setpoints was originally requested as part of the power uprate licensing amendment. However, since the setpoint reduction will provide a similar benefit when operating at the current thermal power, Exelon has requested to implement the requested changes prior to power uprate approval as part of efforts to improve summer reliability at Dresden and Quad Cities Nuclear Power Stations.

Date of issuance: December 18, 2001.

Effective date: As of the date of issuance and shall be implemented within 30 days.

Amendment Nos.: Dresden Units 2 and 3—190/184; Quad Cities Units 1 and 2—200/196.

Facility Operating License Nos. DPR–19, DPR–25, DPR–29 and DPR–30. The amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** June 6, 2001 (66 FR 30490).

The supplemental letters contained clarifying information and did not change the initial no significant hazards consideration determination and did not expand the scope of the original **Federal Register** notice.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated December 18, 2001.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket Nos. 50–254 and 50–265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of application for amendments: September 29, 2000, as supplemented by letters dated March 1, July 13, August 9, August 13, August 27, and October 17, 2001.

Brief description of amendments: The amendments change the technical specifications to reflect a change in fuel vendors from Siemens Power Corporation to General Electric, and a transition to GE14 fuel. As part of the transition, changes are made to (1) increase the number of required automatic depressurization system valves from four to five, and (2) remove an allowance to continue operating for 72 hours if certain combinations of emergency core cooling systems are inoperable.

Date of issuance: December 20, 2001.

Effective date: As of the date of issuance and shall be implemented as follows: for Unit 1, prior to reaching Startup (i.e., Mode 2) following refueling outage 17, scheduled for completion in November 2002; for Unit 2, prior to reaching Startup (i.e., Mode 2) following refueling outage 16, scheduled for completion in February 2002.

Amendment Nos.: 201 and 197.

Facility Operating License Nos. DPR–29 and DPR–30: The amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** December 27, 2000, (65 FR 81912) and August 22, 2001 (66 FR 44172).

The submittals dated July 13, August 9, August 13, August 27, and October 17, 2001, did not change the scope of the amendment or the proposed no significant hazards findings dated December 27, 2000, (65 FR 81912) and August 22, 2001 (66 FR 44172).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated December 20, 2001.

No significant hazards consideration comments received: No.

Florida Power and Light Company, et al., Docket Nos. 50–335 and 50–389, St. Lucie Plant, Unit Nos. 1 and 2, St. Lucie County, Florida

Date of application for amendments: October 17, 2001.

Brief description of amendments: Revised St. Lucie Unit 1 and 2 Technical Specifications (TS) actions regarding inoperable redundant components when an Emergency Diesel Generator becomes inoperable, such that required actions will be based on the TS for the inoperable redundant components.

Date of Issuance: December 17, 2001.

Effective Date: As of the date of issuance and shall be implemented within 60 days of issuance.

Amendment Nos.: 180 and 123.

Facility Operating License Nos. DPR–67 and NPF–16: Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** November 14, 2001 (66 FR 57121).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated December 17, 2001.

No significant hazards consideration comments received: No.

Florida Power and Light Company, Docket Nos. 50–250 and 50–251, Turkey Point Plant, Units 3 and 4, Miami-Dade County, Florida

Date of application for amendments: October 23, 2000.

Brief description of amendments: The amendments removed references to the containment hydrogen monitors in Technical Specification (TS) Tables 3.3–5, ''Accident Monitoring Instrumentation,'' and 4.3–4, ''Accident Monitoring Instrumentation Surveillance Requirements.'' In addition, the amendments deleted TS 3/4.6.5, ''Combustible Gas Control—Hydrogen Monitors,'' and TS 3/4.6.6, ''Post Accident Containment Vent System.''

Date of issuance: December 20, 2001.

Effective date: As of the date of issuance and shall be implemented within 120 days of issuance.

Amendment Nos: 217 and 211.

Facility Operating License Nos. DPR–31 and DPR–41: Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** January 10, 2001 (66 FR 2014).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated December 20, 2001.

No significant hazards consideration comments received: No.

Nuclear Management Company, LLC, Docket No. 50–255, Palisades Plant, Van Buren County, Michigan

Date of application for amendment: October 26, 2001.

Brief description of amendment: Amendment changes the Operating License to extend certain Technical Specification surveillance requirement intervals on a one-time basis.

Date of issuance: December 19, 2001.

Effective date: As of the date of issuance and shall be implemented within 60 days.

Amendment No.: 206.

Facility Operating License No. DPR–20. Amendment revised the Operating License.

Date of initial notice in ***Federal Register:*** November 13, 2001 (66 FR 56865).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 19, 2001.

No significant hazards consideration comments received: No.

PPL Susquehanna, LLC, Docket No. 50–387, Susquehanna Steam Electric Station, Unit 1, Luzerne County, Pennsylvania

Date of application for amendment: September 19, 2001, as supplemented October 26, 2001.

Brief description of amendment: The amendment authorized a one-cycle delay in removal of the second reactor pressure vessel material surveillance capsule.

Date of issuance: December 20, 2001.

Effective date: As of date of issuance.

Amendment No.: 197.

Facility Operating License No. NPF–14: The amendment authorized a change to the Reactor Vessel Material Surveillance Program.

Date of initial notice in ***Federal Register:*** November 14, 2001 (66 FR 57122).

The October 26, 2001, letter provided clarifying information that did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 20, 2001.

No significant hazards consideration comments received: No.

PSEG Nuclear LLC, Docket Nos. 50–272, Salem Nuclear Generating Station, Unit No. 1, Salem County, New Jersey

Date of application for amendments: December 10, 2001, as supplemented on December 21, and December 24, 2001.

Brief description of amendments: The amendment allows a one-time change to Technical Specifications (TSs) Limiting Condition for Operation 3/4.7.4, ''Service Water System,'' to increase the Allowed Outage Time (AOT) from 72 hours to 10 days. The increase in the TS 3/4.7.4 AOT is necessary in order to allow repairs to a portion of the 12 Service Water System piping while remaining at power.

Date of issuance: December 27, 2001.

Effective date: As of the date of issuance.

Amendment No.: 248.

Facility Operating License Nos. DPR–70: The amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: No.

The Commission's related evaluation of the amendment, finding of emergency circumstances, and final determination of no significant hazards consideration determination are contained in a Safety Evaluation dated December 27, 2001.

No significant hazards consideration comments received: No.

PSEG Nuclear LLC, Docket Nos. 50–272 and 50–311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of application for amendments: January 5, 2001.

Brief description of amendments: The amendments revise Technical Specification 3/4.6.4, ''Containment Systems, Combustible Gas Control, Hydrogen Analyzers,'' to reduce the channel calibration frequency of the Hydrogen Analyzers from quarterly to a frequency of once per refueling outage. The change also adds an additional surveillance requirement to perform a quarterly gas calibration.

Date of issuance: December 17, 2001.

Effective date: As of the date of issuance, and shall be implemented within 60 days.

Amendment Nos.: 247 and 228.

Facility Operating License Nos. DPR–70 and DPR–75: The amendments revised the Technical Specifications.

Date of *initial notice in* ***Federal Register:*** April 18, 2001 (66 FR 20008).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated December 17, 2001.

No significant hazards consideration comments received: No.

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50–395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, South Carolina

Date of application for amendment: October 1, 2001.

Brief description of amendment: This amendment deletes Technical Specification 6.8.4.d requiring a program for post-accident sampling, and thereby eliminates the requirements to have and maintain the Post-Accident Sampling System at Virgil C. Summer Nuclear Station, Unit No. 1.

Date of issuance: December 20, 2001.

Effective date: December 20, 2001.

Amendment No.: 152.

Facility Operating License No. NPF–12: Amendment revises the Technical Specifications.

Date of initial notice in ***Federal Register:*** October 31, 2001 (66 FR 55023).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 20, 2001.

No significant hazards consideration comments received: No.

Southern Nuclear Operating Company, Inc., Docket Nos. 50–348 and 50–364, Joseph M. Farley Nuclear Plant, Units 1 and 2, Houston County, Alabama

Date of amendments request: December 8, 2000.

Brief description of amendments: The amendments delete or modify existing license conditions from the Unit 1 and Unit 2 Operating License, which 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.

Date of issuance: December 7, 2001.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment Nos.: 152 and 144.

Facility Operating License Nos. NPF–2 and NPF–8: Amendments revise the Operating License.

Date of initial notice in ***Federal Register:*** March 7, 2001 (66 FR 13808).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated December 7, 2001.

No significant hazards consideration comments received: No.

Virginia Electric and Power Company, Docket Nos. 50–338 and 50–339, North Anna Power Station, Units 1 and 2, Louisa County, Virginia

Date of application for amendment: September 10, 2001.

Brief description of amendment: These amendments eliminate the Technical Specification requirements to have and maintain a post-accident sampling system (PASS) at North Anna Power Station, Units 1 and 2. In addition, for North Anna Power Station, Unit 2, the amendment deletes a license condition associated with the implementation of PASS.

Date of issuance: December 19, 2001.

Effective date: As of the date of issuance and shall be implemented within 120 days from the date of issuance.

Amendment Nos.: 229 and 210.

Facility Operating License Nos. NPF–4 and NPF–7: Amendments change the Technical Specifications for both units and the license for Unit 2 only.

Date of initial notice in ***Federal Register:*** October 31, 2001 (66 FR 55025).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated December 19, 2001.

No significant hazards consideration comments received: No.

Virginia Electric and Power Company, et al., Docket Nos. 50–280 and 50–281, Surry Power Station, Units 1 and 2, Surry County, Virginia

Date of application for amendments: September 10, 2001.

Brief Description of amendments: These amendments eliminate the Technical Specification requirements to have and maintain a post-accident sampling system at Surry Power Station, Unit Nos. 1 and 2.

Date of issuance: December 18, 2001.

Effective date: December 18, 2001.

Amendment Nos.: 229 and 229.

Facility Operating License Nos. DPR–32 and DPR–37: Amendments change the Technical Specifications.

Date of initial notice in ***Federal Register:*** October 31, 2001 (66 FR 55026).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated December 18, 2001.

No significant hazards consideration comments received: No.

Dated at Rockville, Maryland, this 31st day of December 2001.

For the Nuclear Regulatory Commission.

Stuart A. Richards,

Acting Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 02–301 Filed 1–7–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued a revision of a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

Revision 1 of Regulatory Guide 1.78, ''Evaluating the Habitability of a Nuclear Power Plant Control Room During a Postulated Hazardous Chemical Release,'' describes guidance acceptable to the NRC staff for assessing the habitability of the control room during and after a postulated external release of hazardous chemicals. This guide also provides guidance for the protection of control room operators against an accidental release of hazardous chemicals, including chlorine.

With the publication of Regulatory Guide 1.78, Regulatory Guide 1.95, ''Protection of Nuclear Power Plant Control Room Operators Against an Accidental Chlorine Release,'' is being withdrawn because the guidance in Regulatory Guide 1.95 has been updated and incorporated into Revision 1 of Regulatory Guide 1.78.

Comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time. Written comments may be submitted to the Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Regulatory guides are available for inspection or downloading at the NRC's Web site at *www.nrc.gov* under Regulatory Guides and in NRC's Electronic Reading Room (ADAMS System) at the same site. Single copies of regulatory guides may be obtained free of charge by writing the Reproduction and Distribution Services Section, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by fax to (301) 415–2289, or by E-mail to *distribution@nrc.gov.* Issued guides may also be purchased from the National Technical Information Service on a standing order basis. Details on this service may be obtained by writing NTIS, 5285 Port Royal Road, Springfield, VA 22161. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 26th day of December, 2001.

For the Nuclear Regulatory Commission.

Michael E. Mayfield,

Director, Division of Engineering Technology, Office of Nuclear Regulatory Research.

[FR Doc. 02–406 Filed 1–7–02; 8:45 am]

BILLING CODE 7590–01–P

POSTAL SERVICE

United States Postal Service Board of Governors; Sunshine Act Meeting

Board Votes To Close December 24, 2001, Meeting

By paper and telephone vote on December 21 and 24, 2001, a majority of the members contacted and voting, the Board of Governors of the United States Postal Service voted to close to public observation its meeting held in Washington, DC via teleconference. The Board determined that prior public notice was possible.

Item Considered: Rate Case R2001–1.

General Counsel Certification: The General Counsel of the United States Postal Service has certified that the meeting was properly closed under the Government in the Sunshine Act.

Contact Person for More Information: Requests for information about the meeting should be addressed to the Secretary of the Board, David G. Hunter, at (202) 268–4800.

David G. Hunter,

Secretary.

[FR Doc. 02–512 Filed 1–4–02; 12:20 pm]

BILLING CODE 7710–12–M

RAILROAD RETIREMENT BOARD

Determination of Quarterly Rate of Excise Tax for Railroad Retirement Supplemental Annuity Program

In accordance with directions in Section 3221(c) of the Railroad Retirement Tax Act (26 U.S.C., Section 3221(c)), the Railroad Retirement Board has determined that the excise tax imposed by such Section 3221(c) on every employer, with respect to having individuals in his employ, for each work-hour for which compensation is paid by such employer for services rendered to him during the quarter beginning January 1, 2002, shall be at the rate of 25 cents.

In accordance with directions in Section 15(a) of the Railroad Retirement Act of 1974, the Railroad Retirement Board has determined that for the quarter beginning January 1, 2002, 41.1 percent of the taxes collected under Sections 3211(b) and 3221(c) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Account and 58.9 percent of the taxes collected under such Sections 3211(b) and 3221(c) plus 100 percent of the taxes collected under Section 3221(d) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Supplemental Account.

Dated: November 30, 2001.

By Authority of the Board.

Beatrice Ezerski,

Secretary of the Board.

[FR Doc. 02–330 Filed 1–7–02; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27488]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

January 2, 2002.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by January 28, 2002, to the Secretary, Securities and Exchange Commission, Washington, DC 20549–0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After January 28, 2002, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

American Electric Power Company, Inc. (70–10021)

American Electric Power Company, Inc. (''AEP''), a registered holding company, 1 Riverside Plaza, Columbus, Ohio 43215, has filed a declaration under sections 6(a), 7, 32, and 33 of the Act and rules 53 and 54 under the Act.

The Commission issued an order on April 20, 2001 (HCAR No. 27382) (''April Order'') authorizing AEP to organize and acquire all of the common stock or other equity interests of one or more financing subsidiaries (''FS'') for the purpose of effecting various financing transactions through June 30, 2004. These transactions involved the issuance and sale of up to $1.5 billion unsecured in any combination of preferred securities, debt securities, interest rate hedges, anticipatory hedges, stock purchase contracts, and stock purchase units, as well as stock issued under the stock purchase contracts and stock purchase units. AEP has issued $1.25 billion debt under the April Order. The Commission further authorized AEP to effect directly financing transactions involving preferred securities, debt securities, stock purchase contracts, or stock purchase units. By supplemental order dated May 29, 2001 (HCAR No. 27408) (''May Order''), the Commission released jurisdiction and authorized the use of proceeds of the financings authorized in the April Order for investment in exempt wholesale generators ''(EWGs'') and foreign utility companies (''FUCOs'').

In addition to continuing to engage in the transactions authorized in the April Order and the May Order, AEP requests authorization to increase the investment limit from $1.5 billion to $3.0 billion. AEP also requests authorization to issue common stock directly and through FS. In the case of direct common stock sales, AEP proposes to sell its common stock other than as a component or in satisfaction of a stock purchase contract or stock purchase unit (a) through solicitations of proposals from underwriters or dealers; (b) through negotiated transactions with underwriters or dealers; (c) directly to a limited number of purchasers or to a single purchaser; and or (d) through agents. The price applicable to shares sold in any transaction will be based on several factors, including the current market price of the common stock and prevailing capital market conditions. AEP is authorized under its restated articles of incorporation to issue 600,000,000 shares of common stock ($6.50 par value), of which 322,024,714 were issued and outstanding as of February 1, 2001. As of September 30, 2001, AEP's consolidated capitalization consisted of 63.0% indebtedness, 0.7% preferred stock, 1.3% mandatorily redeemable preferred securities, and 35.0% common equity.

AEP states that interest rate hedges and anticipatory hedges will be treated for accounting purposes under generally accepted accounting principles. The April Order authorized hedges that would qualify for hedge accounting treatment.

AEP states that it will not publicly issue unsecured indebtedness or preferred securities in this file unless it has maintained at least an investment grade corporate or senior unsecured debt rating by at least one nationally recognized rating agency.

AEP was authorized in the April Order to form special purpose subsidiaries (''SPS'') in connection with the issuance of unsecured preferred securities. The April Order also authorized FS to issue and sell unsecured subordinated debentures, unsecured promissory notes or other unsecured debt instruments (''Note'' or ''Notes''). AEP states that it expects the FS interest payments on the Notes will be deductible for federal income tax purposes and that each SPS will be treated as either a partnership or a passive grantor trust for federal income tax purposes. Consequently, holders of the preferred securities and AEP will be deemed to have received distributions in respect of their ownership interests in the respective SPS and will not be entitled to any ''dividends received deduction'' under the Internal Revenue Code. The preferred securities of any series, however, may be redeemable at the option of the SPS issuing the series (with the consent or at the direction of AEP) at a price equal to their par or stated value or liquidation preference, plus any accrued and unpaid dividends or distributions, (a) at any time after a specified date not later than approximately ten years from their date of issuance, or (b) upon the occurrence of certain events, among them that (x) the SPS is required to withhold or deduct certain amounts in connection with dividend, distribution or other payments or is subject to federal income tax with respect to interest received on the Notes issued to the SPS, or (y) it is determined that the interest payments by FS on the related Notes are not deductible for income tax purposes, or (z) the SPS becomes subject to regulation as an ''investment company'' under the Investment Company Act of 1940. The preferred securities of any series may also be subject to mandatory redemption upon the occurrence of certain events. FS also may have the right in certain cases or in its discretion to exchange the preferred securities of any SPS for the Notes or other junior subordinated debt issued to the SPS.

In the event that any SPS is required to withhold or deduct certain amounts in connection with dividend, distribution or other payments, the SPS may also have the obligation to ''gross up'' the payments so that the holders of the preferred securities issued by the SPS will receive the same payment after the withholding or deduction as they would have received if no withholding

or deduction were required. In this event, FS obligations under its related Note may also cover this ''gross up'' obligation. In addition, if any SPS is required to pay taxes with respect to income derived from interest payments on the Notes issued to it, the FS may be required to pay additional interest on the related Notes as necessary in order that net amounts received and retained by the SPS, after the payment of the taxes, shall result in the SPS having the funds as it would have had in the absence of the payment of taxes.

The proceeds of any financing by FS or any SPS will be remitted, paid as a dividend, loaned or otherwise transferred to AEP or its designee. The proceeds of preferred securities, debt securities, stock purchase contracts and stock purchase units will be used to acquire the securities of associate companies and interests in other businesses, including interests in EWGs and FUCOs, or in any transactions permitted under the Act and for other general corporate purposes, including the reduction of short-term indebtedness. AEP had approximately $3.6 billion outstanding short-term indebtedness as of September 30, 2001. No proceeds will be used to purchase generation assets currently owned by AEP or any affiliate unless the purchase has been approved by order of this Commission under File No. 70–9785 or other similar applications.

AEP represents that no financing proceeds will be used to acquire the equity securities of any company or any interest in other businesses unless the acquisition has been approved by the Commission in this proceeding or in File No. 70–9353 or is in accordance with an available exemption under sections 32, 33 and 34 of the Act or rule 58 under the Act. AEP does not seek in this proceeding any increase in the amount it is permitted to invest in EWGs and FUCOs.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–402 Filed 1–7–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 25353; 813–226]

DRW Venture Partners LP and RBC Dain Rauscher Corp.; Notice of Application

January 2, 2002.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under sections 6(b) and 6(e) of the Investment Company Act of 1940 (the ''Act'') granting an exemption from all provisions of the Act, except section 9, section 17 (other than certain provisions of paragraphs (a), (d), (e), (f), (g), and (j)), section 30 (other than certain provisions of paragraphs (a), (b), (e), and (h)), sections 36 through 53, and the rules and regulations thereunder.

SUMMARY OF APPLICATION: Applicants request an order to exempt certain limited partnerships and limited liability companies (''Partnerships'') formed for the benefit of key employees of RBC Dain Rauscher Corp. (''DRC'') and certain of its affiliates from certain provisions of the Act. Each Partnership will be an ''employees' securities company'' as defined in section 2(a)(13) of the Act.

APPLICANTS: DRW Venture Partners LP (the ''Initial Partnership'') and DRC.

FILING DATES: The application was filed on January 20, 2000 and amended on December 28, 2001.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on January 28, 2002, and should be accompanied by proof of service on applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 Fifth Street, NW, Washington, DC 20549–0609; Applicants, 60 South Sixth Street, Minneapolis, MN 55402.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Senior Counsel, at (202) 942–0574 or Mary Kay Frech, Branch Chief, at (202) 942–0564, (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW, Washington, DC 20549–0102 (telephone (202) 942–8090).

Applicants' Representations

1. DRC is a holding company that provides investment advice and services to individual and institutional investors and investment banking services to corporate and governmental clients through its principal subsidiary, Dain Rauscher Incorporated. Dain Rauscher Incorporated is a wholly-owned subsidiary of DRC and is a broker-dealer registered under the Securities Exchange Act of 1934 (the ''Exchange Act'') and an investment adviser registered under the Investment Advisers Act of 1940 (the ''Advisers Act''). DRC and its affiliates as defined in rule 12b-2 under the Exchange Act are referred to collectively in this notice as the ''DRC Group.''

2. DRC Group has offered and proposes to continue to offer various investment programs for the benefit of its Eligible Employees (as defined below). These programs may be structured as different Partnerships, as separate plans within a Partnership, or as investments by the Partnerships in investment entities formed by DRC Group, from time to time, which are exempt from registration under the Act in reliance on sections 3(c)(1), 3(c)(6), or 3(c)(7) of the Act and which are managed by DRC employees (the ''DRC Funds''). Each Partnership will be a limited partnership or limited liability company formed as an ''employees' securities company'' within the meaning of section 2(a)(13) of the Act, and will operate as a closed-end, non-diversified management investment company. The Partnerships have been or will be established primarily for the benefit of highly compensated employees of DRC Group as part of a program designed to create capital building opportunities that are competitive with those at other investment banking firms and to facilitate the recruitment of high caliber professionals. Participation in a Partnership will be voluntary.

3. DRC, a Delaware corporation, is the general partner of the Initial Partnership (together with any DRC Group entity which acts as the general partner of a Partnership, ''General Partner''). The General Partner of the Initial Partnership will not be registered under

the Advisers Act pursuant to section 203(b)(3) of the Advisers Act and rule 203(b)(3)–1 thereunder. The General Partner of other Partnerships will register as an investment adviser under the Advisers Act if required under applicable law. The General Partner will manage, operate, and control each of the Partnerships. The General Partner will be authorized to delegate management responsibility to a DRC Group entity or to a committee of DRC Group employees (including, without limitation, the managers of other Partnerships). The General Partner will not receive a performance-based fee, or carried interest, from the Initial Partnership, and the General Partner does not currently anticipate receiving a performance-based fee, or carried interest, from any Partnership.[1]

4. Limited partner interests in the Partnerships (''Interests'') will be offered without registration in reliance on section 4(2) of the Securities Act of 1933 (the ''Securities Act'') or Regulation D under the Securities Act, and will be sold only to ''Eligible Employees'' or, if permitted by DRC, to ''Qualified Participants'' (in each case as defined below) (collectively, ''Participants''). Prior to offering Interests to an Eligible Employee, the General Partner must reasonably believe that the Eligible Employee will be a sophisticated investor capable of understanding and evaluating the risks of participating in a Partnership. An Eligible Employee is (a) an individual who is a current or former employee, officer, director, or ''Consultant'' of DRC Group and, except for a maximum of 35 individuals who either manage the day-to-day affairs of the Partnership in question (''Managing Employees'') or who meet the alternative standards set forth in paragraph 5 below, meets the standards of an accredited investor under rule 501(a)(6) of Regulation D, or (b) an entity that is a current or former ''Consultant'' of DRC Group and meets the standards of an accredited investor under rule 501(a) of Regulation D.[2] Eligible Employees will be experienced professionals in the investment banking and securities, investment management or financial services businesses, or in the related administrative, financial, accounting, legal, or operational activities.

5. In order for an individual who is not an accredited investor under rule 501(a)(6) of Regulation D to qualify as an Eligible Employee, the individual must (a) have a graduate degree in business, law, or accounting, (b) have a minimum of five years of consulting, investment banking or similar business experience, and (c) have had reportable income from all sources (including any profit shares or bonus) in the calendar year immediately preceding such individual's admission as a Limited Partner in excess of $120,000 and have a reasonable expectation of reportable income of at least $150,000 in the years in which such individual invests in a Partnership. In addition, an Eligible Employee in this category will not be permitted to invest in any year more than 10% of his or her income from all sources for the immediately preceding year in the Partnership and in all other Partnerships in the aggregate in which he or she has previously invested.

6. Managing Employees will have primary responsibility for operating the Partnership. These individuals will be officers or employees of DRC Group who meet the definition of Knowledgeable Employee in rule 3c–5(a)(4) under the Act with respect to a Partnership as if it were a ''covered company'' within the meaning of the rule.

7. A Qualified Participant (a) is an Eligible Family Member or Qualified Entity, (in each case as defined below) of an Eligible Employee, and (b) if purchasing an Interest from a Partner[3] or directly from the Partnership, comes within one of the categories of an ''accredited investor'' under rule 501(a) of Regulation D. An ''Eligible Family Member'' is a spouse, parent, child, spouse of child, brother, sister, or grandchild of an Eligible Employee. A ''Qualified Entity'' is (a) a trust of which the trustee, grantor, and/or beneficiary is an Eligible Employee; (b) a partnership, corporation, or other entity controlled by an Eligible Employee;[4] or (c) a trust or other entity established solely for the benefit of Eligible Family Members of an Eligible Employee.

8. The terms of a Partnership will be fully disclosed to each Eligible Employee and, if applicable, to a Qualified Participant of the Eligible Employee, at the time the Eligible Employee is invited to participate in the Partnership. Each Partnership will send audited financial statements to each Participant within 120 days or as soon as practicable after the end of its fiscal year. In addition, each Participant will receive a copy of Schedule K–1 showing the Participant's share of income, credits, deductions, and other tax items.

9. Interests in a Partnership will be non-transferable except with the prior written consent of the General Partner. No person will be admitted into a Partnership unless the person is an Eligible Employee, a Qualified Participant of an Eligible Employee, or a DRC Group entity. No sales load will be charged in connection with the sale of an Interest.

10. An Eligible Employee's Interest in a Partnership may be subject to repurchase or cancellation if (a) the Eligible Employee's relationship with DRC Group is terminated for cause; (b) the Eligible Employee becomes a consultant to or joins any firm that the General Partner determines, in its reasonable discretion, is competitive with any business of DRC Group; or (c) the Eligible Employee voluntarily resigns from employment with DRC Group. Upon repurchase or cancellation, the General Partner will pay to the Eligible Employee at least the lesser of (a) the amount actually paid by the Eligible Employee to acquire the Interest (plus interest, as determined by the General Partner), or (b) the fair market value of the Interest as determined at the time of repurchase by the General Partner. The terms of any repurchase or cancellation will apply equally to any Qualified Participant of an Eligible Employee.

11. Subject to the terms of the applicable limited partnership agreement, a Partnership will be permitted to enter into transactions

[1] A ''carried interest'' is an allocation to the General Partner based on the net gains of an investment program and is in addition to the amount that is allocable to the General Partner in proportion to its capital contributions. Any carried interest payable to a General Partner that is registered under the Advisers Act will be charged only to the extent permitted by section 205(a) of the Advisers Act and rule 205–3 under the Advisers Act. Any ''carried interest'' payable to a General Partner that is not registered under the Advisers Act will comply with the requirements of section 205(b)(3) of the Advisers Act (with the Partnership treated as though it were a business development company for purposes of that section).

[2] A ''Consultant'' is a person or entity whom DRC Group has engaged on retainer to provide services and professional expertise on an ongoing basis as a regular consultant or as a business or legal adviser to DRC Group and who shares a community of interest with DRC Group and DRC Group employees.

[3] ''Partner'' means any partner of a Partnership, including the General Partner.

[4] The inclusion of partnerships, corporations, or other entities controlled by an Eligible Employee in the definition of ''Qualified Entity'' is intended to enable Eligible Employees to make investments in the Partnerships through personal investment vehicles for the purpose of personal and family investment and estate planning objectives. Eligible Employees will exercise investment discretion or control over these investment vehicles, thereby creating a close nexus between DRC Group and these investment vehicles. In the case of a partnership, corporation, or other entity controlled by a Consultant, individual participants will be limited to senior level employees, members, or partners of the Consultant who will be required to qualify as an ''accredited investor'' under rule 501(a)(6) of Regulation D and who will have access to the General Partner or DRC Group.

involving (a) a DRC Group entity; (b) a portfolio company, (c) any Partner or person or entity affiliated with a Partner, (d) an investment fund or separate account that is organized for the benefit of investors who are not affiliated with DRC Group and over which a DRC Group entity will exercise investment discretion (a ''Third Party Fund''), or (e) any partner or other investor of a Third Party Fund that is not affiliated with DRC Group (a ''Third Party Investor''). These transactions may include (a) a Partnership's purchase or sale of an investment or an interest from or to any DRC Group entity or Third Party Fund, acting as principal. Prior to entering into these transactions, the General Partner must determine that the terms are fair to the Partners.

12. No Partnership will acquire any security issued by a registered investment company if immediately after the acquisition, the Partnership will own more than 3% of the outstanding voting stock of the registered investment company.

13. A DRC Group entity (including the General Partner) acting as agent or broker may receive placement fees, advisory fees, or other compensation from a Partnership in connection with a Partnership's purchase or sale of securities, provided the placement fees, advisory fees, or other compensation are ''usual and customary,'' subject to the requirements described below. DRC Group entities (including the General Partner) also may be compensated for services to entities in which the Partnerships invests and entities that are competitors of these entities.

Applicants' Legal Analysis

1. Section 6(b) of the Act provides, in part, that the Commission will exempt employees' securities companies from the provisions of the Act to the extent that the exemption is consistent with the protection of investors. Section 6(b) provides that the Commission will consider, in determining the provisions of the Act from which the company should be exempt, the company's form of organization and capital structure, the persons owning and controlling its securities, the price of the company's securities and the amount of any sales load, how the company's funds are invested, and the relationship between the company and the issuers of the securities in which it invests. Section 2(a)(13) defines an employees' securities company, in relevant part, as any investment company all of whose securities are beneficially owned (a) by current or former employees, or persons on retainer, of one or more affiliated employers, (b) by immediate family members of such persons, or (c) by such employer or employers together with any of the persons in (a) or (b).

2. Section 7 of the Act generally prohibits an investment company that is not registered under section 8 of the Act from selling or redeeming its securities. Section 6(e) provides that, in connection with any order exempting an investment company from any provision of section 7, certain provisions of the Act, as specified by the Commission, will be applicable to the company and other persons dealing with the company as though the company were registered under the Act. Applicants request an order under sections 6(b) and 6(e) of the Act for an exemption from all provisions of the Act except section 9, section 17 (other than certain provisions of paragraphs (a), (d), (e), (f), (g), and (j)), section 30 (other than certain provisions of paragraphs (a), (b), (e), and (h)), sections 36 through 53, and the rules and regulations thereunder.

3. Section 17(a) generally prohibits any affiliated person of a registered investment company, or any affiliated person of an affiliated person, acting as principal, from knowingly selling or purchasing any security or other property to or from the company. Applicants request an exemption from section 17(a) to permit (a) a DRC Group entity or a Third Party Fund, acting as principal, to engage in any transaction directly or indirectly with any Partnership or any company controlled by the Partnership; (b) any Partnership to invest in or engage in any transaction with any DRC Group entity, acting as principal, (i) in which the Partnership, any company controlled by the Partnership, or any DRC Group entity, or Third Party Fund has invested or will invest, or (ii) with which the Partnership, any company controlled by the Partnership, or any DRC Group entity, or Third Party Fund will become affiliated; and (iii) any Third Party Investor, acting as principal, to engage in any transaction directly or indirectly with any Partnership or any company controlled by the Partnership.

4. Applicants state that an exemption from section 17(a) is consistent with the protection of investors and is necessary to promote the purpose of the Partnerships. Applicants state that the Participants in each Partnership will be fully informed of the extent of the Partnership's dealings with DRC Group. Applicants also state that, as professionals employed in the investment banking, investment management or financial services businesses, Participants will be able to understand and evaluate the attendant risks. Applicants assert that the community of interest among the Participants and DRC Group will provide the best protection against any risk of abuse.

5. Section 17(d) and rule 17d–1 prohibit any affiliated person or principal underwriter of a registered investment company, or any affiliated person of such person or principal underwriter, acting as principal, from participating in any joint arrangement with the company unless authorized by the Commission. Applicants request relief to permit affiliated persons of each Partnership (including without limitation, the General Partner, other DRC Group entities, or Third-Party Fund), or affiliated persons of any of these persons (including without limitation, Third-Party Investors) to participate in, or effect any transaction in connection with, any joint enterprise or other joint arrangement or profit-sharing plan in which a Partnership or a company controlled by a Partnership is a participant.

6. Applicants submit that it is likely that suitable investments will be brought to the attention of a Partnership because of its affiliation with DRC Group or DRC Group's large capital resources, and its experience in structuring complex transactions. Applicants also submit that the types of investment opportunities considered by a Partnership often require each investor to make funds available in an amount that may be substantially greater than what a Partnership may make available on its own. Applicants contend that, as a result, the only way in which a Partnership may be able to participate in these opportunities may be to co-invest with other persons, including its affiliates. Applicants note that each Partnership will be primarily organized for the benefit of Eligible Employees as an incentive for them to remain with DRC Group and for the generation and maintenance of goodwill. Applicants believe that, if co-investments with DRC Group are prohibited, the appeal of the Partnerships would be significantly diminished. Applicants assert that Eligible Employees wish to participate in co-investment opportunities because they believe that (a) the resources of DRC Group enable it to analyze investment opportunities to an extent that individual employees would not be able to duplicate; (b) investments made by DRC Group will not be generally available to investors even of the financial status of the Eligible Employees; and (c) Eligible Employees will be able to pool their investment resources, thus achieving greater diversification of their individual investment portfolios.

7. Applicants assert that the flexibility to structure co-investments and joint investments will not involve abuses of the type section 17(d) and rule 17d–1 were designed to prevent. Applicants state that the concern that permitting co-investments by DRC Group and a Partnership might lead to less advantageous treatment of the Partnership will be mitigated by the community of interest among DRC Group and the Participants, and the fact that senior officers and directors of DRC Group entities will be investing in the Partnership. Finally, applicants contend that the possibility that a Partnership may be disadvantaged by the participation of an affiliate in a transaction will be minimized by compliance with the lockstep procedures described in condition 3 below. (p. 16) Applicants believe that this condition will ensure that a Partnership will co-invest side-by-side and pro rata with, and on at least as favorable terms as, a DRC Group entity.

8. Co-investments with Third Party Funds, or by a DRC Group entity pursuant to a contractual obligation to a Third Party Fund, will not be subject to condition 3. Applicants note that it is common for a Third Party Fund to require that DRC Group invest its own capital in Third Party Fund investments, and that the DRC Group investments be subject to substantially the same terms as those applicable to the Third Party Fund. Applicants believe it is important that the interests of the Third Party Fund take priority over the interests of the Partnerships, and that the Third Party Fund not be burdened or otherwise affected by activities of the Partnerships. In addition, applicants assert that the relationship of a Partnership to a Third Party Fund is fundamentally different from a Partnership's relationship to DRC Group. Applicants contend that the focus of, and the rationale for, the protections contained in the requested relief are to protect the Partnerships from any overreaching by DRC Group in the employer/employee context, whereas the same concerns are not present with respect to the Partnerships *vis-à-vis* a Third Party Fund.

9. Section 17(e) and rule 17e–1 limit the compensation an affiliated person may receive when acting as agent or broker for a registered investment company. Applicants request an exemption from section 17(e) to permit a DRC Group entity (including the General Partner), that acts as an agent or broker, to receive placement fees, advisory fees, or other compensation from a Partnership in connection with the purchase or sale by the Partnership of securities, provided that the fees or other compensation is deemed to be ''usual and customary.'' Applicants state that for the purposes of the application, fees or other compensation that is charged or received by a DRC Group entity will be deemed to be ''usual and customary'' only if (a) the Partnership is purchasing or selling securities with other unaffiliated third parties, including Third Party Funds; (b) the fees or compensation being charged to the Partnership are also being charged to the unaffiliated third parties, including Third Party Funds; and (c) the amount of securities being purchased or sold by the Partnership does not exceed 50% of the total amount of securities being purchased or sold by the Partnership and the unaffiliated third parties, including Third Party Funds. Applicants assert that, because DRC Group does not wish it to appear as if it is favoring the Partnerships, compliance with section 17(e) would prevent a Partnership from participating in transactions where the Partnership is being charged lower fees than unaffiliated third parties. Applicants assert that the fees or other compensation paid by a Partnership to a DRC Group entity will be the same as those negotiated at arm's length with unaffiliated third parties.

10. Rule 17e–1(b) requires that a majority of directors of the General Partner who are not ''interested persons'' take actions and make approvals regarding commissions, fees, or other remuneration. Applicants request an exemption from rule 17e–1 to the extent necessary to permit each Partnership to comply with the rule without having a majority of the directors of the General Partner who are not interested persons take actions and make determinations as set forth in the rule. Applicants state that because all the directors of the General Partner will be affiliated persons, without the relief requested, a Partnership could not comply with rule 17e–1. Applicants state that each Partnership will comply with rule 17e–1 by having a majority of the directors of the General Partner take actions and make approvals as are set forth in rule 17e–1. Applicants state that each Partnership will comply with all other requirements of rule 17e–1.

11. Section 17(f) designates the entities that may act as investment company custodians, and rule 17f–1 imposes certain requirements when the custodian is a member of a national securities exchange. Applicants request an exemption from section 17(f) and rule 17f–1 to permit a DRC Group entity to act as custodian of Partnership assets without a written contract, as would be required by rule 17f–1(a). Applicants also request an exemption from the rule 17f–1(b)(4) requirement that an independent accountant periodically verify the assets held by the custodian. Applicants believe that, because of the community of interest between DRC Group and the Partnerships and the existing requirement for an independent audit, compliance with these requirements would be unnecessarily burdensome and expensive. Applicants will comply with all other requirements of rule 17f–1.

12. Section 17(g) and rule 17g–1 generally require the bonding of officers and employees of a registered investment company who have access to its securities or funds. Rule 17g–1 requires that a majority of directors who are not interested persons take certain actions and give certain approvals relating to fidelity bonding. Applicants request exemptive relief to permit the General Partner's officers and directors, who may be deemed interested persons, to take actions and make determinations set forth in the rule. Applicants state that, because all the directors of the General Partner will be affiliated persons, a Partnership could not comply with rule 17g–1 without the requested relief. Specifically, each Partnership will comply with rule 17g–1 by having a majority of the Partnerships' directors take actions and make determinations as are set forth in rule 17g–1. Applicants also state that each Partnership will comply with all other requirements of rule 17g–1.

13. Section 17(j) and paragraph (b) of rule 17j–1 make it unlawful for certain enumerated persons to engage in fraudulent or deceptive practices in connection with the purchase or sale of a security held or to be acquired by a registered investment company. Rule 17j–1 also requires that every registered investment company adopt a written code of ethics and that every access person of a registered investment company report personal securities transactions. Applicants request an exemption from the provisions of rule 17j–1, except for the anti-fraud provisions of paragraph (b), because they are unnecessarily burdensome as applied to the Partnerships.

14. Applicants request an exemption from the requirements in sections 30(a), 30(b), and 30(e), and the rules under those sections, that registered investment companies prepare and file with the Commission and mail to their shareholders certain periodic reports and financial statements. Applicants contend that the forms prescribed by the Commission for periodic reports have little relevance to the Partnerships and

would entail administrative and legal costs that outweigh any benefit to the Participants. Applicants request exemptive relief to the extent necessary to permit each Partnership to report annually to its Participants. Applicants also request an exemption from section 30(h) to the extent necessary to exempt the General Partner of each Partnership and any other persons who may be deemed to be members of an advisory board of a Partnership from filing Forms 3, 4, and 5 under section 16(a) of the Exchange Act with respect to their ownership of Interests in the Partnership. Applicants assert that, because there will be no trading market and the transfers of Interests will be severely restricted, these filings are unnecessary for the protection of investors and burdensome to those required to make them.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Each proposed transaction otherwise prohibited by section 17(a) or section 17(d) and rule 17d–1 to which a Partnership is a party (the ''Section 17 Transaction'') will be effected only if the General Partner determines that: (a) The terms of the transaction, including the consideration to be paid or received, are fair and reasonable to the Partners of the Partnership and do not involve overreaching of the Partnership or its Partners on the part of any person concerned; and (b) the transaction is consistent with the interests of the Partners in the Partnership, and the Partnership's organizational documents and reports to its Partners. In addition, the General Partner of each Partnership will record and preserve a description of the Section 17 Transactions, the General Partner's findings, the information or materials upon which the General Partner's findings are based, and the basis for the findings. All records relating to an investment program will be maintained until the termination of the investment program and at least two years thereafter, and will be subject to examination by the Commission and its staff.[5]

2. In connection with the Section 17 Transactions, the General Partner of each Partnership will adopt, and periodically review and update, procedures designed to ensure that reasonable inquiry is made, prior to the consummation of any Section 17 Transaction, with respect to the possible involvement in the transaction of any affiliated person or promoter of or principal underwriter for the Partnership, or any affiliated person of an affiliated person, promoter, or principal underwriter.

3. The General Partner of each Partnership will not invest the funds of the Partnership in any investment in which a ''Co-Investor'' (as defined below) has acquired or proposes to acquire the same class of securities of the same issuer, if the investment involves a joint enterprise or other arrangement within the meaning of rule 17d–1 in which the Partnership and the Co-Investor are participants, unless the Co-Investor, prior to disposing of all or part of its investment, (a) gives the General Partner sufficient, but not less than one day's, notice of its intent to dispose of its investment; and (b) refrains from disposing of its investment unless the Partnership has the opportunity to dispose of the Partnership's investment prior to or concurrently with, on the same terms as, and pro rata with the Co-Investor. The term ''Co-Investor'' with respect to any Partnership means any person who is (a) an ''affiliated person'' (as defined in section 2(a)(3) of the Act) of the Partnership (other than a Third Party Fund); (b) DRC Group; (c) an officer or director of DRC Group; or (d) an entity (other than a Third Party Fund) in which the General Partner acts as a general partner or has a similar capacity to control the sale or other disposition of the entity's securities. The restrictions contained in this condition, however, will not be deemed to limit or prevent the disposition of an investment by a Co-Investor: (a) To its direct or indirect wholly-owned subsidiary, to any company (a ''Parent'') of which the Co-Investor is a direct or indirect wholly-owned subsidiary, or to a direct or indirect wholly-owned subsidiary of its Parent; (b) to immediate family members of the Co-Investor or a trust or other investment vehicle established for any immediate family member; (c) when the investment is comprised of securities that are listed on any exchange registered as a national securities exchange under section 6 of the Exchange Act; (d) when the investment is comprised of securities that are national market system securities pursuant to section 11A(a)(2) of the Exchange Act and rule 11Aa2–1 under the Exchange Act; or (e) when the investment is comprised of securities that are listed or traded on any foreign securities exchange or board of trade that satisfies regulatory requirements under the law of the jurisdiction in which the foreign securities exchange or board of trade is organized similar to those that apply to a national securities exchange or a national market system for securities.

4. Each Partnership and the General Partner will maintain and preserve, for the life of the Partnership and at least two years thereafter, the accounts, books, and other documents that constitute the record forming the basis for the audited financial statements that are to be provided to the Participants in the Partnership, and each annual report of the Partnership required to be sent to Participants, and agree that these records will be subject to examination by the Commission and its staff.[6]

5. The General Partner of each Partnership will send to each Participant in the Partnership who had an interest in any capital account of the Partnership, at any time during the fiscal year then ended, Partnership financial statements audited by the Partnership's independent accountants. At the end of each fiscal year, the General Partner will make a valuation or have a valuation made of all of the assets of the Partnership as of the fiscal year end in a manner consistent with customary practice with respect to the valuation of assets of the kind held by the Partnership. In addition, within 120 days after the end of each fiscal year of each Partnership or as soon as practicable thereafter, the General Partner of the Partnership will send a report to each person who was a Participant in the Partnership at any time during the fiscal year then ended, setting forth the tax information necessary for the preparation by the Participant of federal and state income tax returns and a report of the investment activities of the Partnership during that year.

6. If purchases or sales are made by a Partnership from or to an entity affiliated with the Partnership by reason of a 5% or more investment in the entity by a DRC Group director, officer, or employee, the individual will not participate in the Partnership's determination of whether or not to effect the purchase or sale.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–401 Filed 1–7–02; 8:45 am]

BILLING CODE 8010–01–P

[5] Each Partnership will preserve the accounts, books, and other documents required to be maintained in an easily accessible place for the first two years.

[6] Each Partnership will preserve the accounts, books, and other documents required to be maintained in an easily accessible place for the first two years.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45211; File No. SR–Amex–2001–98]

Self-Regulatory Organizations; Order Approving a Proposed Rule Change by the American Stock Exchange LLC to Reinstate and Increase Options Transaction Charges

December 28, 2001.

On November 8, 2001, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 [1] the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change to reinstate and increase options transaction charges in select products. In April 2000, the Exchange eliminated transaction, floor brokerage, and clearance charges for customer equity option trades. At that time, fees charged to customers for transactions in index options remained unchanged at $0.10 per contract. The Exchange proposes to increase the fees charged to (1) customers for transactions in index options from $0.10 to $0.15; and (2) member firms and non-member broker dealers for transactions in index options from $0.11 to $0.15. In addition, the Exchange is proposing to reinstate a customer transaction charge for equity options on the S&P 100 iShares. The transaction charge will be $0.15 per contract side.

The proposed rule change was published for comment in the **Federal Register**.[2] The Commission received no comments on the proposal.

The Commission finds the proposed rule change is consistent with section 6(b) of the Act [3] in general and furthers the objectives of section 6(b)(4) of the Act [4] in particular in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities.[5] According to the Amex, these increases are necessary due to the increasing costs incurred in developing and implementing new technology for the fast and efficient trading of options.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[6] that the proposed rule change (SR–Amex–2001–98) be, and hereby is, approved.[7]

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–285 Filed 1–7–02; 8:45 am]

BILLING CODE 8010–01–M

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 45068 (Nov. 11, 2001), 66 FR 58765 (Nov. 23, 2001).

[3] 15 U.S.C. 78f(b).

[4] 15 U.S.C. 78f(b)(4).

[5] In approving this rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.c. 78c(f).

[6] 15 U.S.C. 78s(b)(2).

[7] 17 CFR 200.30–30(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45177; File No. SR–Amex–2001–103]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by American Stock Exchange LLC Relating to a Utilization Fee for the 'Smart' Wiring Program

December 20, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934,[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 10, 2001, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. 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 increase floor fees by assessing a $15.00 monthly utilization fee on registered options traders operating on the Harry's floow of the Exchange (new trading facility on the first floor of the 86 Trinity Exchange building) to enable registered options traders to hard-wire their handheld computers from certain locations in the Harry's floor.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to assess a $150.00 monthly utilization fee (regardless of amount of days service is utilized during a month) on registered options traders operating on the Harry's floor of the Exchange to recover the capital investment, as well as the implementation and operating costs, for the 'Smart' Wiring program.

'Smart' Wiring involves the installation of 'Smart' wired outlets throughout the Harry's floor to enable registered options traders to change their location within that trading floor from day to day by easily connecting into a 'Smart' outlet. The need for this program arose because of the desire of users to be able to move to any location in the trading crowd and get connectivity to their member firm's servers. Through the 'Smart' Wiring connection, registered options traders receive analytical data and other information from their member firms which assists them in making better markets. 'Smart' Wiring is not part of the Exchange's order routing or other trading system.

The 'Smart' Wiring program is being implemented in the Harry's floor first, since that space requires less work than the other Amex floors to effect implementation of the program. The Exchange will monitor the program and, based on its experience with the program as well as the demand for the service, the Exchange may decide to extend the service on the Harry's floor by adding additional 'Smart' outlets and/or extend new service to the other Amex floors.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act [3] in general and furthers the objective of Section 6(b)(4) of the Act [4] in particular in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78f(b).

[4] 15 U.S.C. 78f(b)(4).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Amex has neither solicited nor received written comments with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; (3) does not become operative for 30 days from December 11, 2001, the date on which it was filed, and the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date, it has become effective pursuant to Section 19(b)(3)(A) of the Act [5] and Rule 19b–4(g)(6) thereunder.[6] At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such proposed rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room in Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to SR–Amex–2001–103 and should be submitted by January 29, 2002.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–404 Filed 1–7–02; 8:45 am]

BILLING CODE 8010–01–M

[5] 15 U.S.C. 78s(b)(3)(A).

[6] 17 CFR 240.19b–4(f)6.

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45221; File No. SR–CBOE–99–45]

Self-Regulatory Organizations; Notice of Filing of Amendment No. 2 to Proposed Rule Change by the Chicago Board Options Exchange, Inc. to Clarify Certain Aspects of Interpretation and Policy .02 to Exchange Rule 6.8

January 2, 2002.

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 19, 2001, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') Amendment No. 2 to the proposed rule change, as described in Items I, II, and III below, which Items have been prepared by the CBOE.[3] On December 28, 1999, the proposed rule change was published for comment in the **Federal Register**.[4] On October 30, 2000, the CBOE filed Amendment No. 1 to the proposed rule change.[5] Amendment No. 2 supersedes and replaces Amendment No. 1 in its entirety.[6] The Commission is publishing this notice to solicit comments on Amendment No. 2 to 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 change its Interpretation and Policy .01 to CBOE Rule 6.8 (RAES Operations) in order to add specific, objective criteria describing the circumstances in which Exchange Floor Officials may determine that quotes from one or more markets in one or more particular classes of options are not reliable, and, thus, may be excluded from CBOE's Retail Automatic Execution System (''RAES'') determination of the National Best Bid and Offer (''NBBO''). The text of Amendment No. 2 to the proposed rule change is provided below. Changes to the current rule text are in italics; deletions from the current rule text are in brackets.

RAES Operations in Equity Options

Rule 6.8 [No change]

* * * Interpretation and Policy

.01 [No change]

.02 (a) Orders to buy or sell options that are multiply traded in one or more markets in addition to the Exchange will not be automatically executed on RAES at prices inferior to the current best bid or offer in any other market, as such best bids or offers are identified in RAES.

Under circumstances where two Floor Officials determine that quotes from one or more particular markets in one or more classes of options are not reliable, the Floor Officials may direct the senior person in charge of the Exchange's Control Room to exclude the unreliable quotes from the RAES determination of the NBBO in the particular option class(es).

I. Two Floor Officials may determine quotes in one or more particular options classes in a market are not reliable under any of the following circumstances:

(a) Quotes Not Firm: A market's quotes in a particular options class are not firm based upon direct communication to the Exchange from

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Joanne Moffic-Silver, General Counsel and Corporate Secretary, Legal Department, CBOE to Stephen M. Cutler, Director, Division of Enforcement, Commission, Annette L. Nazareth, Director, Division of Market Regulation (''Division''), Commission, and Lori A. Richards, Director, Office of Compliance, Inspections and Examination, Commission, dated November 19, 2001 (''Amendment No. 2''). In Amendment No. 2, the CBOE proposes to set forth specific, objective criteria describing the circumstances in which Exchange Floor Officials may determine that quotes from one or more markets in one or more particular classes of options are not reliable and, thus, may be excluded from CBOE's Retail Automatic Execution System (''RAES'') determination of the National Best Bid and Offer (''NBBO'').

[4] *See* Securities Exchange Act Release No. 42256 (December 20, 1999), 64 FR 72707 (December 28, 1999).

[5] *See* letter from Christopher R. Hill, Attorney II, Legal Department, CBOE to Terri Evans, Special Counsel, Division, Commission, dated October 24, 2000 (''Amendment No. 1'').

[6] Telephone conversation between Patrick Sexton, Legal Division, CBOE, and Deborah Flynn, Assistant Director, Division, Commission, on December 14, 2001.

the market or the dissemination through OPRA of a message indicating that disseminated quotes are not firm;

(b) Confirmed Quote Problems: A market has directly communicated to the Exchange or otherwise confirmed that the market is experiencing systems or other problems affecting the reliability of its disseminated quotes;

(c) Crossed or Locked Markets: One or more floor officials observe that the market's quotes in six or more option series in a particular options class are crossed or locked with the disseminated quotes of two or more other markets (which may include the Exchange), and continue to be crossed or locked for 30 seconds or more, provided that the quotes must be crossed or locked at the time. Floor Officials determine to exclude the unreliable quotes from the RAES determination of the NBBO; or

(d) Documented Firm Quote Issues: One or more floor officials observe any of the following:

(1) One or more orders originating from an Exchange DPM or market-maker for a particular options class that are filled by the market at a worse price than its disseminated quote without a required quote change;

(2) One or more market orders or marketable limit orders originating from an Exchange DPM or market-maker for a particular options class that are confirmed to be unfilled or partially unfilled by the market without a required quote change; or

(3) One or more market orders or marketable limit orders originating from an Exchange DPM or market-maker for a particular options class partially filled by a ''responsible broker or dealer'' at its disseminated quote, followed by a quote change and a redisplay of the previously disseminated quote by the same ''responsible broker or dealer'' in less than 30 seconds.

In all such cases, the situation will be documented by the Exchange Control Room and reported to regulatory authorities at the appropriate market.

II. In all cases where floor officials exclude a market or any of its quotes from the RAES determination of the NBBO due to quote unreliability, the Exchange Control Room will promptly notify the market of the action, continue to monitor the reliability of the excluded quotes in consultation with Floor Officials, and maintain records showing the date, time, duration, and reasons for each such action, as well as the identity of the Floor Officials who authorized the action. Any determination to exclude a market or any of its quotes from the RAES determination of the NBBO pursuant to I(a) and (b) above will expire at the end of the trading day, or at such time as the quotes are confirmed by the market to be reliable again—whichever occurs first. Any determination to exclude a market or any of its quotes from the RAES determination of the NBBO pursuant to I(c) and (d) above will expire not later than 30 minutes after the initial determination, unless two Floor Officials determine that the excluded quotes continue to be unreliable in which case the quotes will continue to be excluded for an additional period of time not to exceed 30 minutes pending further Floor Official review. Exclusion of a market or its quotes from the RAES determination of the NBBO will be reported to Exchange member firms.

(b) In respect of those classes of options that have been specifically designated by the appropriate Floor Procedure Committee as coming within the scope of [this] *the first* sentence *of .02(a)* (''automatic step-up classes''), under circumstances where the Exchange's best bid or offer is inferior to the current best bid or offer in another market by no more than the ''step-up amount'' as defined below, such orders will be automatically executed on RAES at the current best bid or offer in the other market.

(i) In respect of automatic step-up classes of options under circumstances where the Exchange's best bid or offer is inferior to the current best bid or offer in another market by more than the step-up amount, or

(ii) In respect of series of option classes designated by the appropriate Floor Procedure Committee or its Chairman under circumstances where the NBBO for one of the series is crossed (e.g., 6.10 bid, 6 asked) or locked (e.g., 6 bid, 6 asked), or

(iii) In respect of specified automatic step-up classes or series of options or specified markets under circumstances where the Chairman of the appropriate Floor Procedure Committee or his designee has determined that automatic step-up should not apply because quotes in such options or markets are deemed not to be reliable, or

(iv) In respect of classes of equity options other than automatic step-up classes where the Exchange's best bid or offer is inferior to the current best bid or offer in another market by any amount, such orders will be rerouted for non-automated handling to the DPM or OBO for that class of options, or to any other location in the event of system problems or contrary routing instructions from the firm that forwarded the order to RAES. If the order has been rerouted to the DPM or OBO, the DPM or OBO will report the execution or non-execution of such orders to the firm that originally forwarded the order to RAES. With respect to the orders that are rerouted for manual handling pursuant to (ii) above, the appropriate Floor Procedure Committee may determine to have the orders for a particular series within a designated class of options executed on RAES notwithstanding the fact that the NBBO is either crossed or locked. Also, with respect to (ii) above, the appropriate Floor Procedure Committee may determine to have the orders rerouted for manual handling only when the CBOE RAES becomes crossed or locked as a result of applying the step-up amount.

As used in this Interpretation and Policy .02, the *term* ''step-up amount'' shall be expressed in an amount consistent with the minimum trading increment for options of that series established pursuant to Rule 6.42. The appropriate Floor Procedure Committee shall determine the step-up amount in respect of specified automatic step-up classes or series of options and may vary the ''step-up amount''on the basis of order size parameters. The procedures described in this Interpretation .02*(b)* shall not apply in circumstances where a ''fast market'' in the options that are the subject of the orders in question has been declared on the Exchange or where comparable conditions exist in the other market such that firm quote requirements do not apply.

(c) For purposes of this Interpretation and Policy .02, the term ''Exchange's best bid or offer'' shall mean the price for the series as established by the DPM's Autoquote or proprietary automated quotation updating system. Classes of options in which Autoquote or a proprietary automated quotation updating system are not operative shall not be deemed to be ''automatic step-up classes,'' as that term is defined in paragraph [(a)] *(b)* of this Interpretation.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filings with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change, as amended by Amendment No. 2, and discussed any comments it received on the proposed rule change, as amended. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set 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

Interpretation and Policy .02 to CBOE Rule 6.8 provides that orders to buy or sell equity options that are multiply traded in one or more markets in addition to the CBOE will not be executed on RAES at prices inferior to the current best bid or offer in any other market, as the NBBO is identified in RAES.

Amendment No. 2 is designed to clarify procedures and specifically describe the circumstances under which the Exchange will be permitted to remove another market's quotes from the NBBO calculation. Specifically, removal will occur only when specific conditions set forth in this amendment allow Exchange Floor Officials to make a determination based on objective criteria that quotes in one or more options classes in a market are not reliable.

Reliable NBBO Calculations Benefit Public Customers

The CBOE believes that the presence of inaccurate and unreliable quotes is a significant problem because incorrect quotes undermine the integrity of the NBBO and by doing so, impede the very purpose of the National Market System, as well as inhibit the ability of public customers to obtain best execution for their orders. Removal of unreliable quotes, effected through objective criteria and well-defined procedures, is an appropriate function of the Exchange, necessary to protect the integrity and fairness of the market.

An NBBO is critical to the National Market System because it serve as the reference point for almost every options transaction effected on the Exchange. An accurate NBBO is essential because it allows market makers to compete actively with traders at other markets to offer improved pricing, which in turn, allows brokers to compare prices across markets to ensure that customers are getting the best prices. For example, CBOE's RAES system uses the Exchange's internally calculated NBBO to ensure that customer orders executed on RAES are executed quickly and at the best available price. Thus, CBOE rules generally provide for an automatic execution for customer orders for RAES eligible orders at the NBBO, if the NBBO is not more than one ''tick'' better than the prevailing price at CBOE. If the NBBO is more than one ''tick'' better than the current CBOE price, however, the order is removed from the RAES system and is routed to the trading floor for manual handling.

If the NBBO includes ''unreliable'' quotes, i.e., quotes that do not accurately reflect prevailing quotes at another market, and such unreliable quotes are more than one tick better than CBOE's quotes, customer orders will be removed from CBOE's RAES system. According to the CBOE, such orders will not be executed at the quoted NBBO, however, because no market actually will be trading at the unreliable NBBO quote. The presence of the unreliable quote in the NBBO therefore needlessly will deprive the customer of a fast, automatic execution through RAES. In fact, depending on the speed and direction of the market's movement, a rejected order may end up being executed at a price inferior to the CBOE's market at the time the order was entered. An incorrect NBBO may even prevent a customer order from being filled at all. For example, if a customer submitted a RAES-eligible marketable limit order, but the order was removed from RAES because of an unreliable quote in the NBBO that was more than one tick better than CBOE's quote, the market may move away from the customer's limit order price during the process of rerouting and manual handling of the customer's order. As a result, the customer's order may not get filled at all, or may receive a price less favorable than what would have been obtained had the customer's order been executed on RAES without the ''unreliable'' quotes.

The presence of unreliable quotes in the NBBO calculation therefore harms public customers, and it is the goal of the proposed rule change, as amended, to clarify the procedures for preventing such harm by removing unreliable quotes from the NBBO.

Specific Criteria for Unreliability Determinations

As indicated in new Subsection .02(A)(I) of the proposed rule change, as amended, two Floor Officials may determine that quotes in one or more particular option classes in a market are not reliable and thus may be excluded from the NBBO determination under any of the following circumstances:

(a) Where a market confirms that its quotes are not firm based upon direct communication to CBOE from the market or the disssemination through OPRA of a message indicating that disseminated quotes are not firm;

(b) Where a market directly communicates to CBOE or otherwise confirms that it is experiencing systems or other problems affecting the reliability of its disseminated quotes;

(c) Where one or more Floor Officials observe that six or more option series in a particular options class are crossed or locked with the disseminated quotes of two or more other markets, and continue to be crossed or locked for 30 seconds or more, provided that the quotes are crossed or locked at the time Floor Officials determine to exclude the unreliable quote from the RAES determination of the NBBO; or

(d) Where a Floor Official observes any of the following:

(1) One or more orders originating from an Exchange DPM or market-maker for a particular options class that are filled by the market at a worse price than its disseminated quote without a required quote change;

(2) One or more market orders or marketable limit orders originating from an Exchange DPM or market-maker for a particular options class that are confirmed to be unfilled or partially unfilled by the market without a required quote change; or

(3) One or more market orders or marketable limit orders originating from an Exchange DPM or market-maker for a particular options class partially filled by a ''responsible broker or dealer'' at a worse price than its disseminated quote, followed by a quote change and a redisplay of the previously disseminated quote by the same ''responsible broker or dealer'' in less than 30 seconds.

The Exchange believes that proposed new subsections I(a)–(d) to Interpretation .02 to Rule 6.8 provide Floor Officials with specific, objective criteria when making a determination that another market's quote are unreliable. In addition, the Exchange believes that the criteria set forth above are consistent with recent amendments to Rule 11Ac1–1 under the Act,[7] which require options exchanges and options market makers to publish firm quotes.[8] Specifically, in new subsections I(a) and (b), two Exchange Floor Officials may determine that another market's quotes are not reliable based on direct communication from that other market that its quotes are not firm or that it is experiencing systems or other problems affecting the reliability of its disseminated quotes.

In new subsection I(c), two Exchange Floor Officials may determine that another market's quotes are not reliable only after one or more Floor Officials observe that six or more option series in a particular options class are crossed or

[7] 17 CFR 240.11Ac1–1.

[8] Securities Exchange Act Release No. 43591 (November 17, 2000), 65 FR 75439 (December 1, 2000).

locked with the disseminated quotes of two of more other markets, and continue to be crossed or locked for 30 seconds or more, provided that the quotes are crossed or locked at the time Floor Officials determine to exclude the unreliable quote from RAES determination of the NBBO. In new subsection I(d), two Exchange Floor Officials may determine that another market's quotes are not reliable only after one or more Floor Officials observe certain specific action with respect to the execution of orders originating from CBOE Designated Primary Market-makers or market-makers.

The Exchange believes that the objective criteria set forth in new subsection I provide an appropriate basis for Floor Officials to make a determination that another market's quotes are not reliable.

Procedures for Applying the Criteria

In developing these objective criteria for determining that another market's quotes are not reliable and, thus, may be excluded from the RAES determination of the NBBO, the Exchange has vested complete authority to make such determinations with Exchange Floor Officials. The market participants who are impacted by unreliable quotes have no authority or power to make determinations of unreliability.

As specified in Subsection (a)II, in all instances where Floor Officials exclude a market or any of its quotes from the RAES determination of the NBBO due to quote unreliability, the Exchange Control Room will promptly notify the market of the action and continue to actively monitor the reliability of the excluded quotes in consultation with Floor Officials. Any determination to exclude a market or any of its quotes pursuant to Subsections I(a) and (b) will expire at the end of the trading day, or at such time as the quotes are confirmed by the market to be reliable again—whichever occurs first.

Any determination to exclude a market or any of its quotes pursuant to Subsections I(c) and (d) will expire not later than 30 minutes after the initial determination, unless two Floor Officials determine that the excluded quotes continue to be unreliable, in which case the quotes will continue to be excluded for an additional period of time not to exceed 30 minutes pending further Floor Official review. This provisions is consistent with CBOE Rule 8.51(e)(iv),[9] which similarly requires CBOE Floor Officials to monitor options classes that are in non-firm mode every 30 minutes. Under CBOE Rule 8.51(e)(iv), continuation of the non-firm mode for longer than 30 minutes requires that Floor Officials reaffirm that the conditions which formed the basis for the determination to operate in non-firm mode continue to be present. Exclusion of a market or its quotes from the RAES determination of the NBBO will be reported to Exchange member firms.

Also, CBOE rules currently provide that CBOE will document in its Control Room log any action taken to disengage RAES or to operate RAES in a manner other than normal, the option classes affected by such action, the time such action was taken, the Exchange officials who undertook such action, and the reasons why such action was taken.[10] As a result, any determination by Floor Officials to exclude unreliable quotes from the RAES determination of the NBBO in particular option classes pursuant to subsections I(a) through (d) of Interpretation .02 will be documented in the Exchange's Control Room log.

As also indicated, this proposal relabels a portion of the previous Interpretation .02(a) text as .02(b) for greater ease of reference and relabels the previous Interpretation .02(b) text as .02(c).

2. Statutory Basis

CBOE believes that the proposed rule change, as amended, is consistent section 6(b) of the Act,[11] in general, and further the objectives of Section 6(b)(5),[12] in particular. By setting forth specific criteria that will be used to protect the integrity of the Exchange's NBBO calculations, public customers will receive better executions of their orders more frequently. This will improve the efficiency of RAES, thereby removing impediments to, and perfecting the mechanism of, a free and open market and a national market system, and thus protecting investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The CBOE does not believe that the proposed rule change, as amended, will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change, as amended.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such other 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 CBOE consents, the Commission will:

(A) By order approve the proposed rule change, as amended, or

(B) Institute proceedings to determine whether the proposed rule change, as amended, should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 2, including whether Amendment No. 2 is consistent with the Act. The Commission notes, in particular, that CBOE is a party to the intermarket options market linkage plan (''Linkage Plan'') approved by the Commission in July 2000.[13] The Commission specifically seeks comment on the potential implications of this proposal on the implementation and operation of the Linkage Plan. Specifically, the Commission seeks comment on whether proposed Amendment No. 2 is consistent with the requirements of the linkage Plan.

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

[9] CBOE Rule 8.51(e)(iv) states that ''[d]uring any period that the market in a reported security is in a non-firm mode, the Floor Officials shall monitor the activity or condition, which formed the basis for their determination. No more than 30 minutes after such market has been designated to be in a non-firm mode, the DPM shall review the condition of such market with the Floor Officials. Continuation of the non-firm mode for longer than 30 minutes shall require the reaffirmation of the reviewing Floor Officials. Such review and reaffirmation shall occur not less frequently than every 30 minutes thereafter while the non-firm mode is in effect.''

[10] CBOE Rule 6.8, Interpretation .08.

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] *See* Securities Exchange Act Release No. 43086 (July 28, 2000), 65 FR 48023 (August 4, 2000).

the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File Number SR–CBOE–99–45 and should be submitted by January 24, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–403 Filed 1–7–02; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3389]

State of Minnesota

Ramsey County and the contiguous Counties of Anoka, Dakota, Hennepin and Washington in the State of Minnesota constitute a disaster area due to damages caused by a fire at the Shoreview Hills Apartments that occurred on November 24, 2001. Applications for loans for physical damage may be filed until the close of business on February 25, 2002 and for economic injury until the close of business on September 22, 2002 at the address listed below or other locally announced locations:

U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308

The interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	6.500
Homeowners Without Credit Available Elsewhere	3.250
Businesses With Credit Available Elsewhere	8.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000
Others (Including Non-Profit Organizations) With Credit Available Elsewhere	6.375
For Economic Injury: Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 338905 and for economic injury is 9O0600.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

[14] 17 CFR 200.30–2(a)(12).

Dated: December 21, 2001.

Hector V. Barreto,

Administrator.

[FR Doc. 02–472 Filed 1–7–02; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3383]

State of Mississippi; Amendment #1

In accordance with information received from the Federal Emergency Management Agency, the above-numbered Declaration is hereby amended to include Grenada, Lafayette, Leake, Scott, and Tunica Counties in the State of Mississippi as a disaster area due to damages caused by severe storms, tornadoes, and flooding and to establish the incident period for this disaster as beginning on November 24, 2001 and continuing through December 17, 2001.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the previously designated location: Calhoun, Carroll, Jasper, Montgomery, Neshoba, Newton, Pontotoc, Smith, Union, Webster, and Winston Counties in Mississippi, and Lee County in Arkansas. All other counties contiguous to the above-named primary counties have been previously declared.

All other information remains the same, i.e., the deadline for filing applications for economic injury is September 9, 2002.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: December 21, 2001.

James E. Rivera,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 02–471 Filed 1–7–02; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: SR 20 (Sharpes Corner to SR 536) Skagit County, Washington

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Cancellation of Notice of Intent, FR document 99–23249.

SUMMARY: The FHWA is issuing this notice to rescind the previous Notice of Intent issued on August 27, 1999, to prepare an Environmental Impact Statement (EIS) for the proposed highway project in Skagit County, Washington. It was printed in the **Federal Register** on September 8, 1999.

FOR FURTHER INFORMATION CONTACT: Elizabeth Healy, Transportation and Environmental Engineer, Federal Highway Administration, Washington Division, 711 South Capitol Way, Suite 501, Olympia, Washington 98501, telephone: (360) 753–9480; Don Nelson, Director of Environmental and Engineering Programs, Washington State Department of Transportation, Transportation Administration Building, P.O. Box 47323, Olympia, WA (360) 705–6828, Director or Lorena Eng P.E., Northwest Region Administrator, WSDOT, 15700 Dayton Avenue North, P.O. Box 330310, Seattle, WA 98133–9710, telephone: (206) 440–4691.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Washington State Department of Transportation (WSDOT), issued a Notice of Intent on September 8, 1999 to prepare an (EIS) on a proposal to prepare alternative solutions to reduce the accident rate and provide capacity to meet current and future needs along a seven miles of the State Route 20 corridor near Anacortes from Sharpe's Corner to SR 536. The SR 20 transportation safety improvement EIS is a National Environmental Policy Act (NEPA) ''pilot'' project, intended to evaluate and improve the application of the NEPA process specifically for EIS level of documentation. The ''pilot'' process was developed cooperatively by Washington State and Federal agencies, and is jointly sponsored by FHWA and WSDOT. As project limits and elements have been refined, the impacts have been more specifically identified, and the FHWA and WSDOT have jointly decided that the project will not result in significant impacts to the environment. A documented Categorical Exclusion (DCE) is the most appropriate environmental document under the NEPA rather than an EIS. The SR 20 transportation safety improvement project will phase-out of the ''pilot'' process upon definition of the preferred alternative, and be followed by preparation of the DCE and submission of the DCE for public comment. Any person with questions about the project may write to Paul Johnson P.E. at 15700 Dayton Avenue North, MS 210, P.O. Box 330310, Seattle, WA 98133–9710, or call (206) 440–4711.

(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.)

Issued: November 8, 2001.

Elizabeth Healy,

Transportation & Environmental Engineer, Olympia, Washington.

[FR Doc. 02–331 Filed 1–7–02; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34141]

Brandywine Valley Railroad Company—Acquisition Exemption—Pennsylvania Department of Transportation

Brandywine Valley Railroad Company (BVRR), a Class III carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to acquire approximately 17.59 miles of rail line owned by the Pennsylvania Department of Transportation (PennDOT), between milepost 12.7 at the Delaware Pennsylvania line and milepost 30.29 at Modena, in Chester County, PA (rail line). BVRR currently operates the rail line under a modified rail certificate. See STB Finance Docket No. 33772, *Brandywine Valley Railroad Company—Modified Rail Certificate* (STB served Apr. 16, 1999).[1]

BVRR states that, while the transaction has already been consummated, BVRR is filing this notice to cover its acquisition of the ownership interest of the rail line, and the change in status of the rail line from a state-owned line to a privately-owned line. There will be no change in operations over the rail line. The exemption became effective on December 25, 2001.

If the 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.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34141, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Eric M. Hocky, Esq., Gollatz, Griffin & Ewing, P.C., 213 West Miner Street, P.O. Box 796, West Chester, PA 19381–0796, (610) 692–9116.

Board decision and notices are available on our Web site at *WWW.STB.DOT.GOV*.

Decided: December 27, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02–217 Filed 1–7–02; 8:45 am]

BILLING CODE 4915–00–P

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[1] Under the same modified rail certificate, BVRR also operates a rail line between milepost 18.0 at Wawa, PA and milepost 54.50 at the Pennsylvania/Maryland line near Sylmar, MD, a distance of 36.50 miles (Line 142), owned by Southeastern Pennsylvania Transportation Authority. BVRR has given notice of its intent to terminate service over Line 142, although it continues to operate Line 142 on a temporary basis.

Corrections

Federal Register

Vol. 67, No. 5

Tuesday, January 8, 2002

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

Customs Service

19 CFR Part 12

Import Restrictions Imposed on Archaeological and Ethnological Materials from Bolivia

Correction

In rule document 01–30417 beginning on page 63490 in the issue of December 7, 2001, make the following correction:

§12.104g [Corrected]

On page 63499, in the third column, in amendment 2, under the headingfor §12.104g, ''(2) * * *'' is corrected to read ''(a) * * *''

[FR Doc. C1–30417 Filed 1–7–02; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–869]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Structural Steel Beams From The People's Republic of China

Correction

In notice document 01–31981 beginning on page 67197 in the issue of Friday, December 28, 2001, make the following correction:

On page 67202, in column two, in heading **Suspension of Liquidation**, in the second column of the table, ''117.21'' should read ''177.21''.

[FR Doc. C1–31981 Filed 1–7–02; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–829]

Stainless Steel Wire Rod From Korea: Amendment of Final Determination of Sales at Less Than Fair Value Pursuant to Court Decision

Correction

In notice document 01–19779, appearing on page 41550, in the issue of Wednesday, August 8, 2001, make the following correction:

In the first column, under the heading **EFFECTIVE DATE:**, '' August 7, 2001.'' should read ''August 8, 2001.''

[FR Doc. C1–19779 Filed 1–7–02; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

Correction

In notice document 01–31608 beginning on page 66405 in the issue of Wednesday, December 26, 2001, make the following correction:

On the same page, in column two, under the heading ''**DATES**'', ''February 25, 2002'' should read ''January 25, 2002''.

[FR Doc. C1–31608 Filed 1–7–02; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Office of Hazardous Materials Safety; Notice of Applications for Modification of Exemption

Correction

In notice document 01–31656 beginning on page 66494 in the issue of Wednesday, December 26, 2001 make the following correction:

On page 66494, the table is corrected to read as set forth below.

Application No.	Docket No.	Applicant	Modification of exemption
3216–M	Solvay Fluorides St. Louis, MO (See Footnote 1).		3216
8215–M	Olin Corp., Brass & Winchester, Inc. East Alton, IL (See Footnote 2).		8215
10442–M	Kennedy Space Center Kennedy Space Center, FL (See Footnote 3).		10442
10798–M	Chemetall Foote Corporation Kings Mountain, NC (See Footnote 4).		10798
10929–M	Bulkmatic Transport Company Jersey City, NJ (See Footnote 5).		10929
11185–M	Medical Waste Solutions, Inc. Gary, IN (See Footnote 6).		11185

Application No.	Docket No.	Applicant	Modification of exemption
11770–M	Gas Cylinder Technologies, Inc. Tecumseh, Ontario N8N 2M4 Canada (See Footnote 7).		11770
11911–M	RSPA–97–2735	Transfer Flow, Inc. Chico, CA (See Footnote 8)	11911
11924–M	RSPA–97–2744	Wrangler Corp., A Division of Lapoint Industries Auburn, ME (See Footnote 9).	11924
12817–M	RSPA–01–10513	Phibro-Tech, Inc. Fort Lee, NJ (See Footnote 10)	12817

[FR Doc. C1–31656 Filed 1–7–02; 8:45 am]

BILLING CODE 1505–01–D

Corrections

Federal Register

Vol. 67, No. 5

Tuesday, January 8, 2002

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DEPARTMENT OF COMMERCE

Customs Service

19 CFR Part 12

Import Restrictions Imposed on Archaeological and Ethnological Materials from Bolivia

Correction

In rule document 01–30417 beginning on page 63490 in the issue of December 7, 2001, make the following correction:

§12.104g [Corrected]

On page 63499, in the third column, in amendment 2, under the headingfor §12.104g, ''(2) * * *'' is corrected to read ''(a) * * *''

[FR Doc. C1–30417 Filed 1–7–02; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–869]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Structural Steel Beams From The People's Republic of China

Correction

In notice document 01–31981 beginning on page 67197 in the issue of Friday, December 28, 2001, make the following correction:

On page 67202, in column two, in heading **Suspension of Liquidation**, in the second column of the table, ''117.21'' should read ''177.21''.

[FR Doc. C1–31981 Filed 1–7–02; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–829]

Stainless Steel Wire Rod From Korea: Amendment of Final Determination of Sales at Less Than Fair Value Pursuant to Court Decision

Correction

In notice document 01–19779, appearing on page 41550, in the issue of Wednesday, August 8, 2001, make the following correction:

In the first column, under the heading **EFFECTIVE DATE:**, '' August 7, 2001.'' should read ''August 8, 2001.''

[FR Doc. C1–19779 Filed 1–7–02; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

Correction

In notice document 01–31608 beginning on page 66405 in the issue of Wednesday, December 26, 2001, make the following correction:

On the same page, in column two, under the heading ''**DATES**'', ''February 25, 2002'' should read ''January 25, 2002''.

[FR Doc. C1–31608 Filed 1–7–02; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Office of Hazardous Materials Safety; Notice of Applications for Modification of Exemption

Correction

In notice document 01–31656 beginning on page 66494 in the issue of Wednesday, December 26, 2001 make the following correction:

On page 66494, the table is corrected to read as set forth below.

Application No.	Docket No.	Applicant	Modification of exemption
3216–M	Solvay Fluorides St. Louis, MO (See Footnote 1).		3216
8215–M	Olin Corp., Brass & Winchester, Inc. East Alton, IL (See Footnote 2).		8215
10442–M	Kennedy Space Center Kennedy Space Center, FL (See Footnote 3).		10442
10798–M	Chemetall Foote Corporation Kings Mountain, NC (See Footnote 4).		10798
10929–M	Bulkmatic Transport Company Jersey City, NJ (See Footnote 5).		10929
11185–M	Medical Waste Solutions, Inc. Gary, IN (See Footnote 6).		11185

Application No.	Docket No.	Applicant	Modification of exemption
11770–M	Gas Cylinder Technologies, Inc. Tecumseh, Ontario N8N 2M4 Canada (See Footnote 7).		11770
11911–M	RSPA–97–2735	Transfer Flow, Inc. Chico, CA (See Footnote 8)	11911
11924–M	RSPA–97–2744	Wrangler Corp., A Division of Lapoint Industries Auburn, ME (See Footnote 9).	11924
12817–M	RSPA–01–10513	Phibro-Tech, Inc. Fort Lee, NJ (See Footnote 10)	12817

[FR Doc. C1–31656 Filed 1–7–02; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Tuesday,
January 8, 2002

Part II

Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Part 679

Fisheries of the Exclusive Economic Zone Off Alaska; Steller Sea Lion Protection Measures for the Groundfish Fisheries Off Alaska; Final 2002 Harvest Specifications and Associated Management Measures for the Groundfish Fisheries Off Alaska; Interim Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 011218304–1304–01; I.D. 121701A]

RIN 0648–AP69

Fisheries of the Exclusive Economic Zone Off Alaska; Steller Sea Lion Protection Measures for the Groundfish Fisheries Off Alaska; Final 2002 Harvest Specifications and Associated Management Measures for the Groundfish Fisheries Off Alaska

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

ACTION: Emergency interim rule; request for comments.

SUMMARY: NMFS issues an emergency interim rule to implement Steller sea lion protection measures to avoid the likelihood that the groundfish fisheries off Alaska will jeopardize the continued existence of the western population of Steller sea lions or adversely modify their critical habitat. These management measures will disperse fishing effort over time and area to provide protection from potential competition for important Steller sea lion prey species in waters adjacent to rookeries and important haulouts. This action also announces final 2002 harvest specifications and associated management measures for the groundfish fisheries of the Bering Sea and Aleutian Islands management area (BSAI) and the Gulf of Alaska (GOA). The intended effect of this emergency interim rule is to protect the endangered western population of Steller sea lions, as required under the Endangered Species Act (ESA), and to conserve and manage the groundfish resources in the BSAI and the GOA in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: Effective January 1, 2002, except for the addition of § 679.7(a)(18), the suspension of § 679.7(c)(3), and the addition of § 679.28(f)(3)(viii) which will be effective 1200 hours A.l.t. on June 10, 2002, through July 8, 2002, and § 679.7(k), § 679.50(c)(4)(vi) and (c)(6) which will be effective January 15, 2002, through July 8, 2002. Comments must be received by February 7, 2002.

ADDRESSES: Comments may be sent to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK, 99802, Attn: Lori Gravel, or delivered to room 401 of the Federal Building, 709 West 9th Street, Juneau, AK. Comments will not be accepted if submitted via e-mail or Internet. Copies of the Supplemental Environmental Impact Statement on Steller Sea Lion Protection Measures in the Federal groundfish fisheries off Alaska (SEIS), including the 2001 biological opinion, and the Environmental Assessment (EA) for the Total Allowable Catch for the Year 2002 Alaska Groundfish Fisheries may be obtained from the same address. The SEIS and EA are also available on the NMFS Alaska Region homepage at *http://www.fakr.noaa.gov.* Send comments on collection-of-information requirements to the same address and to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB), Washington, DC 20503 (Attn: NOAA Desk Officer).

Copies of the Final 2002 Stock Assessment and Fishery Evaluation (SAFE) reports, dated November 2001, are available from the North Pacific Fishery Management Council, West 4th Avenue, Suite 306, Anchorage, AK 99510 or from its homepage at *http://www.fakr.noaa.gov/npfmc.*

FOR FURTHER INFORMATION CONTACT: Melanie Brown, Sustainable Fisheries Division, Alaska Region, 907–586–7228 or e-mail at *melanie.brown@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Background

NMFS manages the groundfish fisheries in the exclusive economic zone (EEZ) off Alaska under the Fishery Management Plan (FMP) for the Groundfish Fishery of the BSAI and the FMP for Groundfish of the GOA. The North Pacific Fishery Management Council (Council) prepared the FMPs under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801, *et seq.* Regulations governing U.S. fisheries and implementing the FMPs appear at 50 CFR parts 600 and 679. NMFS also has management responsibility for certain threatened and endangered species, including Steller sea lions, under the Endangered Species Act of 1973 (ESA), 16 U.S.C. 1531, *et seq.*, and the authority to promulgate regulations to enforce provisions of the ESA to protect such species.

Introduction

The preamble to this emergency rule contains two parts. Part I explains the background surrounding actions taken to protect the endangered western population of Steller sea lions, including information on the development of protection measures for 2002. Part II describes the harvest specifications for the 2002 groundfish fisheries of the BSAI and GOA. These specifications are consistent with the 2002 Steller sea lion protection measures.

Part I. Steller Sea Lion Protection Measures

Steller Sea Lion Endangered Species Status

In 1990, NMFS designated the Steller sea lion as a threatened species under the ESA. The designation followed severe declines throughout much of the GOA and Aleutian Islands region. In 1993, NMFS designated critical habitat for the species to include (among other areas) the marine areas within 20 nautical miles (nm) of major rookeries and haulouts of the species west of 144° W longitude (long.). In 1997, NMFS recognized two separate populations and reclassified the western population (west of 144° W long.) as endangered.

NMFS first began collecting information on the abundance of Steller sea lions during the 1950s and 1960s. However, the first counts based on reliable data were not available until the late 1970s; these counts reported approximately 109,800 animals. During the 1980s, a precipitous decline of Steller sea lions was observed. By 1996, the population had declined by 80 percent from the late 1970s. Counts of adult and juvenile Steller sea lions have continued to decline over the last decade, but at a much lower rate.

Based on the best available scientific information, NMFS attributes the continued decline to multiple factors. Considerable evidence indicates that the lack of available prey is a substantial factor. Diet studies confirm that Steller sea lions depend on pollock, Pacific cod, and Atka mackerel as major prey resources, and that they may be particularly sensitive to reduced availability of prey during the winter. The occurrence of pollock, Pacific cod, and Atka mackerel in the diet of sea lions may have increased since the 1970s due to shifts in the Bering Sea ecosystem related to atmospheric and oceanographic changes. More information on the environmental changes and potential effects on Steller sea lions is detailed in section 4.4.1 of the October 19, 2001, Biological Opinion on the BSAI and GOA groundfish fisheries and the effects on Steller sea lions (see **ADDRESSES**).

Past Biological Opinions and Court Cases

In accordance with the requirements of the ESA, since 1990 the NMFS Office of Protected Resources has issued biological opinions (BiOps) on the pollock fisheries of the BSAI and GOA, on the Atka mackerel fishery of the Aleutian Islands subarea, and on the entire groundfish fishery for the GOA and BSAI. These opinions analyzed the effects of the various groundfish fisheries with emphasis on the Atka mackerel, Pacific cod, and pollock fisheries in the waters off Alaska and recommended actions to avoid jeopardy for the western population of Steller sea lions and to avoid adverse modification of its habitat. The term ''jeopardize'' means ''to engage in an action that reasonably would be expected, directly or indirectly, to reduce appreciably the likelihood of both the survival and recovery of a listed species in the wild by reducing the reproduction, numbers, or distribution of that species'' (50 CFR 402.02). The phrase ''adversely modify its critical habitat'' means ''a direct or indirect alteration that appreciably diminishes the value of critical habitat for both the survival and recovery of a listed species. Such alterations include, but are not limited to, alterations adversely modifying any of those physical or biological features that were the basis for determining the habitat to be critical'' (50 CFR 402.02).

Two BiOps were issued by NMFS in December 1998. The first one analyzed the Atka mackerel and pollock fisheries (1998–1 BiOp) and the second one analyzed the 1999 harvest specifications for all the 1999 groundfish fisheries in the BSAI and GOA (1998–2 BiOp). The 1998–1 BiOp, issued December 3, 1998, and revised December 16, 1998, concluded that the Atka mackerel fishery, as modified by regulatory changes (64 FR 3446, January 22, 1999), was not likely to jeopardize the endangered western population of Steller sea lions or adversely modify its critical habitat. However, the 1998–1 BiOp concluded that the pollock fishery, as then proposed, was likely to jeopardize the endangered western population of Steller sea lions and adversely modify its critical habitat. Rather than offering a specific reasonable and prudent alternative (RPA) for the BSAI and GOA pollock fisheries, the 1998–1 BiOp provided a framework in which specific management measures could be developed to avoid the likelihood of jeopardizing the continued existence of the western population of Steller sea lions or adversely modifying its critical habitat. The framework consisted of three principles: (1) Temporal dispersion of fishing effort, (2) spatial dispersion of fishing effort, and (3) protection from fisheries competition for Steller sea lion prey in waters adjacent to rookeries and important haulouts. For each of these principles, the 1998–1 BiOp provided guidance on the development of management measures to meet the objectives and, ultimately, to avoid jeopardy and adverse modification. The 1998–1 BiOp stated that certain conservation measures could be phased in over a 2-year period.

In December 1998, NMFS staff briefed the Council on the 1998–1 BiOp. The Council then prepared recommendations for alternative management measures based on the BiOp framework to avoid jeopardy and adverse modification. The Council's recommendation did not contain Bering Sea subarea (BS) pollock harvest specifications for the second half of 1999. However, the Council planned to recommend these measures prior to mid-1999. The Council also recommended closing all but nine of the haulout zones specified by the 1998–1 BiOp in the BSAI and GOA. NMFS determined these recommendations to be acceptable as part of a 2-year phase-in strategy, in which equivalent or better protections would be extended for those areas for 2000 and beyond.

On December 16, 1998, NMFS adopted the measures recommended by the Council (with modifications) into the 1998–1 BiOp as part of the reasonable and prudent alternatives (RPAs) for the Alaska pollock fisheries. NMFS published an emergency interim rule implementing these measures in the **Federal Register** on January 22, 1999 (64 FR 3437), as amended on February 17, 1999 (64 FR 7814), and on February 25, 1999 (64 FR 9375), and effective through July 19, 1999. The preamble to the emergency interim rule provides a detailed description of the purpose and need for the implementation of emergency measures in 1999.

The Council met again in February, April, and June 1999 to consider recommendations for extending the emergency rule for the second half of 1999, and, at its June meeting, voted to extend the emergency rule. Using the Council's recommendation, NMFS extended the emergency rule through December 31, 1999 (64 FR 39087, July 21, 1999; technical amendment 64 FR 43297, August 10, 1999), with revisions that included BS pollock harvest specifications for the second half of 1999.

In June 1999, the Council also deliberated on various management measures to implement permanently the RPAs as described in the 1998–1 BiOp for 2000 and beyond. After significant debate and public comment, the Council voted to recommend a series of conservation measures to protect Steller sea lions.

Greenpeace, the American Oceans Campaign, and the Sierra Club challenged the 1998–1 BiOp in the U.S. District Court for the Western District of Washington (*Greenpeace* v. *NMFS*, Civ. No. C98–0492Z (W.D. Wash.)). Several industry groups and Alaska communities joined the lawsuit as defendant-intervenors. In an Order issued on July 9, 1999 (and amended on July 13, 1999), the Court upheld the no-jeopardy conclusion for the Atka mackerel fishery and the jeopardy conclusion for the pollock fisheries. However, the Court also found that ''the Reasonable and Prudent Alternatives * * * were arbitrary and capricious * * * because they were not justified under the prevailing legal standards and because the record does not support a finding that they were reasonably likely to avoid jeopardy.'' On August 6, 1999, the Court remanded the RPA back to NMFS for further analysis and explanation.

To comply with the Court's Order, NMFS conducted additional analyses and completed the Revised Final Reasonable and Prudent Alternatives (RFRPAs) on October 15, 1999. The RFRPAs described management measures to avoid the likelihood that the pollock fisheries authorized by regulations will jeopardize the continued existence of the endangered western population of Steller sea lions or adversely modify its critical habitat.

NMFS modified previous measures to conform with the RFRPA and implemented these measures by emergency interim rule for the 2000 groundfish fisheries (65 FR 3892, January 25, 2000, and 65 FR 36795, June 12, 2000). Although both environmental and fishing industry representatives challenged the adequacy of the RFRPAs in the U.S. District Court for the Western District of Washington, subsequent events in 2000 further modified measures to protect Steller sea lions (see below).

Greenpeace, the American Oceans Campaign, and the Sierra Club also challenged the legal adequacy of the 1998–2 BiOp, which NMFS issued on December 22, 1998. On January 25, 2000, the Court entered an Order finding the 1998–2 BiOp too narrow in scope (*Greenpeace* v. *NMFS*, 80 F. Supp. 2d 1137 (W.D. Wash. 2000)). On

July 19, 2000, the Court issued an injunction prohibiting fishing for groundfish with trawl gear in the EEZ within Steller sea lion critical habitat west of 144° W long. until NMFS issued a comprehensive biological opinion adequately analyzing the full scope of the FMPs. (*Greenpeace* v. *NMFS*, 106 F. Supp. 2d 1066 (W.D. Wash. 2000)). The critical habitat areas closed by the Court's injunction were defined in regulations codified at 50 CFR 226.202, and in Tables 1 and 2 of 50 CFR part 226. NMFS issued an interim final rule prohibiting fishing for groundfish with trawl gear in Steller sea lion critical habitat during the pendency of the Court's injunction (65 FR 49766, August 15, 2000).

In response to the Court's Order finding the 1998–2 BiOp inadequate, NMFS issued a biological opinion on the BSAI and GOA groundfish fisheries FMPs (Comprehensive BiOp) on November 30, 2000. The Comprehensive BiOp evaluated the Federal groundfish fisheries as implemented by the BSAI and GOA FMPs and their implementing regulations. After analyzing the direct and indirect effects of the groundfish fisheries, as authorized by the BSAI and GOA FMPs, on listed species, the cumulative effects of non-Federal actions, and the environmental baseline, NMFS concluded that the pollock, Pacific cod, and Atka mackerel fisheries as then configured jeopardized the continued existence of the western population of Steller sea lions and adversely modified its critical habitat. This conclusion was reached based on the likelihood that pollock, Pacific cod, and Atka mackerel fisheries compete with Steller sea lions and reduce their ability to survive and recover in the wild. Competition with fisheries is likely to cause reduced availability of sea lion prey (especially on small scales) which would reduce their foraging success and lead to nutritional stress, especially of juveniles and to a lesser extent adult females. The Comprehensive BiOp included an RPA that modified the three fisheries in such a manner as to reduce the likelihood of causing local depletion of key sea lion prey species and thus avoid jeopardizing the continued existence of Steller sea lions or adversely modifying their critical habitat.

On December 21, 2000, prior to the implementation of the Comprehensive BiOp RPAs, the President signed Public Law 106–554. This law contained a one-year timetable for implementing the RPA from the Comprehensive BiOp as well as provisions affecting its implementation. Public Law 106–554, section 209(c)(2) required the RPA contained in the Comprehensive BiOp to become effective in its entirety on January 1, 2002, unless revised as necessary and appropriate based on independent scientific review or other new information. In accordance with Public Law 106–554, and starting on January 1, 2001, the 2001 BSAI and GOA groundfish fisheries were initially managed in accordance with the fishery management plans and Federal regulations in effect for such fisheries prior to July 15, 2000. This initial management regime was subsequently replaced as provided in Public Law 106–554, section 209(c)(4), via an emergency interim rule issued by NMFS under the Magnuson-Stevens Act and effective on January 18, 2001 (66 FR 7276, January 22, 2001). The emergency interim rule contained a suite of management measures that phased in certain provisions of the RPA.

In response to the conclusions of the biological opinions since 1998 and Public Law 106–554, NMFS issued permanent regulations for the Atka mackerel fishery (64 FR 3446, January 22, 1999) and a series of emergency regulations for the pollock fishery (64 FR 3437, January 22, 1999; 65 FR 3892, January 25, 2000) and for Atka mackerel, pollock, and Pacific cod fisheries (66 FR 7276, January 22, 2001, extended and amended 66 FR 37167, July 17, 2001, and corrected 66 FR 44073, August 22, 2001, and 66 FR 48371, September 20, 2001). These regulations disperse harvest over time and area and provide protection to areas important to Steller sea lions. In July 2001, the parties to the litigation concerning the biological opinions and the RFRPA filed a joint status report and agreed to stay further litigation until completion of the 2001 BiOp in October 2001. A subsequent joint status report dated November 1, 2001, agreed to continue the temporary stay of litigation until January 18, 2002, when a follow-up status report will be filed with the Court.

Development of 2002 Steller Sea Lion Protection Measures

In January 2001, the Council established an RPA Committee to make recommendations on Steller sea lion protection measures for the second half of 2001 and to develop Steller sea lion protection measures for 2002 and beyond. The Council's RPA Committee was composed of 21 members from the fishing community, the environmental community, NMFS, the Council's Science and Statistical Committee, the Council's Advisory Panel, and the State of Alaska Department of Fish and Game.

In developing the protection measures for the second half of 2001 and for 2002, the RPA Committee's first goal was to determine adequate forage for Steller sea lions using the best scientific and commercial information available and the second goal was to maximize the economic benefit to the fishing industry within constraints imposed by the ESA. The RPA Committee met numerous times to review Steller sea lion biology and habitat requirements, RPA from the Comprehensive BiOp, the draft SEIS and draft 2001 BiOp for this action, and commercial fishery and scientific survey information. Meetings in 2001 were held on February 10, February 20, March 6–7, March 26–29, April 9, May 9–11, May 21–24, and August 23–24. These meetings were open to the public and the public was provided with several opportunities to comment at each meeting.

After the available scientific information on Steller sea lion biology was discussed, the Committee reviewed commercial fisheries and harvest data to determine the competitive overlap between fisheries and Steller sea lions. With all of this information, the Committee then developed a fisheries management program intended to meet the requirements of applicable law. In April 2001, the RPA Committee presented its recommendations to the Council for fishery management measures for the second half of 2001. These recommendations were then forwarded by the Council to NMFS.

In June 2001, the RPA Committee recommended Steller sea lion protection measures for 2002 and beyond. However, the Committee did not reach consensus regarding the recommendations; two representatives from the environmental community objected and provided a minority report with the May 21–24 Committee minutes. Both the Committee's recommendation and the minority recommendation developed by the American Oceans Campaign and the National Environmental Trust were included as alternatives analyzed in the SEIS. Additionally, protection measures in the GOA, developed by the Alaska Marine Conservation Council, were included as an option to the preferred alternative in the SEIS. Minutes from all RPA Committee meetings have been distributed at Council meetings and are available on the Council's Web site at *http://www.fakr.noaa.gov/npfmc/default.htm.*

In June 2001, the Council recommended a suite of alternatives to be analyzed in the SEIS, including the RPA Committee's recommendation and the protection measures described in the

minority report mentioned above. NMFS reviewed the recommendations and determined that they represented an adequate range of reasonable alternatives as required by the National Environmental Policy Act (NEPA). For purposes of identifying a proposed action in order to initiate formal consultation under Section 7 of the ESA, NMFS used the RPA Committee's recommendation as the preferred alternative (Alternative 4) in the draft SEIS. Alternative 4 also included three options added by the Council. Two of the options provided small boat exemptions for nontrawl gear Pacific cod fishing in the Chignik and Unalaska areas, and the third option established gear specific fishing zones for GOA Pacific cod fisheries (the Alaska Marine Conservation Council option).

In July 2001, the NMFS Office of Sustainable Fisheries (OSF) reinitiated consultation under the ESA with the NMFS Office of Protected Resources (OPR) based on the availability of new information and the substantial changes proposed in the fisheries since the completion of the Comprehensive BiOp. The new scientific information is described in more detail below under the specific protection measures. Consultation was requested on the management measures outlined in Alternative 4 of the draft SEIS. A draft biological opinion (2001 BiOp) was prepared by the OPR and distributed as Appendix A to the draft SEIS, which was available for public review on August 20, 2001 (comment period closed October 15, 2001). During informal consultations, the OSF and the OPR concurred that all other listed species occurring in Alaska other than Steller sea lions would not be adversely affected by the implementation of the proposed action. Therefore, only the endangered and threatened populations of Steller sea lions were the subject of the formal consultation and draft biological opinion issued by the OPR.

The draft 2001 BiOp, which is a consultation at the project level, did not supersede the previous Comprehensive BiOp. The Comprehensive BiOp remains valid and meets NMFS' requirement to consult at the FMP level. However, the RPA from the Comprehensive BiOp has been superseded by the managment measures in this rule.

The Council conducted a special meeting in September 2001 to review the draft SEIS and the draft 2001 BiOp. After review of these documents and public testimony, the Council identified Alternative 4 in the draft SEIS, with several modifications and without the options identified in June, as its preliminary preferred alternative. The Council decided not to include additional small boat exemptions for Unalaska and Chignik due to concerns that opening these areas would reduce their values as control sites for evaluating management measures and increase the likelihood for competitive interactions with sea lions, and that these sites have not been economically important to the small boat fleets. Also, the Council preliminarily decided not to include the GOA ''gear zone'' option due to potential conflicts with Magnuson-Stevens Act national standards 8 and 10 (i.e., local community access to fishing resources and safety).

Based on the analysis of alternatives in the SEIS, public testimony, and the draft 2001 BiOp, the Council made final recommendations for Steller sea lion protection measures. The 2001 BiOp determined that Alternative 4 met the requirements of the ESA by avoiding the likelihood of jeopardy to Steller sea lions and adverse modification of their critical habitat. Alternative 5 was determined in the SEIS to have similar effects as Alternative 4 on Steller sea lions and their critical habitat. Alternatives 2 and 3 were determined in the SEIS to have less adverse effects on Steller sea lions than Alternatives 4 and 5. Alternative 1 was more adverse to Steller sea lions than Alternative 4, based on the SEIS analysis. Given the results of the SEIS and the draft 2001 BiOp, the Council assumed that Alternatives 2, 3, 4, and 5 would meet the requirements of the ESA because Alternatives 2, 3, and 5 were considered to have similar or less adverse effects on Steller sea lions compared to Alternative 4. After the alternatives were identified that met the ESA requirements, the Council then determined which alternative provided the least impact on the human environment, including socioeconomic impacts, and which also met the requirements of the Magnuson-Stevens Act, including the national standards. The Council chose Alternative 4 because it met ESA requirements and came closer to meeting the overall objectives of the Magnuson-Stevens Act, including the national standards, and NMFS concurs with this decision. The final SEIS is available from NMFS (see **ADDRESSES**) or on the NMFS home page at *http://www.fakr.noaa.gov.*

NMFS solicited comments on the draft 2001 BiOp, which were considered in the final biological opinion. NMFS released the final 2001 BiOp on October 19, 2001, which was included as an appendix to the SEIS. Copies of the 2001 BiOp are available from the NMFS, Alaska Region homepage at *http://www.fakr.noaa.gov* (or see **ADDRESSES**). The 2001 BiOp concluded that the proposed action under Alternative 4, which is implemented by this emergency interim rule, is not likely to jeopardize the continued existence of either the eastern or western populations of Steller sea lions or adversely modify their critical habitat.

At its October 2001 meeting, the Council slightly modified its preferred alternative to provide limited relief to small vessels in response to public comments. These changes do not undermine the primary objective of avoiding jeopardy and adverse modifications to the Steller sea lions or their critical habitat. All of these modifications fell within the scope of the draft SEIS and the 2001 BiOp. Two modifications provided additional protection to Steller sea lions during 2002 in the Aleutian Islands subarea by eliminating the directed fishery for pollock and by reducing the proposed harvest of Atka mackerel in Steller sea lion critical habitat. The third modification is a near shore exemption for small vessels directed fishing for Pacific cod using hook-and-line or jig gear in the Bogoslof area and includes a harvest limit. Because of the extremely small harvest amount and closures around Steller sea lion haulouts in the area, this modification is expected to have no appreciable effects on Steller sea lions or their critical habitat. Public comment on the 2001 BiOp provided at the October Council meeting raised questions regarding the efficacy of using the Bogoslof area as a control site for comparing the fishery effects on Steller sea lions. Based on the extremely limited fishing by small vessels for Pacific cod and fishing prohibitions around Bishop Point, the Council changed its recommendation from September and requested NMFS implement a small boat exemption in the Bogoslof area (option 2 to Alternative 4 in the SEIS). The small vessel exemption in the Bogoslof area is within the scope of option 2 analyzed in the SEIS.

NMFS concurs with the protection measures recommended by the Council and these measures are contained in this emergency interim rule. NMFS intends to supersede this emergency interim rule implementing 2002 protection measures with proposed and final rulemaking to implement these or similar measures for the remainder of 2002 and beyond. The protection measures also replace the RPA identified in the Comprehensive BiOp.

Protection Measures and the Most Recent Information

Scientists generally agree that the decline of the western population of Steller sea lions is due to a combination of factors including nutritional stress, predation, and natural environmental changes. These factors are primarily thought to affect juveniles, and to a lesser extent adult females, although how this occurs and the magnitude of the effects are largely unknown. Of these factors, the groundfish fisheries primarily affect nutritional stress and, through indirect mechanisms, may increase the likelihood for predation due to increased search time for prey. Funding for Steller sea lion research has increased over the past few years and may provide clarification on the causes for the sea lion decline.

The ESA requires NMFS to develop a Steller sea lion recovery plan, which includes criteria for delisting the species. A recovery plan was developed in 1992 with a set of delisting criteria, but these criteria were never adopted by the agency. A new Steller sea lion recovery team has been assembled and plans to meet in January 2002. Over a course of one to two years, the team will review the best available scientific and commercial data and will develop a new recovery plan replacing the outdated version. Because no recovery criteria are available, the 2001 BiOp addressed recovery in terms of effects of the proposed action on Steller sea lion population trajectories.

The 2001 BiOp concluded that the contribution of the groundfish fisheries to the Steller sea lion decline is likely to be small under the protection measures specified in this emergency interim rule. Although, adverse impacts to the two populations of Steller sea lions and their critical habitat are expected to result from these groundfish fisheries, the fisheries are unlikely to jeopardize the continued existence or adversely modify critical habitat for these populations. These protection measures are intended to avoid fishery-related reductions in abundance of Steller sea lion prey in key local foraging areas, as such reductions could reduce the effectiveness of sea lion foraging.

These protection measures address competitive interactions between the groundfish fishery and Steller sea lions in several ways. First, these measures will modify the existing harvest control rule to ensure that in the future enough prey resources exist overall and that prey densities are sufficient for Steller sea lions on a large scale. Second, the protection measures will distribute the catch of important prey species over zones of key importance to critical components of the Steller sea lion population and over time to reduce the effects of localized depletion. Localized depletion for a Steller sea lion is the reduction of prey resources to a level that decreases the efficiency of a foraging sea lion so that it adversely affects its health or increases its risk to predation. Finally, the protection measures will prohibit fishing in areas immediately surrounding all rookery and many haulout sites and curtail fishing for important prey species in significant portions of designated critical habitat to relieve competition in areas considered important to Steller sea lion survival and recovery.

In 1993, critical habitat was established to 20 nm seaward of haulouts and rookeries based on the best scientific information available at the time, such as Platform of Opportunity (POP) data (August 27, 1993, 58 FR 45269). In 1999 through 2001, protection measures included fishery restrictions out to 20 nm from Steller sea lion rookery and haulout sites. In most cases, the portion of critical habitat areas considered important for protection in 2002 and beyond is between 0 nm and 10 nm of haulout and rookery sites with areas closer to shore considered more important for animals with less foraging skills or for females with pups. POP data still provide the best information for adult male Steller sea lions because little telemetry data have been collected for these animals. Recent telemetry data have been collected and analyzed from primarily adult females and juveniles, which are the portion of the population that pose the most concern for localized depletion of prey. The new telemetry data indicate that waters beyond 10 nm are mainly used by adults and older juveniles, which are considered to have stronger foraging skills, and depletion of prey by groundfish harvesting in these waters is not as likely to adversely affect foraging by these individuals. Both telemetry data and POP data are known to have biased results, but NMFS recognizes that the telemetry data provide more recent information on the more sensitive components of population when considering potential localized depletion of prey by the groundfish fisheries. For these reasons, many of the protection zones or areas in this emergency interim rule extend to 10 nm from Steller sea lion rookeries and haulouts.

Steller sea lion count survey data also were used to determine the areas that needed more protection from potential fishery interaction. Some of the rookeries showed declines of more than 10 percent. In most cases, sites with higher rates of decline receive additional protection over areas with less decline under the measures in this emergency interim rule.

This emergency interim rule also includes provisions for control areas to aid in an experimental design to determine the effectiveness of management measures. The Bogoslof area and Seguam foraging area, and the Chignik critical habitat areas will be closed to pollock, Atka mackerel, and Pacific cod directed fishing, except to vessels using jig gear in the Chignik area and to small vessels fishing for Pacific cod using jig or hook-and-line gear in the Bogoslof area. The Chiniak Gully will be closed to trawling August 1 through September 20 to determine the impact of trawl fishing on localized depletion of pollock. A review of the 2001 BiOp by the National Academy of Science may provide further recommendations on an experimental design that would provide the information needed on the efficacy of management measures.

Summary of the 2002 Management Measures

The following is a summary of protection measures. More detailed descriptions by topic, fishery, and area follow in this preamble. The State of Alaska Board of Fisheries at its November 2001 meeting adopted the same protection measures for the State parallel fisheries with two exceptions in the Pacific cod pot fishery which are noted below. The State of Alaska Department of Fish and Game should be contacted for details on Steller sea lion protection measures inside State waters. The majority of the Steller sea lion protection measures contained in this emergency interim rule are effective January 1, 2002, through July 8, 2002. Protection measures include:

1. Area closures for federally permitted vessels to all groundfish fishing between 0 nm and 3 nm of 39 rookery sites. These sites are considered the most sensitive for females with pups and the near shore marine critical habitat the most important to protect from interactions between groundfish fisheries and Steller sea lions.

2. For the Atka mackerel, pollock, and Pacific cod directed fisheries in the waters off Alaska, protection measures include: (a) A modified harvest control rule (HCR) to prohibit directed fishing when the biomass reaches 20 percent of its unfished level, (b) closures within 10 or 20 nm of selected haulout and rookery sites to directed fishing for Atka mackerel, pollock, and Pacific cod in

the GOA and BSAI, (c) closure of Seguam foraging area and most of the Bogoslof area to all gear types, (d) a VMS requirement, (e) closure of the Chignik area to pot, trawl, and hook-and-line gears, (f) closure within 10–20 nm of 46 rookeries and haulouts to hook-and-line fishing for Pacific cod, and 44 rookeries and haulouts to pot fishing for Pacific cod, and (g) modifications to the CDQ groundfish program.

3. Aleutian Island area protection measures include: (a) Closure of the subarea to directed fishing for pollock, (b) Pacific cod total allowable catch (TAC) apportionment by season and gear, as well as gear specific area restrictions that alternate with the Atka mackerel fishery in critical habitat in areas 542 and 543, (c) closure of the Seguam foraging area to pollock, Atka mackerel, and Pacific cod directed fishing by all gear types, (d) critical habitat harvest limit of 60 percent for Atka mackerel in areas 542 and 543, (e) a platoon management system for Atka mackerel fishing in critical habitat in areas 542 and 543, (f) two observers required for critical habitat Atka mackerel directed fishing, (g) at least 0–3 nm closures around all haulouts for Atka mackerel and Pacific cod trawl fishing and (h) no Atka mackerel critical habitat fishing west of 178° W long.

4. Bering Sea protection measures include: (a) Two seasons (40:60 percent apportionment) for the pollock fishery with no more than 28 percent of the annual directed fishing allowance taken from the Steller sea lion conservation area (SCA) before April 1, (b) continuation of BS pollock fishery cooperatives established under the AFA, (c) establishment of the BS Pollock Restriction Area during the A season, (d) closure of the Catcher Vessel Operation Area (CVOA) to non-CDQ pollock trawl catcher/processors during the B season, (e) Pacific cod TAC apportionments by season and gear, as well as gear specific area restrictions, and (f) closure of all BS subarea critical habitat to Atka mackerel fishing.

5. Gulf of Alaska protection measures include: (a) Distribution of pollock harvest evenly over 4 seasons, (b) closure of directed fishing for pollock in areas that vary from 0–20 nm to 0–3 nm around rookeries and haulouts, (c) two seasons (60 percent:40 percent) for Pacific cod fishing and area restrictions that are dependent on gear type and vessel size, and (d) continuation of the NMFS Chiniak Gully research project to explore the effects of commercial fisheries on pollock abundance and distribution in the GOA.

2002 Protection Measures Details for Harvest Time, Limits, and Apportionments

Modification of the Existing Harvest Control Rule (HCR)

The protection measures include a modification of the existing HCR for pollock, Pacific cod, and Atka mackerel. NMFS currently uses an HCR established under Amendments 56/56 to the FMPs when determining the maximum allowable biological catch (ABC). Under the existing HCR, the ABC for a majority of stocks, including pollock, Pacific cod, and Atka mackerel, is based on a fishing mortality rate intended to reduce the spawning biomass per recruit to 40 percent of its theoretical unfished level ($F_{40\%}$). When the biomass is below the amount necessary to produce the maximum sustainable yield (MSY), the fishing mortality rate is reduced linearly. When the spawning biomass per recruit is reduced to 2 percent of its unfished level, the fishing mortality rate becomes 0 and all fishing for that target stock is prohibited (see Figure 1). A new HCR was used in 2001 which reduced directed fishing for pollock, Pacific cod, and Atka mackerel in a more aggressive linear fashion than the original HCR and included a directed fishing prohibition at the 20 percent unfished biomass level.

The new HCR will be almost identical except that directed fishing would be prohibited when the spawning biomass is below 20 percent of the unfished level (as opposed to 2 percent in the current HCR).

Figure 1 shows the reduction in fishing mortality under the three methods of harvest control: (1) Amendments 56/56 to the BSAI and GOA FMPs for most groundfish species, (the existing HCR for most groundfish species), (2) the 2001 HCR, and (3) the 2002 HCR. The harvest rate under the 2002 HCR and under Amendments 56/56 would decrease at the same rate until 20 percent of the unfished spawning biomass is reached.

In a model, NMFS analyzed the difference in recovery rates back up to the MSY under the 2001 and 2002 HCRs and found very little difference (3–4 percent) between them. The 2001 BiOp concluded that the 2002 HCR is adequate to avoid locally depleting Atka mackerel, pollock, and Pacific cod for Steller sea lions.

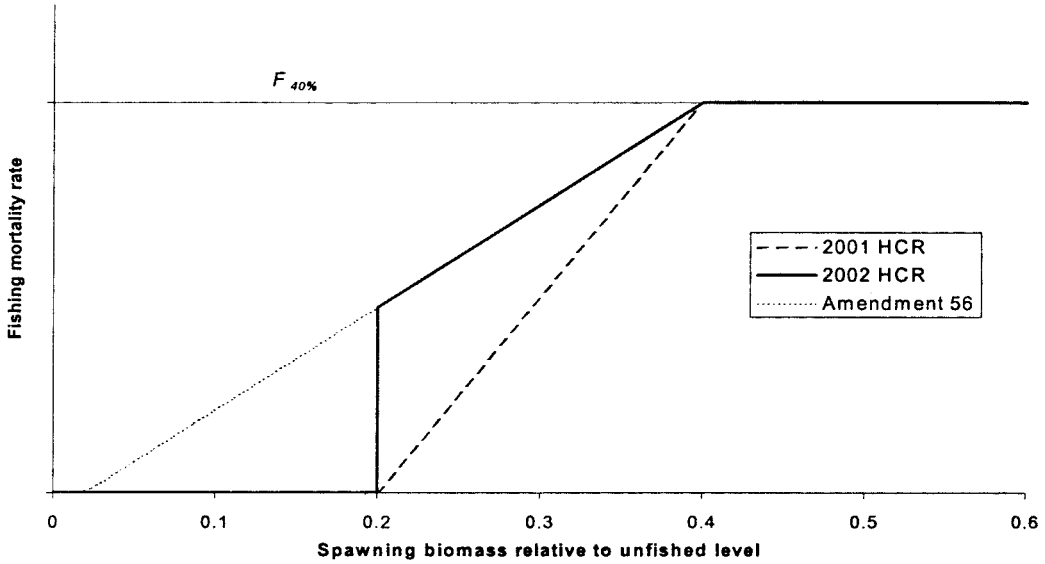

Figure 1. Relationship of fishing mortality rates under different control rules applied to pollock, Pacific cod, and Atka mackerel. FMP Amendments 56/56 harvest guidelines are used for groundfish species managed under the BSAI and GOA FMPs.

In 2002, the new HCR does not affect the harvest rates for any species. However, the GOA pollock biomass is estimated to be about 45 percent less than the 2000 estimate. Because of uncertainty in the point estimate and continued poor recruitment in the GOA pollock stock, the Plan Team recommended an ABC well below the maximum permissible using the HCR. Given the fact that in hindsight using the current model and known biomass amounts in 2001, the fishery would have overfished this stock if the total TAC would have been taken in areas 620 and 630. NMFS determines that this action is reasonable from a Steller sea lion and stock assessment perspective. See the SAFE reports for the GOA and BSAI and Part II of this preamble for more details. The SAFE reports are available from the Council (see **ADDRESSES**).

Steller Sea Lion Protection Measures for Pollock, Atka Mackerel, and Pacific Cod Fisheries

The 2002 Steller sea lion protection measures include fishing seasons and area restrictions for the pollock, Pacific cod, and Atka mackerel fisheries. The seasons will distribute these fisheries over time. Critical habitat harvest limits for pollock and Atka mackerel will be implemented by this emergency interim rule consistent with the Council recommendations. Critical habitat limits will distribute the Atka mackerel and pollock fisheries over area, reducing the potential for localized depletion of prey.

In order to manage fishing to protect Steller sea lions, this emergency interim rule includes changes to the permit information collected under § 679.4. Vessels owners will need to register with NMFS to participate in the pollock, Pacific cod, and Atka mackerel fisheries. These directed fisheries will appear as endorsements on the vessel's Federal fishery permit for the area that the vessel owner has chosen for fishing these species. Vessel owners wishing to fish for Atka mackerel in critical habitat will also need to indicate whether they want to fish in Federal regulatory areas 542, 543, or both. The Atka mackerel registration information will be used for platoon management, which is explained later in this section.

Several AFA provisions from 2001 are extended into 2002 under this emergency interim rule as well as inshore/offshore allocations of GOA pollock and Pacific cod. These provisions effectively slow the rate of fishing and distribute fishing effort in a manner expected to reduce competition with Steller sea lions. These provisions also were evaluated by the Council as part of the new Steller sea lion protection measures. More details are in Part II of this preamble under the BSAI harvest specifications. Separate rulemaking is being pursued by NMFS to permanently implement these provisions in the future.

This action suspends the definition of directed fishing for pollock and other groundfish harvested under the CDQ program. It also revises the way that groundfish CDQ species may be used to calculate retainable amounts of other species, modifies groundfish CDQ retention requirements, and requires that a vessel's intended target fishery be reported on CDQ catch reports. These changes are necessary to ensure that the Steller sea lion protection measures being implemented by this emergency interim rule are applicable to groundfish CDQ harvesting activities.

Under current regulations, the general groundfish fisheries and groundfish CDQ fisheries have different definitions of directed fishing. For recordkeeping and reporting requirements, as well as for License Limitation groundfish fishing, directed fishing is defined as any fishing activity that results in the retention of an amount of a species or species group on board a vessel that is greater than the current maximum retainable bycatch (MRB) amount, based on retained (or ''basis'') species on board a vessel at a given time. The pollock and groundfish CDQ directed fishing definitions differ from the MRB-based definition for two reasons. First, the AFA specifies that the only pollock that will accrue to the pollock CDQ reserve will be that amount caught by vessels directed fishing for pollock CDQ. Second, all other groundfish caught while groundfish CDQ fishing

must accrue towards one of the specified CDQ reserves, including economic discards or non-target species. In general, a vessel is considered groundfish CDQ fishing if it has been listed in a NMFS approved Community Development Plan and catches any amount of groundfish CDQ, including pollock. More specifically, the assessment of a vessel's particular target fishery is determined differently, depending on vessel type. For catcher/processors, the species composition of each haul is assessed to determine the directed fishery. For catcher vessels, the species composition on board the vessel at any time is used. Typically this information is used for pollock catch accounting purposes and the calculation of halibut bycatch mortality rather than at-sea enforcement of other management measures.

The definition of directed fishing for pollock CDQ uses a 60 percent threshold to determine whether a vessel using trawl gear is directed fishing for this species. If this criterion is met, then the pollock accrues toward the pollock CDQ reserve. If not, it accrues towards the pollock Incidental Catch Allowance (ICA). Pollock caught incidentally in groundfish CDQ fisheries by vessels using nontrawl gear also accrues towards the ICA. This definition of pollock CDQ fishing was established as part of a final rule implementing Amendment 66 to the BSAI FMP on March 7, 2001 (66 FR 13672), and was intended to meet the intent of the AFA. This definition was designed to facilitate pollock catch accounting, not to identify a vessel's overall target fishery. Defining CDQ directed fisheries via the use of MRB standards will offer a more accurate portrayal of a vessel's actual CDQ target fishery. For purposes of implementing the Steller sea lion protection measures, using the 60 percent definition of pollock CDQ fishing could conflict with the calculated target fishery derived by using MRB amount calculations. A vessel could, under current regulations, be considered directed fishing for pollock CDQ based on the species composition of a single haul, whereas under MRB calculations it would not.

The suspension of CDQ specific directed fishing definitions, modifications of the use of CDQ species as basis species, and suspension of the use of a 60 percent threshold to facilitate pollock CDQ catch accounting in this emergency interim rule are necessary to establish a means to readily enforce time and area closures to directed fishing for pollock, Pacific cod, and Atka mackerel. Applying the definition of directed fishing already used for the non-CDQ groundfish fisheries will enhance the monitoring and enforcement of Steller sea lion protection measures. This will give consistency to the at-sea determination of both a vessel's non-CDQ and CDQ target fisheries. Additionally, to lessen the potential for confusion by NMFS staff, U.S. Coast Guard boarding personnel, vessel operators, and CDQ groups, MRB amounts will be used to define directed fishing for all groundfish CDQ species.

These measures, along with a new requirement to report the intended target species on CDQ catch reports, will also assist NMFS management to determine when catch limits have been reached, when area closures should occur, and how to account for pollock caught in the groundfish CDQ fisheries. The target information that will be received on CDQ catch reports will be used by NMFS to determine whether to accrue pollock towards either the pollock CDQ allocation or the pollock ICA. Additionally, current regulations do not require regulatory discards in the groundfish CDQ fisheries. However, the use of MRB amounts may require that some Atka mackerel or Pacific cod be discarded at-sea if CDQ directed fishery closures are in effect for these two species. Such catch will still be required to be reported on CDQ catch reports and will be subtracted from their corresponding CDQ allocations.

The protection measures addressing temporal and spatial dispersion of the pollock, Atka mackerel, and Pacific cod directed fisheries are as follows:

1. Aleutian Island Subarea Pollock Fishery

In the AI subarea directed fishing for pollock is prohibited at all times.

2. Bering Sea Subarea Pollock Fishery

In the Bering Sea subarea, fishing seasons are continued for the four sectors of the Bering Sea pollock fishery that are defined in the AFA. These seasons are defined as the A season (January 20–June 10, 40 percent) and the B season (June 10–November 1, 60 percent).

Pollock fishing will be prohibited during the A season in the Bering Sea Pollock Restriction Area (BSPRA). This area is based on a series of straight lines tangential to haulouts, 10 nm from the shore between the eastern edge of the SCA and the western edge of Statistical Area 519. The BSPRA is intended to reduce the likelihood of localized depletion and competitive interactions during critical winter months when juvenile Steller sea lions are learning to forage.

This emergency interim rule extends the repeal of the ''fair start'' provisions at § 679.7(b) that required vessels fishing for pollock in the Bering Sea to cease fishing for groundfish during the week preceding each pollock season or face a mandatory stand-down period during the first week of the pollock season. The Council determined that these fair start requirements were no longer necessary given the changes to the pollock fishery that occurred under the AFA.

Catcher vessel exclusive fishing seasons at § 679.23(i) will be continued by this emergency interim rule. Vessels fishing in one season in the GOA or in the BSAI are restricted from fishing in the alternative management area until the following season. This restriction will limit the concentration of fishing effort in one area and reduce the potential for localized depletion of Steller sea lion prey. Catcher vessels less than 125 ft (38.1 m) LOA fishing east of 157° W long. are exempt from this restriction.

This emergency interim rule also will extend the use of the SCA established by the emergency interim rule published January 25, 2000 (65 FR 3892), at § 679.22(a)(11). The SCA includes the portion of Bering Sea critical habitat known as the Bogoslof Foraging area and the portion of the CVOA that extends eastward from the Bogoslof Foraging area. This eastern block of the CVOA overlaps with the pollock trawl exclusion zone for Sea Lion Rocks (Amak Island). Inclusion of this eastern block in the SCA is necessary to provide sufficient protection from concentrated fishing and resulting localized depletions of sea lion prey in (1) the narrow corridor between the Bogoslof Foraging Area and the Sea Lion Rocks (Amak Island) trawl exclusion zone and (2) the adjacent portions of critical habitat.

The SCA consists of the area of the Bering Sea between 170°00′ W long. and 163°00′ W long., south of straight lines connecting the following points in the order listed:

55°00′ N lat. 170°00′ W long.;
55°00′ N lat. 168°00′ W long.;
55°30′ N lat. 168°00′ W long.;
55°30′ N lat. 166°00′ W long.;
56°00′ N lat. 166°00′ W long.;
56°00′ N lat. 163°00′ W long.

This emergency interim rule specifies the amount of the annual pollock directed fishing allowance (PDFA) that can be taken from the SCA during the A season. The PDFA is equal to the sum of each sector's TAC minus the ICA and 10 percent CDQ reserve. Until April 1, the harvest within the SCA is limited to

28 percent of the annual PDFA which is equivalent to 70 percent of the A season apportionment. The remaining 12 percent of the annual PDFA allocated to the A season may be taken outside of SCA before April 1 or inside the SCA after April 1. If the 28 percent of the annual PDFA is not taken inside the SCA before April 1, the remainder may be taken inside the SCA after April 1. The A season pollock SCA harvest limit will be apportioned to each industry sector in proportion to each sector's allocated percentage of the PDFA as set forth in the AFA. This action is necessary to avoid high harvest rates within a relatively small area of the BS subarea which is Steller sea lion critical habitat.

NMFS will monitor catch by each industry sector and close the SCA to directed fishing for pollock by sector when NMFS determines that a sector's specified portion of the SCA limit has been reached. As in 2001, in accordance with the Council's intent to address small vessel safety concerns, inshore catcher vessels less than or equal to 99 ft (30.2 m) LOA will continue to be exempt from SCA closures unless the cap for the inshore sector has been reached, as specified in § 679.22(a)(11)(vii). Under the authority of the AFA, NMFS will separate the inshore fishery into cooperative and non-cooperative sector allocations. For each sector, NMFS will announce the closure of the SCA to catcher vessels over 99 ft (30.2 m) LOA before the inshore sector SCA limit is reached. NMFS will implement the closure in a manner intended to leave remaining quota within the SCA that is sufficient to support directed fishing for pollock by vessels less than or equal to 99 ft (30.2 m) LOA for the duration of the inshore sector opening.

The CVOA will continue to be closed to pollock trawl catcher/processors during the B season (June 10-November 1) to reduce the amount of pollock taken from this area and to reduce the potential for competition with Steller sea lions.

3. GOA Pollock Fishery Seasons and Apportionments

Fishing seasons and pollock TAC apportionments in the GOA are summarized in Table 1.

TABLE 1.—POLLOCK FISHING SEASONS AND TAC APPORTIONMENTS FOR THE WESTERN AND CENTRAL REGULATORY AREAS OF THE GULF OF ALASKA

Season	TAC apportionment (percent)	Season dates
A	25	January 20–February 25.
B	25	March 10–May 31.
C	25	August 25–September 15.
D	25	October 1–November 1.

Rollover of a seasonal TAC apportionment is permitted as long as it does not exceed 30 percent of the annual TAC.

The start date of the C season has been changed from August 20 in 2001 to August 25 in 2002. This change is intended to reduce salmon bycatch and to optimize the use of shoreside processing facilities and the harvest of the pollock allocation in the C season. This change is expected to have no appreciable effect on Steller sea lions.

The 300,000 lb (136 mt) trip limit for catcher vessels harvesting pollock in the directed pollock fisheries of the GOA at § 679.7 supports temporal distribution objectives and is maintained by this rule. A catcher vessel fishing for groundfish in the GOA will be prohibited from retaining on board more than 300,000 lb (136 mt) of pollock harvested in the GOA any time during a trip. This trip limit will not exempt vessels from existing regulations that require 100 percent retention of pollock when directed fishing for pollock is open. A vessel would have to stop fishing for pollock during a fishing trip before the 300,000 lb (136 mt) trip limit is reached to avoid a violation of either the 300,000 lb (136 mt) trip limit or the 100 percent retention requirement for pollock.

In addition, § 679.7 continues to prohibit vessels from operating as pollock tenders in the GOA east of 157°00′ W long. to prevent the large scale use of tender vessels to avoid the trip limit restriction. Vessels operating as tenders in the GOA west of 157°00′ W long. will be prohibited from retaining on board more than 600,000 lb (272 mt) of unprocessed pollock or the equivalent of two fishing trips. Tendering west of 157°00′ W long. is allowed because smaller vessels delivering to Sand Point and King Cove are more dependent on tenders than the larger vessels that operate east of 157°00′ W long. and deliver primarily to Kodiak.

4. BSAI Atka Mackerel Seasons, Apportionments, Critical Habitat Harvest Limits, and Platoons

In the BSAI at § 679.23(e)(7), the A season for Atka mackerel will begin January 20 and end April 15. The B season will begin September 1 and end November 1. The CDQ Atka mackerel fishery will have a single season from January 20 through November 1 because the vessels used in the non-CDQ Atka mackerel fishery are generally the same vessels used in the CDQ fishery, and the CDQ harvest historically takes place when the non-CDQ season is closed.

Fifty percent of the annual TACs for the western, central, and eastern Aleutian Islands districts is available during each season. No more than 60 percent of the seasonal TAC may be taken from within the harvest limit area (HLA) in statistical Areas 542 and 543 in the AI subarea. The HLA includes critical habitat and two additional Steller sea lion haulouts located west of 178° W long. and is further explained below. The apportionment is based on the assumed distribution of Atka mackerel based on depth contour of the continental shelf and on an objective to reduce the amount of rockfish bycatch that has occurred historically at relatively high levels outside of critical habitat in deeper waters in areas 542 and 543. Critical habitat limits in 2001 were between 48 and 46 percent. One of the objectives in setting harvest levels is to harvest at a level relative to the abundance of the fish in the area to avoid localized depletion. The biomass estimates in areas 542 and 543 indicated that up to 75 percent of the biomass occurs in critical habitat, but the Council recommended, and NMFS concurs, that a more conservative increase in the amount of harvest from critical habitat is appropriate because this fishery has caused measurable localized depletions in the past. Higher levels of harvest in critical habitat may be considered in the future after additional analysis. Analyzing the effectiveness of the platooning system for managing the fleet in the HLA will provide additional information to understand the potential impact of higher harvest limits in the future. The amount of harvest allocated to the HLA also needs to be enough to encourage the participation in platoons used to manage the critical habitat fisheries.

NMFS catch data indicate a higher catch rate of Atka mackerel in area 542 than in area 543 so that area 542 vessels will likely reach their HLA limit quicker than area 543 vessels. Thus, area 542

vessels could have an earlier opportunity to fish outside of critical habitat and encounter rockfish bycatch in amounts sufficient to pose overfishing concerns and close the Atka mackerel fishery without area 543 critical habitat limits being reached. With the 60 percent limit in the HLA, vessels will be able to spend more effort inside critical habitat and will be less likely to shut down the Atka mackerel fishery due to rockfish bycatch compared to a limit set at 50 percent or less.

To clearly identify the Steller sea lion protection areas for Atka mackerel directed fishing in areas 542 and 543, this emergency interim rule establishes a new definition at § 679.2. For purposes of Atka mackerel platooning and for restriction of Pacific cod trawling during the Atka mackerel HLA directed fishery, the definition of the HLA is waters within 20 nm seaward of Steller sea lion sites listed in Table 24 of 50 CFR part 679. This definition is needed to include Rat Island and Cape Ivakin haulouts because these are not listed under 50 CFR 226.202 as critical habitat but are identified by NMFS as needing protection as part of the measures implemented to avoid the likelihood of jeopardy.

Atka mackerel fishing is prohibited in critical habitat east of 178° W long. to provide maximum protection to Steller sea lions and because Atka mackerel is readily available in waters outside of critical habitat. Atka mackerel harvest is permitted in critical habitat west of 178° W long. under a system of platooning and with observers. All vessels fishing for Atka mackerel in HLA west of 178° W long. are required to have two observers so that NMFS can meet the requirements of the 2001 BiOp to adequately monitor fisheries to manage critical habitat limits.

To reduce the amount of daily catch in the HLA by about half and to disperse the fishery over two areas, the Atka mackerel fleet is divided into two platoons assigned to fish in the HLA in either areas 542 or 543. NMFS will assign vessels to a platoon for each area that a vessel registered to fish. Each platoon in an area will be assigned to fish during one of the two directed fisheries held in the area during a season. This division will be done through a lottery system that ensures random selection of vessels to a platoon. The random selection process will be used to ensure that each participant in a platoon is provided an equal opportunity to fish in a platoon of vessels in an HLA in area 542 or area 543 and that the combination of vessels fishing together is determined by chance.

With the random selection process, the potential exists that vessels of less fishing capability may be in a group of vessels with more fishing capability, affecting the smaller vessel's opportunity to harvest fish. By dividing the vessels registered for an area into platoons, all vessels will be competing with half of the vessels that they normally compete against, reducing competition on the fishing grounds and potentially enhancing the overall harvest for smaller vessels in the HLA. However, the potential for competitive advantage of larger vessels from the same company working together over the smaller vessels will be reduced with the random platoon assignments, making it more likely that dispersion of catch over time is achieved.

During a fishing season, the fishing limit inside the HLA will be split into two predetermined Atka mackerel directed fisheries with each platoon fishing under a harvest limit in proportion to the number of vessels in the platoon compared to the number of vessels registered for the area. The time period of the directed fishery is based on the combined harvest potential of the vessels in the platoon. The start date for the first directed fishery is 48 hours after the closure of the area 541 Atka mackerel directed fishery. Historically, area 541 is harvested first with vessels, which later move into areas 542 and 543. Starting the HLA directed fisheries 48 hours after closure of area 541 provides a fair start to the HLA fisheries by allowing for off loading of catch and travel to areas 542 and 543. When the HLA directed fishery is closed in either areas 542 or 543, vessels may fish outside of the HLA anywhere in the Aleutian Islands where directed fishing is open.

If a vessel has registered to fish in an HLA in both areas 542 and 543 during a season, it will be assigned to fish in directed fisheries in area 542 and in area 543 that begin on different dates. Regardless of the number of vessels in a platoon, an HLA directed fishery would last no longer than 14 days to allow each platoon ample opportunity to harvest in the HLA in areas 542 or 543 before the end of the season.

During each season, vessels registered to fish in the HLA in areas 542 or 543 may not fish for groundfish in any other location while the first directed fishery in an HLA which the vessel is assigned is open. This stand down provision may last up to 14 days, the maximum length of an HLA directed fishery for Atka mackerel.

Vessels not wishing to participate in the platoons may fish for Atka mackerel outside of the HLA and outside of critical habitat in the BSAI subareas.

5. BSAI and Western and Central Districts of the GOA Pacific Cod Seasons, Apportionments, and Closures

For the BSAI and Western and Central Districts of the GOA Pacific cod seasons, this emergency interim rule separates the TACs into separate seasonal apportionments depending on gear type (Table 2). For the nontrawl vessels in the BSAI and Western and Central Districts of the GOA, the A season begins on January 1, 2002, and ends June 10, 2002. Sixty percent of the annual TAC, after subtraction of any reserves and incidental catch, will be available for harvest during the A season and will be allocated among the various sectors as provided in § 679.20(a)(6)(iii) and (a)(7). The nontrawl B season in both the BSAI and Western and Central Districts of the GOA begins at 1200 hours, A.l.t., on June 10, 2002, and ends on December 31, 2002. Forty percent of the annual TAC, after subtraction of any reserves and incidental catch, will be available for harvest during the B season and will be allocated among the various sectors as provided in § 679.20(a)(6)(iii) and (a)(7). Pot and hook-and-line vessels less than 60 ft (18.3 m) LOA in the BSAI have no seasonal apportionment. For the trawl fisheries in the BSAI, the annual TAC is apportioned to three seasons. The A season starts January 20 and ends April 1 with 60 percent of the annual TAC allocated. The B season starts April 1 (1200 hours, A.l.t.) and ends June 10 with 20 percent of the annual TAC allocated and the C season starts June 10 (1200 hours, A.l.t.) and ends November 1 with 20 percent of the annual TAC allocated. In the Western and Central Districts of the GOA, trawl vessels are allocated 60 percent of the annual TAC in the A season and 40 percent in the B season.

TABLE 2.—BERING SEA AND ALEUTIAN ISLANDS SUBAREAS AND WESTERN AND CENTRAL DISTRICTS OF THE GULF OF ALASKA PACIFIC COD SEASONS AND TAC APPORTIONMENTS

Gear and area	A season and apportionment	B season and apportionment	C season and apportionment
Trawl in W/C GOA	January 20–June 10 (60%)	September 1–November 1 (40%).	
Trawl in BSAI	January 20–April 1 (60%)	April 1–June 10 (20%)	June 10–November 1 (20%)
Hook-and-line, pot, and jig in W/C GOA, and pot > 60 ft. LOA in BSAI.	January 1–June 10 (60%)	September 1–December 31 (40%).	
Hook-and-line > 60 ft. and jig in BSAI	January 1–June 10 (60%)	June 10– December 31 (40%).	
CDQ* pot, pot and hook-and-line < 60 ft in the BSAI	January 1–December 31		

*Community Development Quota program. CDQ vessels fishing with non-pot gear are governed by the gear specific seasonal restrictions listed in Table 2.

Unused Pacific cod allocations among sectors and unused apportionments for seasons in the BSAI and Western and Central GOA may be redistributed, considering bycatch and optimization of catch by gear groups and sectors.

Moving 20 percent of the BSAI Pacific cod TAC from the first season to the second season provides greater dispersion of the harvest and limits fishing in the most sensitive period for Steller sea lions. Apportioning the BSAI Pacific cod trawl TAC among three seasons shifts 20 percent of the harvest out of the June through October time period compared to 2001 apportionments. Moving 20 percent of the harvest from the second half of the year enhances the opportunity for the Pacific cod trawl fleet to harvest Pacific cod when it is aggregated, optimizing the potential to reach the annual harvest limit. The apportionment during the first half of the year is further divided into 60 percent and 20 percent of the annual TAC.

Apportioning Pacific cod between two or among three seasons may affect the ability of fishermen to fully utilize the TAC for Pacific cod. In previous years, a large portion of the Pacific cod TAC was taken during the early part of the calendar year. Pacific cod tends to aggregate during the early part of the calendar year when it is easier to locate and catch. Also, as Pacific cod becomes disaggregated, the increased fishing time and effort to catch the same amount of fish results in increases in bycatch, which also can affect the success of fully utilizing the TAC.

In the BSAI, the trawl allocations of Pacific cod TAC are further allocated to catcher vessels and catcher/processors. The seasonal allocation for the Pacific cod trawl catcher vessels is further split to 70 percent in the A season, 10 percent in the B season, and 20 percent in the C season. Pacific cod trawl catcher/processors' portion of the TAC is allocated 50 percent in the A season, 30 percent in the B season, and 20 percent in the C season. Many of these vessels participate in the AFA pollock fishery, which has resulted in the dispersion over time of not only pollock but also Pacific cod harvests in the BSAI. Rollovers between these sectors will continue to be allowed under § 679.20(a)(7)(ii). Regulatory provisions are added by this emergency interim rule to allow the rollover of BSAI Pacific cod trawl allocations between seasons. Trawl allocations to catcher vessels and catcher/processors may continue to be moved between vessel types within a season before reallocation to other gear types to allow for full optimization of an allocation by the trawl sector during a season. These gear allocations will help to further disperse the Pacific cod fishery over time and lessen the potential for depletion of prey.

In the GOA, bycatch of Pacific cod in other groundfish fisheries during the time period between the closure of the A season and the opening of the B season will be deducted from the B season apportionment. This recommendation by the Council is intended to optimize the harvest of Pacific cod when it is most vulnerable to fishing gear while fully providing for Pacific cod bycatch needs in other groundfish fisheries.

Under this emergency interim rule, Pacific cod harvest by trawl gear in the Aleutian Islands critical habitat in areas 542 and 543, west of 178° W long. is prohibited during the Atka mackerel HLA directed fisheries. (See above discussion of Atka mackerel for the definition of the HLA.) This provision reduces potential competition for prey posed by concurrent trawl fisheries in critical habitat. It also allows for easier management by NMFS of the Atka mackerel fishery during the short time period that HLA is open to directed fishing for Atka mackerel vessels. Vessels fishing in the HLA during the Atka mackerel directed fishing opening will be managed for Atka mackerel only, instead of managing directed fisheries for Atka mackerel and Pacific cod.

Closed Areas and Management Measures

The Steller sea lion protection measures include fishery closure areas designed to reduce competition with Steller sea lions, consistent with the concerns described in the 2001 BiOp. Scientific information suggests that the effects of the groundfish fisheries on Steller sea lions may be greatest around rookeries and haulouts. Fishing prohibitions around rookeries and haulouts is important to the most vulnerable Steller sea lions, lactating females, young-of-the-year, and juveniles.

Since publication of critical habitat definitions in 50 CFR 226.202, NMFS has identified 19 additional haulouts in the BSAI and the GOA as areas to be protected from fishery effects similarly to critical habitat. The Council recommended and NMFS agreed that the 19 additional haulouts should be treated in this manner to provide protection to Steller sea lions occurring in areas with the same features as areas listed as critical habitat. The majority of these sites had fishing prohibitions consistent with those for critical habitat closures sites in 2001. Cape Ivakin and Rat Island in the Aleutian Islands are two haulouts that are not listed as critical habitat and were not protected from fishing activities in 2001 in the same manner as critical habitat in the Aleutian Islands. More information and justification for including these haulouts is contained in the 2001 BiOp.

At its November 2001 meeting, the Alaska Board of Fish (BOF) accepted Steller sea lion protection measures for the State parallel fishery similar to Federal protection measures, with two exceptions. State parallel fisheries are open during the same time period as Federal directed fisheries in the EEZ.

NMFS deducts harvest amounts which occur during the State parallel fisheries from the Federal TACs. Other State-managed groundfish fisheries function exclusively under State regulations and management policies and are not accounted for by NMFS management. The single exception is the State-managed Pacific cod fishery in the Central, Western, and Prince William Sound State waters of the GOA. The Federal TACs for Pacific cod in the Western and Central districts are reduced from the ABCs by the amounts anticipated to be taken in the State-managed Pacific cod fishery. The State parallel groundfish fisheries management plan requires the Commissioner by emergency order to open and close parallel seasons and implement gear, time, and area restrictions at the same time and in the same manner as Federal managers do under the regulations implementing the FMPs. The State intends to implement Steller sea lion protection measures in the State parallel fisheries regulations that apply to State waters 0 nm to 3 nm and in Prince William Sound and Cook Inlet.

The BOF gave the Commissioner of the Alaska Department of Fish and Game emergency order authority to exempt pot fishing for Pacific cod within 0–3 nm of Caton Island and Cape Barnabus from the parallel fishery closures which are based on Federal rules. Because of the slow rate of extraction in the pot fishery and the small amount of Pacific cod harvest by this gear sector, NMFS determined through continued consultation under section 7 of the ESA that this change to the action would not result in any appreciable effects on Steller sea lions not previously considered in the 2001 BiOp.

Four haulout sites listed as critical habitat under 50 CFR 226.202 occur in the internal waters of Prince William Sound. These sites are Pt. Elrington, The Needle, Perry Island, and Pt. Eleanor. Glacier Island also occurs in Prince William Sound and is one of the 19 haulouts not listed as critical habitat. There is no Federal fishery or State parallel fishery in this area. The State-managed fisheries are closed to pollock trawling from June 1–November 1 from 0 nm to 10 nm around Pt. Elrington, The Needle, and Glacier Island. Harvest of pollock is also apportioned across three areas of Prince William Sound with no more than 40 percent of the total harvest coming from a single area. This emergency interim rule includes no protection measures for these sites inside State internal waters.

The protection measures make no changes to the existing 3 nm no-entry zones around rookeries listed in 50 CFR 223.202. Those sites that are subject to the no-entry zones under 50 CFR 223.202 are also listed in Table 21 to 50 CFR part 679 for fishing closures. However, persons should refer to 50 CFR 223.202 for the appropriate locations of the no-entry zones. In some cases those locations may be different than locations for the same sites that are also listed in Table 21 to 50 CFR part 679. NMFS will reconcile any differences between the two sets of regulations in the near future. However, until that occurs, persons are advised to refer to 50 CFR 223.202 for the proper location of no-entry zones and Table 21 to 50 CFR part 679 for proper location of sites for fishery closures. Two additional rookeries currently not designated as critical habitat are included in Table 21 for groundfish fishing closures within 3 nm of the rookeries. These sites are Wooded Island and Seal Rocks (Cordova). The 3 nm groundfish fishing closures apply to all groundfish fishing vessels and all gear types. The State-managed and parallel fisheries through emergency orders and regulations prohibit entry and/or groundfish fishing in waters within 3 nm of all of the rookeries listed on Table 21.

The RPA Committee made recommendations for closures around haulouts and rookeries dependent on the rate of decline seen at the site and historical fishing patterns. In some cases, sites with higher rates of decline received greater protection over areas with lower declines. Jig vessels are exempt from most of the closure zones beyond 3 nm of rookeries and beyond the shore around haulouts. This is due to their slow rate of extraction and small number of vessels which prosecute these fisheries. Site specific closures are detailed in Tables 21 through 24 of 50 CFR part 679 and in § 679.22. Closures apply only to federally permitted vessels. A summary of area and fishery specific closures are as follows:

Groundfish Fishery Closures

1. All rookeries listed in Table 21 of part 679 are closed to directed groundfish fishing with federally permitted vessels using any gear type from 0 nm to 3 nm.

2. Five haulout areas in the Northern Bering Sea are closed to directed fishing with federally permitted vessels for pollock, Pacific cod, and Atka mackerel with vessels using trawl, pot, or hook-and-line gear from 0 nm to 20 nm. These haulouts are Hall Island, Round (Walrus) Island, St. Lawrence Island/S. Punuk Island, St. Lawrence Island/SW Cape, and Cape Newenham. Historically, only limited fishing has occurred for the three prey species near these haulouts, and closures offer protection from developing fisheries in this area.

3. The Seguam foraging area, and the Bogoslof area are closed to pollock, Pacific cod, and Atka mackerel fishing by federally permitted vessels using any gear types. Catcher vessels less than 60 ft (18.3 m) LOA may fish for Pacific cod using hook-and-line or jig gear in the Bogoslof Pacific cod exemption area. In addition, critical habitat areas around two rookeries and four haulouts in the Chignik area are closed to pot, hook-and-line, and trawl fishing for the three species.

Aleutian Island Closures

1. The Aleutian Islands subarea is closed to pollock fishing by federally permitted vessels in 2002. Pollock fishing was prohibited in the Aleutian Islands subarea in 2000 and 2001 as part of Steller sea lion protection measures. The Council recommended and NMFS agrees with the subarea closure in 2002 to allow for additional analysis and consideration for opening the AI subarea to pollock fishing outside of critical habitat in 2003.

2. Atka mackerel fishing by federally permitted vessels is prohibited in critical habitat east of 178° W long. in the Aleutian Islands and Bering Sea subareas. Historically, Atka mackerel has been harvested outside of critical habitat east of 178° W long. Because of this, the fishery is expected to be able to harvest their allocation while providing substantial protection to Steller sea lions. West of 178° W long., Atka mackerel directed fishing by federally permitted vessels is prohibited between 0 nm and 15 nm of Buldir rookery, and prohibited between 0 nm and 10 nm of the remaining rookeries. Due to a continued steep decline in the population at Buldir greater than 10 percent, an additional 5 nm protection zone was added. Additionally, Buldir is isolated from other near shore foraging locations making it more susceptible to local depletions. Atka mackerel directed fishing by federally permitted vessesls is also prohibited between 0 nm and 3 nm of haulouts west of 178° W long. to protect near shore foraging areas.

3. Pacific cod fishing closure areas for federally permitted vessels are dependent on the gear used and location. Hook-and-line and pot vessels are prohibited from fishing (1) in critical habitat east of 173° W long. to the western boundary of the Bogoslof area to reduce gear conflicts with trawl

vessels, (2) 0 nm to 10 nm of Buldir rookery, and (3) 0 nm to 20 nm of Agligadak rookery. Increased protection around Agligadak is established because this site has a high rate of Steller sea lion count declines. Due to limited extraction rates by hook-and-line and pot vessels, closures are limited to 0 nm to 3 nm around rookeries.

Pacific cod trawl closures for federally permitted vessels in the Aleutian Islands include (1) east of 178° W long. between 0 nm and 10 nm of rookeries, except Agligadak rookery which is closed 0 nm to 20 nm, and between 0 nm and 3 nm of haulouts, and (2) west of 178° W long., between 0 nm and 20 nm around haulouts and rookeries until the Atka mackerel HLA fishery is completed. After the HLA fishery for Atka mackerel is closed for the season, Pacific cod trawling is prohibited 0 nm to 3 nm of haulouts and 0 nm to 10 nm of rookeries. Trawl closures are more extensive around haulouts and rookeries due to higher removal rates and large extractions by trawl gear. Increased protection around Agligadak rookery is established because this site has a high rate of Steller sea lion decline.

Bering Sea Closures

1. Atka mackerel directed fishing by federally permitted vessels is prohibited in critical habitat in the Bering Sea subarea. This will provide protection to Steller sea lions by reducing the potential for competition for Atka mackerel prey.

2. Pollock directed fishing by federally permitted vessels is prohibited (a) between 0 nm and 10 nm of all rookeries and haulouts, except four Pribilof haulouts which are closed between 0 nm and 3 nm, (b) in the Bering Sea Pollock Restriction area during the A season, and (c) non-CDQ trawl catcher/processors are prohibited from fishing in the CVOA during the B season (June 10–November 1) to reduce the rate and amount of harvest in critical habitat. No Steller sea lions were observed during the last NMFS survey of the Pribilof haulouts in 1991; therefore, the Council recommended and NMFS concurs that these haulouts do not require 10 nm protection zones. The Pribilof Islands Conservation Zone described at § 679.22(a)(6) is a trawl closure area, which encompasses some of the Steller sea lion critical habitat areas. Five haulouts and one rookery are located in the Bering Sea Pollock Restriction Area. This area is closed to pollock fishing in the A season to provide protection to Steller sea lions in the near shore foraging areas during the most critical time of the year.

3. Pacific cod closures for federally permitted vessels are dependent on the type of gear used. Fishing for Pacific cod with vessels using trawl gear is prohibited between 0 nm and 10 nm around all rookeries and haulouts, except for the four Pribilof haulouts that are closed between 0 nm and 3 nm. All hook-and-line and pot gear vessels are prohibited from fishing between 0 nm and 3 nm of rookeries and haulouts, except the Amak rookery which is closed to hook-and-line and pot gear from 0 nm to 7 nm.

In 2001, the closures around rookeries in the Bering Sea subarea were 10 nm for vessels greater than 60 ft (18.3 m) LOA using nontrawl gear to harvest Pacific cod. For 2002, closure areas are 3 nm, a reduction from the 10 nm based on the lower rate of extraction by vessels using nontrawl gear. As stated earlier in the preamble, the Bogoslof area is closed to pollock, Pacific cod, and Atka mackerel directed fishing. The rest of the Bering Sea subarea, except within 3 nm of rookeries, has been open to Pacific cod nontrawl fisheries during the same time period that the non-pup counts have been increasing. Regardless, for the Bering Sea subarea, an amount of critical habitat closure was the target for designing the protection measures that apply to the Pacific cod nontrawl fisheries. Large amounts of this target were accounted for in the closures of the northern haulouts and the Bogoslof area. Amak rookery is closed out to 7 nm. The extension beyond 3 nm was important to reach an annual BS subarea critical habitat closure amount based on the total area.

A small exemption area was established in the southern portion of the Bogoslof area for catcher vessels less than 60 ft (18.3 m) LOA using hook-and-line or jig gear for directed fishing for Pacific cod. This area includes all water of the Bering Sea south of a line connecting a point 3 nm north of Bishop Pt. to Cape Tanak. The Bishop Pt. 10 nm closure area remains in effect for these vessels in the Bogoslof area. The amount of Pacific cod harvested from the exemption area is limited to 113 mt to minimize the possibility of localized depletion of Pacific cod. This exemption will allow a small number of vessels from the Dutch Harbor area a relatively safe location to harvest Pacific cod and will reduce the potential for gear conflicts east of Bishop Pt. These vessels have limited opportunities because there is no Pacific cod State-managed fishery in the Dutch Harbor area, and some vessels are constrained by their license limitation permit from fishing in Gulf of Alaska waters.

A 0–10 nm closure is also established around Bishop Pt. and Reef/Lava haulouts for vessels greater than or equal to 60 ft (18.3 m) LOA using hook-and-line gear. This restriction was added to reduce the possibility of gear conflicts between hook-and-line and pot vessels in the Pacific cod fishery and to provide added protection to Steller sea lions by reducing fishing effort near these haulouts.

Gulf of Alaska Closures

1. Atka mackerel directed fishing by federally permitted vessels is prohibited in the GOA subarea. Biomass has been insufficient to support a directed fishery for the past several years.

2. Pollock and Pacific cod directed fishing by federally permitted vessels using trawl gear is closed between 0 nm and 10 nm or 20 nm around most haulouts and rookeries year round. Exceptions include: (a) Marmot Island rookery is closed between 0 nm and 15 nm during the first half of the year and between 0 nm and 20 nm during the second half of the year, (b) Gull Point and Ugak Island are closed between 0 nm and 3 nm in the second half of the year, (c) Cape Barnabus, Cape Ikolik, Mitrofania, Spitz, Whaleback, Sea Lion Rocks, Mountain Point, Castle Rock, and Canton haulouts are closed between 0 nm and 3 nm, and (d) Pinnacle Rocks rookery is closed between 0 nm and 3 nm.

Marmot Island is closed between 0 nm and 15 nm in the first half of the year to allow the pollock fishing fleet access to pollock that are likely to have roe and are more valuable. Marmot Island is closed between 0 nm and 20 nm in the second half of the year. Closures are reduced to 3 nm around a number of sites in the GOA year round or for the B season to provide opportunities for fishing by small, local trawl fleets that have historically fished near these sites in consideration of national standard 8 of the Magnuson-Stevens Act. These sites are located in areas that have lower rates of decline for non-pups since 1991 than other areas of the GOA. The rate of extraction by the small vessel trawl fleet is expected to be small enough to avoid any localized depletion of prey for Steller sea lions.

3. Directed fishing for Pacific cod with federally permitted vessels using hook-and-line or pot gear is prohibited: (a) 0 nm to 10 nm or 20 nm of all rookeries except for Seal Rocks, Wooded Island, Atkins, Chernabura, Clubbing Rocks, and Pinnacle Rock which are closed 0 nm to 3 nm; (b) 0 nm to 20 nm around Sutwik, Nagai Rocks, Lighthouse Rocks, and Kak haulouts; (c) 0 nm to 3 nm around Cape Barnabus, Cape Ikolik,

Mitrofania, Spitz, Whaleback, Sea Lion Rocks, Mountain Point, Castle Rock, and Canton haulouts; (d) 0 nm to 10 nm around haulouts between 170° W and 164°30′00″ W long. for hook-and-line; and (e) 0 nm to 20 nm around haulouts between 170° W and 164°30′00″ W long. for pot gear.

Closures around sites in the area of Chignik are to 20 nm to increase the overall closure area for the GOA. This area also has one of the higher rates of Steller sea lion non-pup count declines in the GOA since 1991, making it an area of greater potential sensitivity to fishing activities. In accordance with national standard 8 of the Magnuson-Stevens Act, sustained participation of the communities in the Pacific cod fishery in this area was considered by the RPA Committee and Council. Historically, Pacific cod available in the State-managed fishery has not been fully harvested. Even with the Federal fishery closure, opportunity still exists for Pacific cod fishing with vessels using pot or jig gear under the State-managed fishery. With these gear type fisheries available under the State of Alaska managed fishery and jig fishing available under the Federal fishery, the closure of this area should not pose excessive economic hardship on the residents of the small communities which use these fishing grounds.

Vessel Monitoring Systems

To ensure vessels are complying with area restrictions, § 679.7 prohibits all vessels permitted to directed fish for Pacific cod, pollock, or Atka mackerel with trawl, hook-and-line, or pot gear from directed groundfish fishing or fishing for halibut IFQ unless they have an operable VMS at all times that the Atka mackerel, Pacific cod, or pollock directed fisheries they have permits for are open. This is necessary to meet one of the reasonable and prudent measures detailed in the 2001 BiOp requiring that NMFS have the capability to detect illegal fishing activity inside closed areas. Halibut IFQ is included in the prohibition because many Pacific cod vessels may also be used for halibut IFQ fishing and not just groundfish harvest. This emergency interim rule makes this requirement effective 1200 hours, A.l.t., June 10, 2002, to allow the vessel owners time to purchase and install VMS equipment. The Atka mackerel fishing fleet is currently equipped with VMS, as required by § 679.7(c)(3). Jig vessels are exempt from this requirement due to the fact they generally are not restricted except within 3 nm of rookeries (no fishing zones in Table 21 to 50 CFR part 679) and in the Seguam foraging and Bogoslof areas. Before groundfish fishing, vessel owners will also be required to inform NMFS of the VMS transponder ID number and the vessel on which the transponder will be used so that equipment operation can be confirmed.

The Chiniak Gully Pollock Research Program

The Council endorsed a research project proposed by NMFS in the Chiniak Gully off Kodiak Island to determine the effect of pollock fisheries on pollock school dynamics and the likelihood of localized depletions. The experiment includes the closure of Chiniak Gully to trawl fishing from August 1 to no later than September 20. A more detailed description of the experiment is provided in the draft environmental assessment/regulatory impact review/final regulatory flexibility analysis for the proposed rule to implement a seasonal closure of a portion of the Central Regulatory Area, GOA, to vessels using trawl gear (65 FR 41044, July 3, 2000). For copies of these documents, please contact NMFS (see **ADDRESSES**). This experiment was implemented by emergency interim rule in 2001 (66 FR 37167, July 17, 2001). This emergency interim rule continues the implementation of this experiment including trawl closures necessary to conduct the experiment.

National Standards

A summary of how this action addresses relevant national standards under the Magnuson-Stevens Act follows. The Assistant Administrator for Fisheries finds that the Steller sea lion protection measures recommended by the Council meet the applicable national standards.

National Standard 1. Achieving optimum yield while preventing overfishing. The harvesting of pollock, Atka mackerel, and Pacific cod will be controlled so that directed fishing will stop if the biomass falls to below 20 percent of the unfished projected biomass. This will ensure that prey is available to Steller sea lions and that fish stocks may be maintained for optimal yield without the likelihood of overfishing. NMFS determined in the 2001 BiOp that the harvest control in this emergency interim rule is protective of Steller sea lions and their designated critical habitat and is consistent with this national standard.

National Standard 2. Use of best scientific information available. NEPA and ESA analyses of this action were based on the latest reliable information available regarding Steller sea lion mortality, diet, foraging behavior, count data, and recent scientific review of the Comprehensive BiOp and the draft 2001 BiOp. The RPA Committee and Council carefully considered these analyses during the development of their recommendations for Steller sea lion protection measures. The standard has been met because NMFS used the best available scientific information, meeting this national standard.

National Standard 3. Manage an individual stock of fish or interrelated stocks of fish as a unit throughout its range. Groundfish stocks are continuing to be managed under the Steller sea lion protection measures as units based on species and occurrence, and stock assessment information continues to be used in these management decisions. NMFS also works closely with the State of Alaska in managing fish stocks that occur across Federal and State waters as individual units. As an example, GOA Pacific cod acceptable biological catch (ABC) accommodates both a Federal fishery and a State-managed cod fishery. Further, the State opens and closes State waters consistent with the management of the groundfish fisheries in Federal waters.

National Standard 4. Fair and equitable allocation to individuals, corporations, or other entities. The RPA Committee was comprised of representatives from different regions and types of fisheries so that differential effects of changes to pollock, Pacific cod, and Atka mackerel were considered as the Steller sea lion protection measures were developed. The draft SEIS and public comments from fishing industry representatives and communities also were considered by the RPA Committee and Council before finalizing recommended protection measures. This allowed the RPA committee and Council to consider the impacts of the protection measures on different sectors of the fishing industry and on different communities and to take steps to fairly distribute the impacts so that no one sector or community suffered an excessive adverse economic impact. NMFS determined through SEIS analysis that the process described above provided recommendations that led to fair and equitable allocation of the impacts of the protection measures.

National Standard 5. Efficiency of using fishery resources. The RPA Committee and Council considered the efficiency of using the fishing resources when developing the Atka mackerel platooning management, and for setting closure areas and seasons for the pollock, Atka mackerel, and Pacific cod fisheries. Within the limitations of protection measures, the fisheries

management measures were developed to ensure that as much of the available TAC as possible could be harvested with the least amount of effort. NMFS has determined that fishing will take place in a manner that protects Steller sea lions and their critical habitat and minimizes disruption to fisheries and allows for efficient use of resources.

National Standard 6. Consideration of variations among and contingencies in fisheries, fishery resources, and catches. The RPA Committee process ensured that the Steller sea lion protection measures were developed with understanding of the variations in fishing activities in the different areas and for different species and variations in the abundance of different fish stocks in different areas. NMFS determined that the protection measures were developed taking variations into consideration, consistent with this national standard.

National Standard 7. Minimize cost and avoid unnecessary duplication. The economic analysis in the SEIS for the Steller sea lion protection measures shows that the protection measures in this emergency interim rule minimized the cost to the industry while protecting Steller sea lions and their critical habitat. Based on the SEIS analysis, NMFS determined that the protection measures are consistent with this national standard.

National Standard 8. Consider the importance of fishing resources to fishing communities. Part of the SEIS analysis included socioeconomic impacts of the action and alternatives on small communities. Several provisions in the protection measures allow small vessels and vessels with nontrawl gear to fish near their home ports to ensure small community access to the fishing resources. Provisions in the protection measures also allow for fishing opportunities for small coastal communities in Alaska by providing for year long Atka mackerel fishing seasons and by allowing access to fishing areas used by these communities.

At its October 2001 meeting, the Council did recognize that its preferred alternative would impose costs and burdens, particularly on some small coastal communities and associated fishing fleets. The Council expressed its intent to explore management measures intended to provide further relief to these sectors, yet meet the requirements of applicable law. Council consideration of these measures is scheduled for its April 2002 meeting. NMFS determined that the impact of the protection measures in this emergency interim rule on fishing communities was considered in developing the Council's recommendation, consistent with this national standard.

National Standard 9. Reduce bycatch. In designing the protection measures, the RPA Committee considered areas and timing of fishing to address concerns about potential increases in bycatch in the Atka mackerel, pollock, and Pacific cod fisheries. The Atka mackerel additional harvest in the harvest limit area in 2002 is expected to reduce the amount of rockfish bycatch, normally encountered outside of critical habitat. Salmon bycatch will be evaluated in 2002 as the SCA is opened where salmon bycatch is known to occur, but the pollock fishing industry is implementing incentive measures to reduce bycatch. The regulations will continue to have bycatch closure areas for crab, herring, and salmon and prohibited species catch limits as detailed in Part II of this preamble. NMFS has determined through SEIS analysis that the protection measures minimize bycatch to the extent possible while providing protection to Steller sea lions and minimizing adverse economic impacts on the fisheries.

National Standard 10. Safety. Several provisions in the protection measures allow small vessels to fish near their home ports or in near shore waters that are more protected from bad weather than off shore waters. Some examples include the Bogoslof Pacific cod exemption area and Pacific cod nontrawl fishery in the Sand Point and King Cove area near haulouts.

Part II. Specifications

The FMP and its implementing regulations require NMFS, after consultation with the Council, to specify annually the TAC for each target species and for the ''other species'' category, the sum of which must be within the optimum yield range of 1.4 million to 2.0 million metric tons (mt) for the BSAI and within the optimum yield range of 116,000 mt to 800,000 mt for the GOA (§ 679.20(a)(1)).

NMFS is establishing the 2002 TAC specifications for the BSAI and GOA by this emergency interim rule. The normal procedure of publishing proposed, interim, and final TAC specifications was not followed in 2002 because the information needed to establish the harvest specifications did not become available until mid-November and the Council recommendations were not received by NMFS until December 11, 2001. Analysis of the action and the preparation of the **Federal Register** notification could not be completed until the Council recommendations were received for the final specifications as well as the Steller sea lion protection measures, of which the specifications are an integral part and must be in place by January 1, 2002, to allow the orderly commencement of the 2002 groundfish fisheries. Accordingly, it is impracticable to provide prior notice and an opportunity for public comment, or to delay for 30 days the effective date of this rule. Further, it would be contrary to the public interest to delay the start of the season to allow for prior notice, an opportunity for public comment, and for a 30-day delay in the effective date.

This emergency interim rule includes the following provisions for the BSAI and GOA: (1) AFA measures; (2) specifications of overfishing level (OFL), ABC, and TAC for each groundfish species category; (3) apportionments of reserves; (4) allocations of the sablefish TAC to vessels using hook-and-line and trawl gear; (5) apportionments of pollock TAC among regulatory areas, seasons, and allocations among different industry sectors including Bering Sea fishery cooperatives; (6) apportionments of Pacific cod TAC among regulatory areas, seasons, and allocations among different industry sectors; (7) apportionment of Atka mackerel in the BSAI among seasons, gear, and regulatory areas; (8) PSC limits; (9) fishery and seasonal apportionments of the Pacific halibut PSC limits; (10) fishery apportionments of other PSC limits in the BSAI; (11) Pacific halibut assumed discard mortality rates; (12) groundfish harvest and PSC limitations for AFA vessels; (13) closures to directed fishing for specified groundfish targets; (14) AFA measures for inshore and offshore component participation, crab harvesting, and observer requirements; and (15) an increase in the contribution of arrowtooth flounder to the CDQ non-specific reserve. A discussion of these measures follows.

AFA Measures

AFA prohibitions on crab harvesting and processing are continued with this emergency interim rule. In § 679.7, catcher vessels must have a sideboard endorsement for BSAI crab to retain crab and can not exceed the processing limits. These prohibitions are necessary to limit the advantage of AFA pollock fishery participants over open access crab fishery participants.

Another AFA measure maintained with this emergency interim rule under § 679.7 is prohibiting the participation in both the inshore and offshore component during a fishing year. This is necessary to maintain the Council's inshore and offshore policy of harvest allocation in the GOA.

Observer coverage requirements for AFA vessels in § 679.50(c)(4)(vi) are continued with this emergency interim rule to maintain consistency between observer requirements in the CDQ fishery and the AFA fishery where the same vessels are used and the same level of observer coverage is needed. This will allow for smoother transitions between the two types of fisheries.

Acceptable Biological Catch (ABC) and TAC Specifications

The final ABC levels are based on the best available scientific information, including projected biomass trends, information on assumed distribution of stock biomass, and revised technical methods used to calculate stock biomass. The FMPs specify the formulas, or tiers, to be used in computing ABCs and overfishing levels. The formulas applicable to a particular stock or stock complex are determined by the level of reliable information available to fishery scientists. This information is categorized into a successive series of six tiers.

In December 2001, the Scientific and Statistical Committee (SSC), Advisory Panel (AP), and Council reviewed current biological information about the condition of groundfish stocks in the BSAI and GOA. This information was compiled by the Council's Plan Teams and is presented in the final 2002 SAFE reports for the BSAI and GOA groundfish fisheries, dated November 2001 (See **ADDRESSES**). The SAFE reports contain a review of the latest scientific analyses and estimates of each species' biomass and other biological parameters, as well as summaries of the available information on the BSAI and GOA ecosystem and the economic condition of groundfish fisheries off Alaska. From these data and analyses, the Plan Teams estimate an ABC for each species or species category.

The Council considered the ecological, socioeconomic, and ecosystem information in the SAFE reports, recommendations from its SSC and AP, as well as public testimony when recommending ABCs and TACs at its December 2001 meeting.

The final specifications are set forth in Tables 3 through 29 of this action. For 2002, the sum of TACs is 2 million mt in the BSAI and 237,890 mt in the GOA.

Bering Sea and Aleutian Islands Management Area

In December 2001, the SSC, AP, and Council reviewed the BSAI Plan Team's recommendations for OFL and ABC levels. Except for Bogoslof pollock, and the ''other species'' category, the SSC, AP, and Council endorsed the Plan Team's ABC recommendations. Based on the best available information, the SSC recommended a lower ABC for Bogoslof pollock and a slightly higher ABC for the ''other species'' category than the Plan Team recommended. For Bogoslof pollock, the SSC agrees with the Plan Team recommended ABC. The Plan Team recommended splitting the ''other species'' category into sculpins, skates, sharks and octopus with individual group ABCs based on mean catch since 1977. The SSC disagreed with this approach and recommended calculating the individual group ABCs, summing these ABCs to form an aggregate maximum allowable ABC and scaling the ABC down to be closer to recent TACs for the complex. For all species, the AP endorsed the ABCs recommended by the SSC, and the Council adopted the AP's recommendations.

The Council's TAC recommendations were based on the ABCs as adjusted for other biological and socioeconomic considerations, including maintaining the total TAC within the required OY range of 1.4 million to 2.0 million mt. The Council adopted the AP's TAC recommendations.

Through 2000, the ''other red rockfish'' complex was comprised of northern, sharpchin, rougheye, and shortraker rockfish in the Bering Sea subarea. In the Aleutian Islands subarea, this complex was split out into two groups comprised of northern/sharpchin and rougheye/shortraker rockfish. For 2002, the Council recommended species-specific BSAI OFLs and ABCs for each species in the ''other red rockfish'' complex to reduce the potential for one species to be fished disproportionately to its abundance and resulting in overfishing concerns. The Council also recommended that sharpchin rockfish, which were previously included in the ''other red rockfish'' complex, be moved into the ''other rockfish'' complex.

NMFS agrees with these recommendations, but will not be able to implement all of them in 2002 due to monitoring constraints in the hook-and-line gear fisheries. Shortraker and rougheye rockfish are reported by observers using a group species code, which, under current observer procedures, cannot be separated into specific species and incorporated into routine observer reports prior to the 2002 fishing year. Thus NMFS is modifying the Council's recommendation and is establishing BSAI wide OFL and ABC amounts for northern and rougheye/shortraker rockfish. The Bering Sea subarea and Aleutian Islands subarea now will be managed for CDQ and non-CDQ with one TAC group for shortraker/rougheye rockfish, a separate TAC for northern rockfish, and sharpchin rockfish will join the ''other rockfish'' category. Changing the Bering Sea and Aleutian Islands subareas ''other red rockfish'' complex in this manner addresses overfishing concern by decreasing the TAC amounts. The final ABCs as recommended by the Council and modified and approved by NMFS are listed in Table 3.

As in 2001, for the CDQ fisheries, NMFS is combining the northern and shortraker/rougheye rockfish in the Bering Sea into the ''other red rockfish'' species category. The CDQ reserves for rockfish are 7.5 percent of the TAC. If CDQ reserves were specified for the two rockfish TAC categories, they would be 1.4 mt for Bering Sea northern rockfish and 8.7 mt for Bering Sea shortraker/rougheye rockfish. If these CDQ reserves were further divided among the six CDQ groups, the northern rockfish CDQ amounts available to each group would be between 100 kg and 325 kg. NMFS recommends not splitting out the CDQ reserves to the individual species group because these small quotas could prevent the CDQ groups from harvesting much of their other groundfish CDQs. Therefore, to avoid premature closure of the CDQ fisheries, NMFS will continue to specify the CDQ reserve for the Bering Sea ''other red rockfish'' complex. The CDQ reserve for this complex will be calculated as the sum of an amount equal to 7.5 percent of the TAC for Bering Sea shortraker/rougheye plus 7.5 percent of the TAC for northern rockfish, for a total of 10 mt to the CDQ reserve for the ''other red rockfish'' complex.

None of the Council's recommended TACs for 2002 exceeds the final ABC for any species category. NMFS finds that the Council's recommended TACs are consistent with the biological condition of groundfish stocks as described in the 2002 SAFE document and approves them with the exception of the ''other red rockfish'' complex. NMFS has modified the Council's TAC recommendations for this complex as described above to accommodate monitoring and reporting constraints.

For 2002, the Plan Team recommended and the AP, SSC, and NMFS agreed to separate Alaska plaice from the ''other flatfish'' category. Because 85 percent of the ''other flatfish'' category is Alaska plaice and the ABC and OFL are calculated separately for Alaska plaice and the remaining ''other flatfish'' species, the Plan Team recommended setting the

ABC and OFL for Alaska plaice separately from the ''other flatfish'' species.

Table 3 lists the 2002 OFL, ABC, TAC, initial TAC (ITAC) which is the TAC minus the reserves, and CDQ reserve amounts, overfishing levels, and initial apportionments of groundfish in the BSAI. The apportionment of TAC amounts among fisheries and seasons is discussed below.

TABLE 3.—2002 ACCEPTABLE BIOLOGICAL CATCH (ABC), TOTAL ALLOWABLE CATCH (TAC), INITIAL TAC (ITAC), CDQ RESERVE ALLOCATION, AND OVERFISHING LEVELS OF GROUNDFISH IN THE BERING SEA AND ALEUTIAN ISLANDS AREA (BSAI) [1]

[All amounts are in metric tons]

Species	Area	Overfishing level	ABC	TAC	ITAC [2]	CDQ reserve [3]
Pollock [4]	Bering Sea (BS)	3,530,000	2,110,000	1,485,000	1,283,040	148,500
	Aleutian Islands (AI)	31,700	23,800	1,000	900	100
	Bogoslof District	46,400	4,310	100	90	10
Pacific cod	BSAI	294,000	223,000	200,000	170,000	15,000
Sablefish [5]	BS	2,900	1,930	1,930	821	265
	AI	3,850	2,550	2,550	541	431
Atka mackerel	BSAI	82,300	49,000	49,000	41,650	3,675
	Western AI		19,700	19,700	16,745	1,478
	Central AI		23,800	23,800	20,230	1,785
	Eastern AI/BS		5,500	5,500	4,675	413
Yellowfin sole	BSAI	136,000	115,000	86,000	73,100	6,450
Rock sole	BSAI	268,000	225,000	54,000	45,900	4,050
Greenland turbot	BSAI	36,500	8,100	8,000	6,800	600
	BS		5,427	5,360	4,556	402
	AI		2,673	2,640	2,244	198
Arrowtooth flounder	BSAI	137,000	113,000	16,000	13,600	1,200
Flathead sole	BSAI	101,000	82,600	25,000	21,250	1,875
Other flatfish [6]	BSAI	21,800	18,100	3,000	2,550	225
Alaska plaice	BSAI	172,000	143,000	12,000	10,200	900
Pacific ocean perch	BSAI	17,500	14,800	14,800	12,580	1,111
	BS		2,620	2,620	2,227	197
	AI Total		12,180	12,180	10,353	914
	Western AI		5,660	5,660	4,811	425
	Central AI		3,060	3,060	2,601	230
	Eastern AI		3,460	3,460	2,941	260
Northern rockfish [7]	BSAI	9,020	6,760	6,760	5,746	
	BS			19	16	([7])
	AI			6,741	5,730	506
Shortraker/Rougheye [7]	BSAI	1,369	1,028	1,028	874	
	BS			116	99	([7])
	AI			912	775	68
Other rockfish [8]	BS	482	361	361	307	27
	AI	901	676	676	575	51
Squid	BSAI	2,620	1,970	1,970	1,675	
Other species [9]	BSAI	78,900	39,100	30,825	26,201	2,312
Total		4,974,242	3,184,085	2,000,000	1,717,399	187,504

[1] Amounts are in metric tons. These amounts apply to the entire Bering Sea (BS) and Aleutian Islands (AI) management area unless otherwise specified. With the exception of pollock, and for the purpose of these specifications, the Bering Sea subarea includes the Bogoslof District.

[2] Except for pollock, squid, and the portion of the sablefish TAC allocated to hook-and-line or pot gear, 15 percent of each TAC is put into a reserve. The ITAC for each species is the remainder of the TAC after the subtraction of the reserve.

[3] Except for pollock and the hook-and-line or pot gear allocation of sablefish, one half of the amount of the TACs placed in reserve, or 7.5 percent of the TACs, is designated as a CDQ reserve for use by CDQ participants (see § 679.31).

[4] The American Fisheries Act (AFA) requires that 10 percent of the annual pollock TAC be allocated as a directed fishing allowance for the CDQ sector. NMFS then subtracts 4 percent of the remainder as an incidental catch allowance of pollock, which is not apportioned by season or area. The remainder is further allocated by sector as follows: inshore, 50 percent; catcher/processor, 40 percent; and motherships, 10 percent. NMFS, under regulations at § 679.24(b)(4), prohibits nonpelagic trawl gear to engage in directed fishing for non-CDQ pollock in the BSAI.

[5] The ITAC for sablefish reflected in Table 3 is for trawl gear only. Regulations at § 679.20(b)(1) do not provide for the establishment of an ITAC for the hook-and-line or pot gear allocation for sablefish. Twenty percent of the sablefish TAC allocated to hook-and-line gear or pot gear and 7.5 percent of the sablefish TAC allocated to trawl gear is reserved for use by CDQ participants (see § 679.31(c)).

[6] ''Other flatfish'' includes all flatfish species, except for Pacific halibut (a prohibited species), flathead sole, Greenland turbot, rock sole, yellowfin sole, arrowtooth flounder, and Alaska Plaice.

[7] The CDQ reserves for shortraker, rougheye, and northern rockfish will continue to be managed as the ''other red rockfish'' complex for the BS. For 2002 the CDQ reserve for the ''other red rockfish'' complex is 10 mt.

[8] ''Other rockfish'' includes all *Sebastes* and *Sebastolobus* species except for Pacific ocean perch, northern, shortraker, and rougheye rockfish.

[9] ''Other species'' includes sculpins, sharks, skates and octopus. Forage fish, as defined at § 679.2, are not included in the ''other species'' category.

Reserves and the Pollock Incidental Catch Allowance (ICA)

Regulations at § 679.20(b)(1)(i) require that 15 percent of the TAC for each target species or species group, except for the hook-and-line and pot gear allocation of sablefish, be placed in a non-specified reserve. The AFA supersedes this provision for pollock by requiring that the 2002 TAC for this species be fully allocated among the CDQ program, the ICA, inshore, catcher/processor, and mothership directed fishery allowances.

Regulations at § 679.20(b)(1)(iii) require that one-half of each TAC amount placed in the non-specified reserve, with the exception of squid, be allocated to the groundfish CDQ reserve and that 20 percent of the hook-and-line and pot gear allocation of sablefish be allocated to the fixed gear sablefish CDQ reserve. Section 206(a) of the AFA requires that 10 percent of the pollock TAC be allocated to the pollock CDQ reserve. With the exception of the hook-and-line and pot gear sablefish CDQ reserve, the regulations do not further apportion the CDQ reserves by gear. Regulations at § 679.21(e)(1)(i) also require that 7.5 percent of each PSC limit, with the exception of herring, be withheld as a prohibited species quota (PSQ) reserve for the CDQ fisheries. Regulations governing the management of the CDQ and PSQ reserves are set forth at §§ 679.30 and 679.31.

Under section 206(b) of the AFA, NMFS allocates a pollock ICA of 4 percent of the pollock TAC after subtraction of the 10 percent CDQ reserve. This is unchanged from the 4 percent ICA specified for 2001. The 2002 allowance is based on an examination of the incidental catch of pollock in non-pollock target fisheries from 1997 through 2001. During this 4-year period, the incidental catch of pollock ranged from a low of 3 percent in 1998 to a high of about 6 percent in 1997, with a 4-year average of 4 percent. In 2001, the actual incidental catch was only 3 percent of the TAC which resulted in 12,000 mt of pollock reallocated to the directed fishing allowance for non-CDQ fisheries in the fall (66 FR 49146, September 26, 2001). Based on this experience, NMFS believes that a 2002 ICA of 4 percent is appropriate, because the biomass has increased for 2002 to 2.1 million tons and there is the potential for increased bycatch of pollock in other groundfish fisheries.

The regulations do not designate the remainder of the non-specified reserve by species or species group, and any amount of the reserve may be reapportioned to a target species or to the ''other species'' category during the year, providing that such reapportionments do not result in overfishing. The Regional Administrator has determined that the ITACs specified for the species listed in Table 4 need to be supplemented from the non-specified reserve because U.S. fishing vessels have demonstrated the capacity to harvest the full TAC allocations. Therefore, in accordance with § 679.20(b)(3), NMFS is apportioning the amounts shown in Table 4 from the non-specified reserve to increase the ITAC to an amount that is equal to TAC minus the CDQ reserve.

TABLE 4.—APPORTIONMENT OF RESERVES TO ITAC CATEGORIES

[All amounts are in metric tons]

Species—area or subarea	Reserve amount	Final ITAC
Atka mackerel—Western Aleutian District	1,478	18,223
Atka mackerel—Central Aleutian District	1,785	22,015
Atka mackerel—Eastern Aleutian District and Bering Sea subarea	413	5,088
Pacific ocean perch—Western Aleutian District	425	5,236
Pacific ocean perch—Central Aleutian District	230	2,831
Pacific ocean perch—Eastern Aleutian District	260	3,201
Pacific cod—BSAI	15,000	185,000
Northern rockfish—Aleutian Islands subarea	506	6,236
Shortraker/Rougheye rockfish—Aleutian Islands subarea	68	843
Greenland turbot—Bering Sea subarea	402	4,958
Greenland turbot—Aleutian Islands subarea	198	2,442
Total	20,765	256,076

Pollock Allocations Under the AFA

Section 206(a) of the AFA requires the allocation of 10 percent of the BSAI pollock TAC as a directed fishing allowance to the CDQ program. The remainder of the BSAI pollock TAC, after the subtraction of an allowance for the incidental catch of pollock by vessels, including CDQ vessels, harvesting other groundfish species, must be allocated as follows: 50 percent to catcher vessels harvesting pollock for processing by the inshore component, 40 percent to catcher/processors and catcher vessels harvesting pollock for processing by catcher/processors in the offshore component, and 10 percent to catcher vessels harvesting pollock for processing by motherships in the offshore component. These amounts are listed in Table 5.

The AFA also contains several specific requirements concerning pollock and pollock allocations. First, paragraph 210(c) of the AFA requires that not less than 8.5 percent of the pollock allocated to vessels for processing by offshore catcher/processors be available for harvest by offshore catcher vessels listed in section 208(b) harvesting pollock for processing by offshore catcher/processors listed in paragraph 208(e). Second, paragraph 208(e)(21) of the AFA specifies that catcher/processors eligible to fish for pollock under such paragraph are prohibited from harvesting in the aggregate a total of more than one-half of a percent (0.5 percent) of the pollock allocated to vessels for processing by offshore catcher/processors. Third, paragraph 210(e)(1) of the AFA specifies that no particular individual, corporation, or other entity may harvest, through a fishery cooperative or otherwise, a total of more than 17.5 percent of the pollock available to be harvested in the directed pollock fishery. Other provisions of the AFA, including inshore pollock cooperative allocations and AFA harvest limitations are discussed later in this section. Table 5 lists the 2001 allocations of pollock TAC as described by the AFA.

SCA Harvest Limits

The harvest within the SCA, as defined at § 679.22(a)(11), is limited to 28 percent of the annual directed fishing allowance (DFA) until April 1. The remaining 12 percent of the annual DFA allocated to the A season may be taken outside of the SCA before April 1 or inside the SCA after April 1. If the 28 percent of the annual DFA is not taken inside the SCA before April 1, the remainder is available to be taken inside the SCA after April 1. The A season pollock SCA harvest limit will be apportioned to each industry sector in proportion to each sector's allocated percentage of the DFA as set forth in the AFA. These amounts, by sector, are listed in Table 5.

TABLE 5.—ALLOCATIONS OF THE POLLOCK TAC AND DIRECTED FISHING ALLOWANCE (DFA) TO THE INSHORE, CATCHER/PROCESSOR, MOTHERSHIP, AND CDQ COMPONENTS [1]

[All amounts are in metric tons]

Area and sector	2002 DFA	A Season [1]	B Season [1,2]	
		A DFA (40% of annual DFA)	SCA limit [3]	B DFA (60% of annual DFA)
Bering Sea subarea	1,485,000	594,000	.....	891,000
CDQ	148,500	59,400	41,580	89,100
ICA [4]	53,460	.....	.....	.....
AFA Inshore	641,520	256,608	179,626	384,912
AFA C/Ps [5]	513,216	205,286	143,700	307,930
Catch by C/Ps	469,593	187,837	.....	281,756
Catch by CVs [5]	43,623	17,449	.....	26,174
Restricted C/P cap [6]	2,566	1,026	.....	1,540
AFA Motherships	128,304	51,322	35,925	76,982
Excessive shares cap [7]	224,532	.....	.....	.....
Aleutian Islands:				
ICA [8]	900			
Bogoslof District:				
ICA [8]	90			

[1] After subtraction for the CDQ reserve and the incidental catch allowance, the pollock TAC is allocated as a DFA as follows: inshore component—50 percent, catcher/processor component—40 percent, and mothership component—10 percent. Under paragraph 206(a) of the AFA, the CDQ reserve for pollock is 10 percent. NMFS, under regulations at § 679.24(b)(4), prohibits nonpelagic trawl gear to engage in directed fishing for non-CDQ pollock in the BSAI. The A season, January 20—June 10, is allocated 40 percent of the DFA and the B season, June 10—November 1 is allocated 60 percent of the DFA.

[2] This emergency interim rule expires on July 8, 2002, before the B season will conclude. Therefore, the B season is not fully authorized unless the emergency interim rule is extended.

[3] The SCA limits harvest to 28 percent of each sectors annual DFA until April 1. The remaining 12 percent of the annual DFA allocated to the A season may be taken outside of the SCA before April 1 or inside the SCA after April 1. If the 28 percent of the annual DFA is not taken inside the SCA before April 1, the remainder is available to be taken inside the SCA after April 1.

[4] The pollock incidental catch allowance for the BS subarea is 4 percent of the TAC after subtraction of the CDQ reserve.

[5] Subsection 210(c) of the AFA requires that not less than 8.5 percent of the directed fishing allowance allocated to listed catcher/processors (C/Ps) shall be available for harvest only by eligible catcher vessels (CVs) delivering to listed catcher/processors.

[6] The AFA requires that vessels described in section 208(e)(21) be prohibited from exceeding a harvest amount of one-half of one percent of the directed fishing allowance allocated to vessels for processing by AFA catcher/processors.

[7] Paragraph 210(e)(1) of the AFA specifies that ''No particular individual, corporation, or other entity may harvest, through a fishery cooperative or otherwise, a total of more than 17.5 percent of the pollock available to be harvested in the directed pollock fishery.''

[8] Consistent with the Steller sea lion protection measures, the Aleutian Islands subarea and the Bogoslof District are closed to directed fishing for pollock. The amounts specified are for incidental catch amounts only, and are not apportioned by season or sector.

Allocation of the Atka Mackerel TAC

Regulations implementing Steller sea lion protection measures at § 679.20(a)(8)(ii) apportion the Atka mackerel ITAC into two equal seasonal allowances. After subtraction of the jig gear allocation, the first allowance is made available for directed fishing from January 1 to April 15 (A season), and the second seasonal allowance is made available from September 1 to November 1 (B season) (Table 6). Under § 679.20(a)(8)(ii)(C)(1), the Regional Administrator will establish a harvest limit area (HLA) limit of no more than 60 percent of the seasonal TAC for the Western and Central Aleutian Districts. Pacific cod harvest by trawl gear in the Aleutian Islands HLA in 542 and 543, west of 178° W long. is prohibited during the Atka mackerel HLA directed fisheries. Atka mackerel fishing is prohibited in critical habitat east of 178° W long. to provide maximum protection to Steller sea lions and because Atka mackerel is readily available in waters outside of critical habitat.

Under § 679.20(a)(8)(i), up to 2 percent of the Eastern Aleutian District and the Bering Sea subarea Atka mackerel ITAC may be allocated to the jig gear fleet. The Council determines the amount of this allocation annually, based on several criteria including the anticipated harvest capacity of the jig gear fleet. In December 2001, the Council recommended that 1 percent of the Atka mackerel TAC in the Eastern Aleutian District and Bering Sea subarea be allocated to the jig gear fleet based on historic harvest capacity of the fleet. NMFS finds that this is consistent with the status of the stock and with the regulatory framework stated above. Based on an ITAC of 5,088 mt, the jig gear allocation is 51 mt.

A platoon system to reduce the amount of daily catch in critical habitat by about half and to disperse the fishery over two areas is discussed in the Steller sea lion protection measures part of this emergency interim rule and found in the regulations at § 679.20(a)(8)(iii).

TABLE 6.—SEASONAL AND SPATIAL APPORTIONMENTS, GEAR SHARES, AND CDQ RESERVE OF THE BSAI ATKA MACKEREL TAC

(All amounts are in metric tons)

Subarea and component	TAC	CDQ reserve	ITAC [1]	Seasonal appointment [2]			
				A Season [3]		B Season [4]	
				Total	HLA Limit [5]	Total	HLA Limit [5]
Western Aleutian District (543)	19,700	1,478	18,223	9,111	5,467	9,111	5,467
Central Aleutian District (542)	23,800	1,785	22,015	11,008	6,605	11,008	6,605
Eastern AI/BS subarea [6]	5,500	413	5,088				
Jig (1%) [7]			51				
Other gear (99%)			5,037	2,518		2,518	
Total	49,000	3,676	45,326	22,637		22,637	

[1] The reserves have been released for Atka mackerel (See Table 4).
[2] The seasonal apportionment of Atka mackerel is 50 percent in the A season and 50 percent in the B season.
[3] The A season is January 1 through noon April 15.
[4] The B season is September 1 through noon November 1.
[5] HLA limit refers to the amount of each seasonal allowance that is available for fishing inside the HLA (§ 679.2). In 2002, 60 percent of each seasonal allowance is available for fishing inside the HLA in the Western and Central AI. Pacific cod harvest by trawl gear in the Aleutian Islands HLA in 542 and 543, west of 178°W long. is prohibited during the Atka mackerel HLA directed fisheries.
[6] Eastern Aleutian Islands District and Bering Sea subarea.
[7] Regulations at § 679.20(a)(8) require that up to 2 percent of the Eastern AI/BS area ITAC be allocated to the jig gear fleet. The amount of this allocation is 1 percent and was determined by the Council based on anticipated harvest capacity of the jig gear fleet. The jig gear allocation is not apportioned by season.

Allocation of the Pacific Cod TAC

Under § 679.20(a)(7), 2 percent of the Pacific cod ITAC is allocated to vessels using jig gear, 51 percent to vessels using hook-and-line or pot gear, and 47 percent to vessels using trawl gear. Under § 679.20(a)(7)(i)(B), the portion of the Pacific cod TAC allocated to trawl gear is further allocated 50 percent to catcher vessels and 50 percent to catcher/processors. Under regulations at § 679.20(a)(7)(i)(C)(*1*), a portion of the Pacific cod allocated to hook-and-line or pot gear is set aside as an ICA of Pacific cod in directed fisheries for groundfish other than Pacific cod by vessels using these gear types. Based on anticipated bycatch in these fisheries, the Council proposed an ICA of 500 mt. The remainder of Pacific cod is further allocated to vessels using hook-and-line or pot gear as the following directed fishing allowances: 80 percent to hook-and-line catcher/processor vessels, 0.3 percent to hook-and-line catcher vessels, 18.3 percent to pot gear vessels, and 1.4 percent to catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear.

Due to concerns about the potential impact of the Pacific cod fishery on Steller sea lions and their critical habitat, NMFS is implementing under this emergency interim rule temporal dispersion of fishing effort in the Pacific cod fisheries by apportioning the Pacific cod ITAC into two seasonal allowances. For most non-trawl gear the first allowance, 60 percent of the ITAC, is made available for directed fishing from January 1 to June 10, and the second seasonal allowance, 40 percent of the ITAC, is made available from June 10 to December 31. No seasonal harvest constraints are imposed for the Pacific cod fishery by catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear. For trawl gear the first season is January 20 to April 1, and 60 percent of the TAC is allocated to the first season. The second season, April 1 to June 10, and third season, June 10 to November 1, are each allocated 20 percent of the TAC. The trawl catcher vessels' allocation is further allocated as 70 percent in the first season, 10 percent in the second season and 20 percent in the third season. The trawl catcher/processors' allocation is allocated 50 percent in the first season, 30 percent in the second season, and 20 percent in the third season. Table 7 lists the 2002 allocations and seasonal apportionments of the Pacific cod ITAC.

TABLE 7.—2001 GEAR SHARES AND SEASONAL APPORTIONMENTS OF THE BSAI PACIFIC COD TAC

Gear sector	Percent	Share of gear sector total (mt)	Subtotal percentages for gear sectors	Share of gear sector total (mt)	Seasonal apportionment [2]	
					Date	Amount (mt)
Total hook-and-line and pot gear allocation of Pacific cod TAC.	51	94,350				
Incidental Catch Allowance				500		
Processor and Vessel subtotal		93,850				
Hook-and-line Catcher Processors			80	75,080	Jan 1–Jun 10	45,048
					Jun 10–Dec 31	30,032
Hook-and-line Catcher Vessels			0.3	282	Jan 1–Jun 10	169
					Jun 10–Dec 31	113
Pot Gear Vessels			18.3	17,175	Jan 1–Jun 10	10,305
					Sep 1–Dec 31	6,870
Catcher Vessels <60 feet LOA using Hook-and-line or Pot gear.			1.4	1,314	Jan 1–Dec 31	1,314
Trawl gear Total	47	86,950				

TABLE 7.—2001 GEAR SHARES AND SEASONAL APPORTIONMENTS OF THE BSAI PACIFIC COD TAC—Continued

Gear sector	Percent	Share of gear sector total (mt)	Subtotal percentages for gear sectors	Share of gear sector total (mt)	Seasonal apportionment [2]	
					Date	Amount (mt)
Trawl Catcher Vessel			50	43,475	Jan 1–Apr 1	30,433
					Apr 1–Jun 10	4,348
					Jun 10–Nov 1	8,695
Trawl Catcher Processor			50	43,475	Jan 1–Apr 1	21,738
					Apr 1–Jun 10	13,043
					Jun 10–Nov 1	8,695
Jig	2	3,700			Jan 1–Jun 10	2,220
					Jun 10–Dec 31	1,480
Total	100	185,000				

[1] The reserve has been released for Pacific cod (See Table 4).
[2] For non-trawl gear the first season is allocated 60 percent of the TAC and the second season is allocated 40 percent of the TAC. No seasonal harvest constraints are imposed for the Pacific cod fishery by catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear. For trawl gear, the first season is allocated 60 percent of the TAC and the second and third seasons are each allocated 20 percent of the TAC. The trawl catcher vessels' allocation is further allocated as 70 percent in the first season, 10 percent in the second season and 20 percent in the third season. The trawl catcher/processors' allocation is allocated 50 percent in the first season, 30 percent in the second season and 20 percent in the third season. Any unused portion a seasonal Pacific cod allowance will be reapportioned to the next seasonal allowance.

Allocation of the Shortraker and Rougheye Rockfish TAC

Under § 679.20(a)(9), the ITAC of shortraker rockfish and rougheye rockfish specified for the Aleutian Islands subarea is allocated 30 percent to vessels using non-trawl gear and 70 percent to vessels using trawl gear. Based on a 2002 ITAC of 844 mt, the trawl allocation is 591 mt and the non-trawl allocation is 253 mt.

Sablefish Gear Allocation

Regulations at § 679.20(a)(4)(iii) and (iv) require that sablefish TACs for the BS and AI subareas be allocated between trawl and hook-and-line or pot gear. Gear allocations of TACs for the Bering Sea subarea are 50 percent for trawl gear and 50 percent for hook-and-line or pot gear and for the Aleutian Islands subarea are 25 percent for trawl gear and 75 percent for hook-and-line or pot gear. Regulations at § 679.20(b)(1)(iii)(B) require that 20 percent of the hook-and-line and pot gear allocation of sablefish be reserved as sablefish CDQ. Additionally, regulations at § 679.20(b)(1)(iii)(A) require that 7.5 percent of the trawl gear allocation of sablefish (one half of the reserve) be reserved as groundfish CDQ. Gear allocations of the sablefish TAC and CDQ reserve amounts are specified in Table 8.

TABLE 8.—GEAR SHARES AND CDQ RESERVE OF BSAI SABLEFISH TAC

[All amounts are in metric tons]

Subarea and Gear	Percent of TAC	Share of TAC	ITAC [1]	CDQ Reserve
Bering Sea				
Trawl [2]	50	965	821	72
Hook-&-line/pot gear [3]	50	965	N/A	193
Total	100	1,930	821	265
Aleutian Islands:				
Trawl [2]	25	637	541	48
Hook-&-line/pot gear [3]	75	1,913	N/A	383
Total	100	2,550	541	431

[1] Except for the sablefish hook-and-line and pot gear allocation, 15 percent of TAC is apportioned to the reserve. The ITAC is the remainder of the TAC after the subtraction of these reserves.
[2] For the portion of the sablefish TAC allocated to vessels using trawl gear, one half of the reserve (7.5 percent of the specified TAC) is reserved for the multi-species CDQ program.
[3] For the portion of the sablefish TAC allocated to vessels using hook-and-line or pot gear, 20 percent of the allocated TAC is reserved for use by CDQ participants. Regulations in § 679.20(b)(1) do not provide for the establishment of an ITAC for sablefish allocated to hook-and-line or pot gear.

Allocation of Prohibited Species Catch (PSC) Limits for Halibut, Crab, Salmon, and Herring

PSC limits for halibut are set in regulations at § 679.21(e). For the BSAI trawl fisheries, the limit is 3,675 mt mortality of Pacific halibut. For non-trawl fisheries, the limit is 900 mt mortality. PSC limits for crab and herring are specified annually based on abundance and spawning biomass. Regulations at § 679.21(e)(1)(vii) specify a scheduled reduction of Chinook salmon PSC limits until the final limit is reached in 2004. In 2002, the chinook salmon PSC limit for the pollock fishery is 37,000 fish.

The criteria for determining the PSC limits for red king crab in Zone 1 are set forth at § 679.21(e)(1)(ii). For 2002, the PSC limit of red king crab in Zone 1 for trawl vessels is 97,000 animals. The number of mature female red king crab

is estimated in 2002 to be above the threshold of 8.4 million animals, and the effective spawning biomass is greater than 14.5 million lb (6,577 mt) but less than 55 million lb (24,948 mt). Based on the criteria set out at § 679.21(e)(1)(ii)(B), the limit is 97,000 animals.

The criteria for determining the PSC limits for *C. bairdi* crabs are set forth in § 679.21(e)(1)(iii). The 2002 *C. bairdi* PSC limit for trawl gear is 980,000 animals in Zone 1 and 2,970,000 animals in Zone 2. These limits are based on the *C. bairdi* abundance of 624 million crab from 2001 survey data because the abundance is over 400 million crabs.

Under § 679.21(e)(1)(iv), the PSC limit for *C. opilio* is based on total abundance as indicated by the NMFS annual bottom trawl survey. The *C. opilio* PSC limit is set at 0.1133 percent of the Bering Sea abundance index. Based on the 2001 survey estimate of 3.86 billion animals, the calculated limit would be 4,373,380 animals. Because this limit is less than 4.5 million, under § 679.21(e)(1)(iv)(B), the 2002 *C. opilio* PSC limit is 4,350,000 animals.

Under § 679.21(e)(1)(vi), the PSC limit of Pacific herring caught while conducting any trawl operation for groundfish in the BSAI is 1 percent of the annual eastern Bering Sea herring biomass. NMFS' estimate of 2002 herring biomass is 152,574 mt. This amount was derived using 2001 survey data and an age-structured biomass projection model developed by the Alaska Department of Fish and Game (ADF&G). Therefore, the herring PSC limit for 2002 is 1,526 mt.

Under § 679.21(e)(1)(i), 7.5 percent of each PSC limit specified for crab and halibut is reserved as a PSQ reserve for use by the groundfish CDQ program. Regulations at § 679.21(e)(3) require the apportionment of each trawl PSC limit into PSC bycatch allowances for seven specified fishery categories. Regulations at § 679.21(e)(4)(ii) authorize the apportionment of the non-trawl halibut PSC limit among five fishery categories. The fishery bycatch allowances for the trawl and non-trawl fisheries are listed in Table 9. These amounts are unchanged from those recommended by the Council at its December 2001 meeting.

Regulations at § 679.21(e)(3)(ii)(B) establish criteria under which NMFS must specify an annual red king crab bycatch limit for the Red King Crab Savings Subarea (RKCSS). The regulations limit the RKCSS to 35 percent of the trawl bycatch allowance specified for the rock sole/flathead sole/ ''other flatfish'' fishery category and must be based on the need to optimize the groundfish harvest relative to red king crab bycatch. The Council recommended and NMFS approves a red king crab bycatch limit equal to 35 percent of the trawl bycatch allowance specified for the flatfish fishery within the RKCSS in order to maximize harvest of groundfish relative to red king crab bycatch.

Regulations at § 679.21(e)(4)(ii) authorize exemption of specified non-trawl fisheries from the halibut PSC limit. As in past years, NMFS, after consultation with the Council, is exempting pot gear, jig gear, and the sablefish IFQ hook-and-line gear fishery categories from halibut bycatch restrictions because these fisheries use selective gear types that take few halibut compared to other gear types such as nonpelagic trawl. In 2001, total groundfish catch for the pot gear fishery in the BSAI was approximately 16,655 mt with an associated halibut bycatch mortality of about 5 mt. The 2001 groundfish jig gear fishery harvested about 74 mt of groundfish. Most vessels in the jig gear fleet are less than 60 ft (18.3 m) LOA and are exempt from observer coverage requirements. As a result, observer data are not available on halibut bycatch in the jig gear fishery. However, NMFS assumes a negligible amount of halibut bycatch mortality because of the selective nature of this gear type and the likelihood that halibut caught with jig gear have a high survival rate when released.

As in past years, the Council recommended that the sablefish IFQ fishery be exempt from halibut bycatch restrictions because of the sablefish and halibut IFQ program (subpart D of 50 CFR part 679). The sablefish IFQ program requires legal-sized halibut to be retained by vessels using hook-and-line gear if a halibut IFQ permit holder is aboard and is holding unused halibut IFQ. This action results in less halibut discard in the sablefish fishery. In 1995, about 36 mt of halibut discard mortality was estimated for the sablefish IFQ fishery. A similar estimate for 1996 through 2001 has not been calculated, but NMFS has no information indicating that it would be significantly different. NMFS approves the Council's recommendation to exempt the hook-and-line sablefish from halibut bycatch restrictions.

Regulations at § 679.21(e)(5) authorize NMFS, after consultation with the Council, to establish seasonal apportionments of PSC amounts in order to maximize the ability of the fleet to harvest the available groundfish TAC and to minimize bycatch. The factors to be considered are: (1) Seasonal distribution of prohibited species, (2) seasonal distribution of target groundfish species, (3) PSC bycatch needs on a seasonal basis relevant to prohibited species biomass, (4) expected variations in bycatch rates throughout the year, (5) expected start of fishing effort, and (6) economic effects of seasonal PSC apportionments on industry sectors. In December 2001, the Council's AP recommended seasonal PSC apportionments in order to maximize harvest among gear types, fisheries, and seasons while minimizing PSC based on the criteria above.

NMFS approves the PSC apportionments specified in Table 9 below with one change. The AP recommended and the Council accepted a July 4 seasonal allocation of PSC to the yellowfin sole, rock sole/flathead sole/ ''other flatfish'' and rockfish fishery categories. Under § 679.21(e)(5), factor (5) expected start of fishing effort, NMFS is changing the July 4 seasonal allocation to a June 30 seasonal allocation to facilitate the inseason management of these fishery categories. The June 30 opening will allow the collection of the data NMFS requires to close a fishery before the interruption of the July 4 holiday when Federal offices are closed.

TABLE 9.—PROHIBITED SPECIES BYCATCH ALLOWANCES FOR THE BSAI TRAWL AND NON-TRAWL FISHERIES [1]

[All amounts are in metric tons]

	Prohibited Species and Zone					
	Halibut mortality (mt) BSAI [7]	Herring (mt) BSAI	Red King Crab (animals) Zone 1	C. opilio (animals) COBLZ [2]	C. bairdi (animals)	
					Zone 1	Zone 2
Trawl Fisheries						
Yellowfin sole	886	139	16,664	2,776,981	340,844	1,788,459

TABLE 9.—PROHIBITED SPECIES BYCATCH ALLOWANCES FOR THE BSAI TRAWL AND NON-TRAWL FISHERIES [1]—Continued

[All amounts are in metric tons]

	Prohibited Species and Zone					
	Halibut mortality (mt) BSAI [7]	Herring (mt) BSAI	Red King Crab (animals) Zone 1	C. opilio (animals) COBLZ [2]	C. bairdi (animals)	
					Zone 1	Zone 2
January 20–April 1	262					
April 1–May 21	195					
May 21–June 30	49					
June 30–December 31	380					
Rock sole/flat. sole/other flatfish [3]	779	20	59,782	969,130	365,320	596,154
January 20–April 1	448					
April 1–June 30	164					
June 30–December 31	167					
RKC savings subarea [3]			20,924			
Turbot/sablefish/arrowtooth [4]		9		40,238		
Rockfish (June 30–Dec. 31) [5]	69	7		40,237		10,988
Pacific cod	1,434	20	11,664	124,736	183,112	324,176
Pollock/Atka/other [6]	232	146	1,615	72,428	17,224	27,473
Midwater trawl pollock		1,184				
Total Trawl PSC	3,400	1,526	89,725	4,023,750	906,500	2,747,250
Non-Trawl Fisheries						
Pacific cod—Total	775					
January 1–June 10	320					
June 10–August 15	0					
August 15–December 31	455					
Other non-trawl—Total	58					
May 1–December 31	58					
Groundfish pot & jig	Exempt					
Sablefish hook-&-line	Exempt					
Total Non-Trawl	833					
PSQ Reserve [8]	342		7,275	326,250	73,500	222,750
Grand Total	4,575	1,526	97,000	4,350,000	980,000	2,970,000

[1] Refer to § 679.2 for definitions of areas.
[2] *C. opilio* Bycatch Limitation Zone. Boundaries are defined at 50 CFR part 679, fig. 13.
[3] The Council at its December 2001 meeting limited red king crab for trawl fisheries within the RKCSS to 35 percent of the total allocation to the rock sole/flathead sole/ ''other flatfish'' fishery category (§ 679.21(e)(3)(ii)(B)). ''Other flatfish'' for PSC monitoring includes all flatfish species, except for Pacific halibut (a prohibited species), Greenland turbot, rock sole, yellowfin sole, arrowtooth flounder.
[4] Greenland turbot, arrowtooth flounder, and sablefish fishery category.
[5] The Council at its December 2001 meeting apportioned the rockfish PSC amounts from June 30–December 31.
[6] Pollock other than pelagic trawl pollock, Atka mackerel, and ''other species'' fishery category.
[7] Any unused halibut PSC apportionment may be rolled into the following seasonal apportionment.
[8] With the exception of herring, 7.5 percent of each PSC limit is allocated to the multi-species CDQ program as PSQ reserve. The PSQ reserve is not allocated by fishery, gear or season.

To monitor halibut bycatch mortality allowances and apportionments, the Administrator, Alaska Region, NMFS (Regional Administrator), will use observed halibut bycatch rates, assumed mortality rates, and estimates of groundfish catch to project when a fishery's halibut bycatch mortality allowance or seasonal apportionment is reached. The Regional Administrator monitors a fishery's halibut bycatch mortality allowances using assumed mortality rates that are based on the best information available, including information contained in the annual SAFE reports.

The Council recommended, and NMFS concurs, that the assumed halibut discard mortality rates (DMRs) developed by staff of the International Pacific Halibut Commission (IPHC) for the 2001 BSAI groundfish fisheries be adopted for purposes of monitoring halibut bycatch allowances established for 2002 (Table 10). Results from analysis of halibut release condition data for 2000 showed continued stability in halibut DMRs for many fisheries. Plots of annual DMRs against the 10-year mean indicated little change since 1990 for some fisheries, particularly the major trawl fisheries. DMRs were more variable for the smaller fisheries which typically take minor amounts of halibut bycatch. For 2002, the Council adopted Preseason Assumed DMRs, which included use of the long-term mean DMR for a 3-year period before revisions are proposed except for the BSAI hook-and-line Pacific cod fishery and CDQ fisheries, for which the Council recommended setting annual DMRs. The IPHC will also continue to conduct annual analyses of observer data and recommend changes to the Preseason Assumed DMR where a fishery DMR shows large variation from the mean and for the CDQ fisheries. For 2002, the BSAI hook-and-line Pacific cod fishery DMR did not change; but the CDQ fishery DMRs were adjusted. The justification for these mortality rates is discussed in the final SAFE report dated November 2001.

TABLE 10.—ASSUMED PACIFIC HALIBUT DISCARD MORTALITY RATES FOR THE BSAI FISHERIES

Fishery	Preseason Assumed discard mortality (percent)
Hook-and-line gear fisheries:	
Rockfish	25
Pacific cod	12
Greenland turbot	18
Sablefish	22
Other Species	12
Trawl gear fisheries:	
Midwater pollock	84
Nonpelagic pollock	76
Yellowfin sole	81
Rock sole	76
Flathead sole	67
Other flatfish	71
Rockfish	69
Pacific cod	67
Atka mackerel	75
Greenland turbot	70
Sablefish	50
Other species	67
Pot gear fisheries:	
Pacific cod	8
Other species	8
CDQ Trawl fisheries:	
Atka mackerel	89
Flathead sole	83
Midwater pollock	88
Nonpelagic pollock	90
Rockfish	89
Yellowfin sole	77
CDQ Hook-and-line fisheries:	
Pacific cod	13
Greenland turbot	14
CDQ Pot fisheries:	
Pacific cod	7
Sablefish	38

Directed Fishing Closures

In accordance with § 679.20(d)(1)(i), if the Regional Administrator determines that any allocation or apportionment of a target species or ''other species'' category has been or will be reached, the Regional Administrator may establish a directed fishing allowance for that species or species group. If the Regional Administrator establishes a directed fishing allowance, and that allowance is or will be reached before the end of the fishing year, NMFS will prohibit directed fishing for that species or species group in the specified subarea or district (§ 697.20(d)(1)(iii)). Similarly, under § 679.21(e), if the Regional Administrator determines that a fishery category's bycatch allowance of halibut, red king crab, or *C. bairdi* Tanner crab for a specified area has been reached, the Regional Administrator will prohibit directed fishing for each species in that category in the specified area.

The Regional Administrator has determined that the following remaining allocation amounts will be necessary as incidental catch to support other anticipated groundfish fisheries for the 2002 fishing year:

Bogoslof District:
Pollock—90 mt
Aleutian Islands subarea:
Pollock—900 mt
Northern rockfish—6,236 mt
Shortraker/rougheye rockfish—844 mt
''Other rockfish''—575 mt
Bering Sea subarea:
Pacific ocean perch—2,227 mt
''Other rockfish''—307 mt
Northern rockfish—16 mt
Shortraker/rougheye rockfish—99 mt

Consequently, in accordance with § 679.20(d)(1)(i), the Regional Administrator establishes the directed fishing allowances for the above species or species groups as zero.

Therefore, in accordance with § 679.20(d)(1)(iii), NMFS immediately is prohibiting directed fishing for these species in the specified areas and these closures will remain in effect through 2400 hrs, Alaska local time (A.l.t.), December 31, 2002, effective January 1, 2002, through July 8, 2002.

In addition, the BSAI Zone 1 annual red king crab bycatch allowance specified for the trawl rockfish fishery (§ 679.21(e)(3)(iv)(D)) is 0 mt and the BSAI first seasonal halibut bycatch allowance specified for the trawl rockfish fishery is 0 mt. The BSAI annual halibut bycatch allowance specified for the trawl Greenland turbot/arrowtooth flounder/sablefish fishery categories, (§ 679.21(e)(3)(iv)(C)) is 0 mt. Therefore, in accordance with § 1(e)(7)(ii) and (v), NMFS is prohibiting directed fishing for rockfish by vessels using trawl gear in Zone 1 of the BSAI and directed fishing for Greenland turbot/arrowtooth flounder/sablefish by vessels using trawl gear in the BSAI for the entire 2002 fishing year. NMFS also is prohibiting directed fishing for rockfish outside Zone 1 in the BSAI until 1200 hrs, A.l.t, June 30, 2002, due to 0 amounts of halibut bycatch allowance apportioned to this fishery prior to that date.

While these closures are in effect, the maximum retainable bycatch amounts at § 679.20(e) and (f) apply at any time during a fishing trip. These closures to directed fishing are in addition to closures and prohibitions found in regulations at 50 CFR part 679. Refer to § 679.2 for definitions of areas. In the BSAI, ''other rockfish'' includes *Sebastes* and *Sebastolobus* species except for Pacific ocean perch, shortraker, rougheye, and northern rockfish.

BS Subarea Inshore Pollock Allocations

Under § 679.4, NMFS set out procedures for AFA inshore catcher vessel pollock cooperatives to apply for and receive cooperative fishing permits and inshore pollock allocations. NMFS received applications from seven inshore catcher vessel cooperatives. Table 11 lists the pollock allocations to the seven inshore catcher vessel pollock cooperatives that have been approved and permitted by NMFS for the 2002 fishing year. Allocations for cooperatives and vessels not participating in cooperatives are not made for the AI subarea because the AI subarea has been closed to directed fishing for pollock. These allocations may be revised based on any corrections to AFA vessels' catch history.

TABLE 11.—BERING SEA SUBAREA INSHORE COOPERATIVE ALLOCATIONS

Cooperative name and member vessels	Sum of member vessel's official catch histories [1]	Percentage of inshore sector allocation (percent)	Annual co-op allocation
Akutan Catcher Vessel Association: ALDEBARAN, ARCTIC EXPLORER, ARCTURUS, BLUE FOX, CAPE KIWANDA, COLUMBIA, DOMINATOR, EXODUS, FLYING CLOUD, GOLDEN DAWN, GOLDEN PISCES, HAZEL LORRAINE, INTREPID EXPLORER, LESLIE LEE, LISA MELINDA, MAJESTY, MARCY J, MARGARET LYN, NORDIC EXPLORER, NORTHERN PATRIOT, NORTHWEST EXPLORER, PACIFIC RAM, PACIFIC VIKING, PEGASUS, PEGGY JO, PERSEVERANCE, PREDATOR, RAVEN, ROYAL AMERICAN, SEEKER, SOVEREIGNTY, TRAVELER, VIKING EXPLORER	245,527	28.085	180,169
Arctic Enterprise Association: BRISTOL EXPLORER, OCEAN EXPLORER, PACIFIC EXPLORER	36,807	4.210	27,009

TABLE 11.—BERING SEA SUBAREA INSHORE COOPERATIVE ALLOCATIONS—Continued

Cooperative name and member vessels	Sum of member vessel's official catch histories [1]	Percentage of inshore sector allocation (percent)	Annual co-op allocation
Northern Victor Fleet Cooperative: ANITA J, COLLIER BROTHERS, COMMODORE, EXCALIBUR II, GOLDRUSH, HALF MOON BAY, MISS BERDIE, NORDIC FURY, PACIFIC FURY, POSEIDON, ROYAL ATLANTIC, SUNSET BAY, STORM PETREL	73,656	8.425	54,049
Peter Pan Fleet Cooperative: AMBER DAWN, AMERICAN BEAUTY, ELIZABETH F, MORNING STAR, OCEAN LEADER, OCEANIC, PROVIDIAN, TOPAZ, WALTER N	18,693	2.138	13,717
Unalaska Cooperative: ALASKA ROSE, BERING ROSE, DESTINATION, GREAT PACIFIC, MESSIAH, MORNING STAR, MS AMY, PROGRESS, SEA WOLF, VANGUARD, WESTERN DAWN	106,737	12.209	78,324
UniSea Fleet Cooperative: ALSEA, AMERICAN EAGLE, ARGOSY, AURIGA, AURORA, DEFENDER, GUN-MAR, NORDIC STAR, PACIFIC MONARCH, SEADAWN, STARFISH, STARLITE	201,566	23.056	147,910
Westward Fleet Cooperative: A.J., ALASKAN COMMAND, ALYESKA, ARCTIC WIND, CAITLIN ANN, CHELSEA K, DONA MARTITA, FIERCE ALLEGIANCE, HICKORY WIND, OCEAN HOPE 3, PACIFIC KNIGHT, PACIFIC PRINCE, STARWARD, VIKING, WESTWARD I	189,544	21.681	139,089
Open access AFA vessels	1,707	0.195	1,252
Total inshore allocation	874,238	100	641,520

[1] Under 679.62(e)(1) the individual catch history for each vessel is equal to the vessel's best 2 of 3 years inshore pollock landings from 1995 through 1997 and includes landings to catcher/processors for vessels that made 500 or more mt of landings to catcher/processors from 1995 through 1997.

Under § 679.20(a)(5)(i)(C), NMFS must subdivide the inshore pollock allocation into allocations for cooperatives and vessels not fishing in a cooperative (i.e., the open access sector). In addition, under § 679.22(a)(11)(vii), NMFS must establish harvest limits inside the Steller sea lion conservation area (SCA) and provide a set-aside so that catcher vessels less than or equal to 99 ft (30.2 m) LOA have the opportunity to operate entirely within the SCA during the A season. Accordingly, Table 12 lists the apportionment of the BS subarea inshore pollock allocation into allocations for vessels fishing in a cooperative and for vessels not participating in a cooperative and establishes a cooperative-sector SCA set-aside for AFA catcher vessels less than or equal to 99 ft (30.2 m) LOA. The SCA set-aside for sector catcher vessels less than or equal to 99 ft (30.2 m) LOA that are not participating in a cooperative will be established inseason based on actual participation levels and is not included in Table 12. These allocations may be revised based on any corrections to AFA vessels' catch history.

TABLE 12.—BERING SEA SUBAREA POLLOCK ALLOCATIONS TO THE COOPERATIVE AND OPEN ACCESS SECTORS OF THE INSHORE POLLOCK FISHERY. AMOUNTS ARE EXPRESSED IN METRIC TONS

	A season TAC	A season inside SCA [1]	B season TAC
Cooperative sector:			
Vessels > 99 ft	n/a	161,601	n/a
Vessels ≤ 99 ft	n/a	17,675	n/a
Total	256,107	179,275	384,161
Open access sector	501	[2] 351	751
Total inshore	256,608	179,626	384,912

[1] Steller sea lion conservation area established at § 679.22(a)(11)(vii). The harvest limit for the SCA applies until April 1.

[2] SCA limitations for vessels less than or equal to 99 ft LOA that are not participating in a cooperative will be established on an inseason basis in accordance with § 679.22(a)(11)iiiv)(C)(*2*) which specifies that "the Regional Administrator will prohibit directed fishing for pollock by vessels catching pollock for processing by the inshore component greater than 99 ft (30.2 m) LOA before reaching the inshore SCA harvest limit during the A season to accommodate fishing by vessels less than or equal to 99 ft (30.2 m) inside the SCA for the duration of the inshore seasonal opening."

2002 Unrestricted AFA Catcher/Processor Sideboards

Regulations at § 679.63(a) establish a formula for setting AFA catcher/processor sideboard limits for non-pollock groundfish and PSC in the BSAI. The basis for these sideboard amounts was recommended by the Council and is described in detail in the Emergency Interim Rule to Implement Major Provisions of the AFA (64 FR 4520, January 28, 2000). The 2002 catcher/processor sideboards are set out in Table 13 below.

All non-pollock groundfish that is harvested by unrestricted AFA catcher/processors, whether as targeted catch or bycatch, will be deducted from the harvest limits in Table 13. However, non-pollock groundfish that is delivered to listed catcher/processors by catcher vessels will not be deducted from the 2002 harvest limits for the listed catcher/processors.

TABLE 13.—2002 UNRESTRICTED BSAI AFA CATCHER/PROCESSOR GROUNDFISH SIDEBOARDS

(Amounts are Expressed in Metric Tons)

Target species	Area	1995–1997			2002 ITAC available to trawl C/Ps	2002 C/P sideboard amount
		Total catch	Available TAC	Ratio		
Pacific cod trawl	BSAI	13,547	51,450	0.263	43,475	11,434
Sablefish trawl	BS	8	1,736	0.005	820	4
	AI	1	1,135	0.001	542	1
Atka mackerel	Western AI			0.200		
	A season [1]	n/a	n/a	0.100	9,111	911
	CH limit [2]					547
	B season	n/a	n/a	0.100	9,111	911
	CH limit					547
	Central AI			0.115		
	A season [1]	n/a	n/a	0.058	11,008	633
	CH limit					380
	B season	n/a	n/a	0.058	11,008	633
	CH limit					380
Yellowfin sole	BSAI	123,003	527,000	0.233	73,100	17,032
Rock sole	BSAI	14,753	202,107	0.073	45,900	3,351
Greenland turbot	BS	168	16,911	0.010	4,958	50
	AI	31	6,839	0.005	2,442	12
Arrowtooth flounder	BSAI	788	36,873	0.021	13,600	286
Flathead sole	BSAI	3,030	87,975	0.034	34,000	1,156
Alaska Plaice	BSAI			0.034	10,200	347
Other flatfish	BSAI	12,145	92,428	0.131	2,550	1,336
Pacific ocean perch	BS	58	5,760	0.010	2,620	26
	Western AI	356	12,440	0.029	5,236	152
	Central AI	95	6,195	0.015	2,831	42
	Eastern AI	112	6,265	0.018	3,201	58
Northern rockfish	BS			0.078	16	1
	AI	1,034	13,254	0.078	6,236	486
Shortraker/rougheye	BS			0.024	99	24
	AI	68	2,827	0.024	843	20
Other rockfish	BS	39	1,026	0.038	307	12
	AI	95	1,924	0.049	575	28
Squid	BSAI	7	3,670	0.002	1,675	3
Other species	BSAI	3,551	65,925	0.054	26,201	1,415

[1] The seasonal apportionment of Atka mackerel in the open access fishery is 50 percent in the A season and 50 percent in the B season. Unrestricted AFA catcher/processors are limited to harvesting no more than 20 and 11.5 percent of the available TAC in the Western and Central AI subareas respectively. Unrestricted AFA catcher/processors are prohibited from harvesting Atka mackerel in the Eastern Aleutian Islands District and Bering Sea subarea (paragraph 211(b)(2)(C)).

[2] Critical habitat (CH) allowance refers to the amount of each seasonal allowance that is available for fishing inside critical habitat (50 CFR part 679 Table 21). In 2002, the percentage of TAC available for fishing inside critical habitat area is 60 percent in the Western and Central AI.

Regulations at § 679.63(a)(2) establish a formula for PSC sideboards for unrestricted AFA catcher/processors. These amounts are equivalent to the percentage of prohibited species bycatch limits harvested in the non-pollock groundfish fisheries by the AFA catcher/processors listed in subsection 208(e) and section 209 of the AFA from 1995 through 1997. Prohibited species amounts harvested by these catcher/processors in BSAI non-pollock groundfish fisheries from 1995 through 1997 are shown in Table 14. These data were used to calculate the relative amount of prohibited species catch limits harvested by pollock catcher/processors, which were then used to determine the prohibited species harvest limits for unrestricted AFA catcher/processors in the 2002 non-pollock groundfish fisheries.

PSC that is caught by unrestricted AFA catcher/processors participating in any non-pollock groundfish fishery listed in Table 13 shall accrue against the 2002 PSC limits for the listed catcher/processors. Regulations at § 679.21(e)(3)(v) provide authority to close directed fishing for non-pollock groundfish for unrestricted AFA catcher/processors once a 2002 PSC limitation listed in Table 14 is reached.

Crab or halibut PSC that is caught by unrestricted AFA catcher/processors while fishing for pollock will accrue against the bycatch allowances annually specified for either the midwater pollock or the pollock/Atka mackerel/other species fishery categories under § 679.21(e).

TABLE 14.—2002 UNRESTRICTED BSAI AFA CATCHER/PROCESSOR PROHIBITED SPECIES SIDEBOARD AMOUNTS

PSC species	1995–1997			2002 PSC available to trawl vessels	2002 C/P limit
	PSC catch	Total PSC	Ratio		
Halibut mortality	955	11,325	0.084	3,400	286 mt.
Red king crab	3,098	473,750	0.007	89,725	628 crab.
C. opilio	2,323,731	15,139,178	0.153	4,023,750	615,634 crab.
C. bairdi					
Zone 1	385,978	2,750,000	0.140	906,500	126,910 crab.

TABLE 14.—2002 UNRESTRICTED BSAI AFA CATCHER/PROCESSOR PROHIBITED SPECIES SIDEBOARD AMOUNTS—Continued

PSC species	1995–1997			2002 PSC available to trawl vessels	2002 C/P limit
	PSC catch	Total PSC	Ratio		
Zone 2	406,860	8,100,000	0.050	2,747,250	137,363 crab.

2002 AFA Catcher Vessel Sideboards

Regulations at § 679.63(b) establish a formula for setting AFA catcher vessel groundfish and PSC sideboard amounts for the BSAI. The basis for these sideboard amounts was recommended by the Council and is described in detail in the Emergency Interim Rule to Implement Major Provisions of the AFA (64 FR 4520, January 28, 2000). For 2002, the ratio of 1995 to 1997 AFA catcher vessel retained catch to the 1995 to 1997 TAC has been revised from 2001 by NMFS. These revisions are based on ADF&G editing of fish tickets and NMFS editing of observer catch data and weekly production reports. The 2002 AFA catcher vessel sideboards amounts are shown in Tables 15 and 16.

All harvests of groundfish sideboard species made by non-exempt AFA catcher vessels, whether as targeted catch or bycatch, will be deducted from the sideboard limits listed in Table 15.

TABLE 15.—2002 BSAI AFA CATCHER VESSEL (CV) SIDEBOARDS

[Amounts are Expressed in Metric Tons]

Species	Fishery by Area/Season/Processor/Gear	Ratio of 1995–1997 AFA CV catch to 1995–1997 TAC	2002 Initial TAC	2002 catcher vessel sideboard
Pacific cod	BSAI.			
	jig gear	0.0000	3,700	0
	hook-and-line CV			
	Jan 1—Jun 10	0.0006	169	0
	Jun 10—Dec 31	0.0006	113	0
	Pot gear			
	Jan 1—Jun 10	0.0006	10,305	6
	Sept 1—Dec 31	0.0006	6,870	4
	CV < 60 feet LOA using hook-and-line or pot gear.	0.0006	1,314	0
	trawl gear			
	catcher vessel			
	Jan 20—Apr 1	0.8609	30,433	26,200
	Apr 1—Jun 10	0.8609	4,348	3,743
	Jun 10—Nov 1	0.8609	8,695	7,486
Sablefish	BS trawl gear	0.0906	820	74
	AI trawl gear	0.0645	542	35
Atka mackerel	Eastern AI/BS			
	jig gear	0.0031	51	0
	other gear			
	Jan 1—Apr 15	0.0032	2,518	8
	Sept 1—Nov 1	0.0032	2,518	8
	Central AI			
	Jan—Apr 15	0.0001	11,008	1
	inside CH	0.0001	6,605	1
	Sept 1—Nov 1	0.0001	11,008	1
	inside CH	0.0001	6,605	1
	Western AI			
	Jan—Apr 15	0.0000	9,111	0
	inside CH	0.0000	5,467	0
	Sept 1—Nov 1	0.0000	9,111	0
	inside CH	0.0000	5,467	0
Yellowfin sole	BSAI	0.0647	73,100	4,730
Rock sole	BSAI	0.0341	45,900	1,565
Greenland Turbot	BS	0.0645	4,958	320
	AI	0.0205	2,442	50
Arrowtooth flounder	BSAI	0.0690	13,600	938
Alaska Plaice	BSAI	0.0441	10,200	450
Other flatfish	BSAI	0.0441	2,550	112
POP	BS	0.1000	2,620	262
	Eastern AI	0.0077	3,201	25
	Central AI	0.0025	2,831	7
	Western AI	0.0000	5,236	0
Northern rockfish	BS	0.0048	16	0
	AI	0.0089	6,239	56
Shortraker/Rougheye	BS	0.0048	99	0
	AI	0.0035	843	3

TABLE 15.—2002 BSAI AFA CATCHER VESSEL (CV) SIDEBOARDS—Continued

[Amounts are Expressed in Metric Tons]

Species	Fishery by Area/Season/Processor/Gear	Ratio of 1995–1997 AFA CV catch to 1995–1997 TAC	2002 Initial TAC	2002 catcher vessel sideboard
Other rockfish	BS	0.0327	307	10
	AI	0.0095	575	5
Squid	BSAI	0.3827	1,675	641
Other species	BSAI	0.0541	26,201	1,417
Flathead Sole	BS trawl gear	0.0505	21,250	1,073

Regulations at § 679.63(b) establish a formula for PSC sideboards for AFA catcher vessels. The AFA catcher vessel PSC bycatch limit for halibut in the BSAI, and each crab species in the BSAI for which a trawl bycatch limit has been established as a percentage of the PSC limit equal to the ratio of aggregate retained groundfish catch by AFA catcher vessels in each PSC target category from 1995 through 1997 relative to the retained catch of all vessels in that fishery from 1995 through 1997. These amounts are listed in Table 16.

Halibut and crab PSC that is caught by AFA catcher vessels participating in any non-pollock groundfish fishery listed in Table 15 will accrue against the 2002 PSC limits for the AFA catcher vessels. Regulations at § 679.21(d)(8) and (e)(3)(v) provide authority to close directed fishing for non-pollock groundfish for AFA catcher vessels once a 2002 PSC limitation listed in Table 16 for the BSAI is reached. PSC that is caught by AFA catcher vessels while fishing for pollock in the BSAI will accrue against either the midwater pollock or the pollock/Atka mackerel/other species fishery categories.

TABLE 16.—2002 AFA CATCHER VESSEL (CV) PROHIBITED SPECIES CATCH (PSC) SIDEBOARD AMOUNTS [1] FOR THE BSAI

PSC species	Target fishery category [2] and season	Ratio of 1995–1997 AFA CV retained catch to total retained catch	2002 PSC Limit	2002 AFA catcher vessel PSC sideboard
Halibut	Pacific cod trawl	0.6183	1,434	887
	Pacific cod hook-and-line or pot	0.0022	775	2
	Yellowfin sole.			
	Jan. 20—Apr. 1	0.1144	262	30
	Apr. 1—May 21	0.1144	195	22
	May 21—June 30	0.1144	49	6
	June 30—Dec. 31	0.1144	380	43
	Rock sole/flat. sole/other flatfish.			
	Jan. 20—Apr. 1	0.2841	448	127
	Apr. 1—June 30	0.2841	164	47
	June 30—Dec. 31	0.2841	167	47
	Turbot/Arrowtooth/Sablefish	0.2327	0	0
	Rockfish	0.0245	69	2
	Pollock/Atka mackerel/Other sp	0.0227	232	5
Red King Crab	Pacific cod	0.6183	11,664	7,212
Zone 1	Yellowfin sole	0.1144	16,664	1,906
	Rock sole/flat. sole/other flatfish	0.2841	59,782	16,984
	Pollock/Atka mackerel/Other sp	0.0227	1,615	37
C. opilio	Pacific cod	0.6183	124,736	77,124
COBLZ [3,4]	Yellowfin sole	0.1144	2,776,981	317,687
	Rock sole/flat. sole/other flatfish	0.2841	969,130	275,330
	Pollock/Atka mackerel/Other sp	0.0227	72,428	1,644
	Rockfish [5]	0.0245	40,237	986
	Turbot/Arrowtooth/Sablefish	0.2327	40,238	9,363
C. bairdi	Pacific cod	0.6183	183,112	113,218
Zone 1	Yellowfin sole	0.1144	340,844	38,993
	Rock sole/flat. sole/other flatfish	0.2841	365,320	103,787
	Pollock/Atka mackerel/Other sp	0.0227	17,224	391
C. bairdi	Pacific cod	0.6183	324,176	200,438
Zone 2	Yellowfin sole	0.1144	1,788,459	204,600
	Rock sole/flat. sole/other flatfish	0.2841	596,154	169,367
	Pollock/Atka mackerel/Other sp	0.0227	27,473	624
	Rockfish	0.0245	10,988	269

[1] Halibut amounts are in metric tons of halibut mortality. Crab amounts are in numbers of animals.
[2] Target fishery categories are defined in regulation at § 679.21(e)(3)(iv).
[3] *C. opilio* Bycatch Limitation Zone. Boundaries are defined at Figure 13 of 50 CFR part 679.

[4] The Council at its December 2001 meeting limited red king crab for trawl fisheries within the RKCSS to 35 percent of the total allocation to the rock sole/flathead sole/'other flatfish'' fishery category (§ 679.21(e)(3)(ii)(B)). ''Other flatfish'' for PSC monitoring includes all flatfish species, except for Pacific halibut (a prohibited species), Greenland turbot, rock sole, yellowfin sole, arrowtooth flounder.

[5] The Council at its December 2001 meeting apportioned the rockfish PSC amounts from June 30—December 31.

2002 Sideboard Directed Fishing Closures

Catcher/Processor Sideboard Closures

The Regional Administrator has determined that many of the AFA catcher/processor sideboard amounts listed in Table 13 are necessary as incidental catch to support other anticipated groundfish fisheries for the 2002 fishing year. In accordance with § 679.20(d)(1)(iv), the Regional Administrator establishes these following amounts as directed fishing allowances. The Regional Administrator finds that many of these directed fishing allowances will be reached before the end of the year. Therefore, in accordance with § 679.20(d)(1)(iii), NMFS is prohibiting directed fishing by unrestricted AFA catcher/processors for the species in the specified areas set out in Table 17.

TABLE 17.—AFA UNRESTRICTED CATCHER/PROCESSOR SIDEBOARD DIRECTED FISHING CLOSURES.[1]

[These closures take effect 1200 HRS A.L.T., January 20, 2002 and remain in effect through 2400 HRS, A.L.T., December 31, 2002]

Species	Area	Gear types
Sablefish trawl	BSAI	all.
Greenland turbot	BSAI	all.
Arrowtooth flounder	BSAI	all.
Pacific ocean perch	BSAI	all.
Northern rockfish	BSAI	all.
Shortraker/Rougheye rockfish.	BSAI	all.
Other rockfish	BSAI	all.
Squid	BSAI	all.
Other species	BSAI	all.

[1] Maximum retainable percentages may be found in Table 11 to 50 CFR part 679.

AFA Catcher Vessel Sideboard Closures

The Regional Administrator has determined that many of the AFA catcher vessel sideboard amounts listed in Table 15 are necessary as incidental catch to support other anticipated groundfish fisheries for the 2002 fishing year. In accordance with § 679.20(d)(1)(iv), the Regional Administrator establishes these amounts as directed fishing allowances. The Regional Administrator finds that many of these directed fishing allowances will be reached before the end of the year. Therefore, in accordance with § 679.20(d)(1)(iii), NMFS is prohibiting directed fishing by non-exempt AFA catcher vessels for the species in the specified areas set out in Table 18.

TABLE 18.—AFA CATCHER VESSEL SIDEBOARD DIRECTED FISHING CLOSURES [1]

[These closures take effect 12 Noon A.L.T., January 20, 2002. These closures will remain in effect through 2400 hrs, A.L.T., December 31, 2002]

Species	Area	Gear
Pacific cod	BSAI	hook-and-line, pot, jig.
Sablefish	BSAI	trawl.
Atka mackerel	BSAI	all.
Greenland Turbot	BSAI	all.
Arrowtooth flounder	BSAI	all.
Pacific ocean perch	BSAI	all.
Northern rockfish	BSAI	all.
Shortraker/rougheye rockfish.	BSAI	all.
Other rockfish	BSAI	all.
Squid	BSAI	all.
Other species	BSAI	all.

[1] Maximum retainable percentages may be found in Table 11 to 50 CFR part 679.

Increase in the Contribution of Arrowtooth Flounder CDQ to the CDQ Non-specific Reserve

Regulations at § 679.31(f) establish the CDQ non-specific reserve, comprised of 15 percent of the CDQ reserves of arrowtooth flounder and ''other species'' (skates, sharks, sculpin, and octopus). These species are taken incidentally in the CDQ fisheries. A CDQ group may request that NMFS transfer amounts in its CDQ non-specific reserve back into either its arrowtooth flounder or ''other species'' CDQ categories to reduce the possibility that the catch of these species would limit overall CDQ catch. Species or species groups that contribute to the CDQ non-specific reserve are low-valued species for which no target fishery currently exists. These species have an adequate buffer between the TAC and the overfishing limit (OFL).

During the 2002 harvest specification process for the BSAI fisheries, the Bering Sea pollock TAC was set at 1,485,000 mt, based on increases to the 2002 pollock ABC and OFL. This is a 6 percent increase over the 2001 pollock TAC of 1,400,000 mt. The total BSAI TAC for all groundfish must be maintained within a required optimum yield range of 1.4 million to 2.0 million mt. In order to stay within the 2.0 million mt limit, the Council often sets the TAC for a particular groundfish species below its designated ABC. It selected an arrowtooth flounder TAC of approximately 14 percent of the arrowtooth flounder 2002 ABC of 113,000 mt. This means that the amount of the arrowtooth flounder CDQ reserve and the subsequent contribution of this amount to the CDQ non-specified reserve is proportionately decreased for 2002.

During the first 3 years of the groundfish CDQ fisheries, the CDQ non-specific reserve contained sufficient amounts of quota to support the bycatch needs in the ''other species'' CDQ category. Arrowtooth flounder was the largest contributor to the non-specific reserve in 1999 and 2000, the first complete years of groundfish CDQ fishing. For these years, the arrowtooth flounder TAC was set at or close to the acceptable biological catch (ABC) level. However, in 2001, the arrowtooth flounder TAC was set significantly less than the arrowtooth flounder ABC. This initiated concern among CDQ program participants that vessels fishing for groundfish CDQ would catch the ''other species'' CDQ allocation before they fully harvested target species such as pollock, Pacific cod, sablefish, and Greenland turbot. One of the primary reasons they cited for the shortfall in ''other species'' CDQ was the reduction in the 2001 arrowtooth flounder TAC. NMFS regulations limit the amount of ''other species'' CDQ available to each CDQ group and prohibit the groups from exceeding their allocations.

At its April 2001 meeting, the Council stated that the CDQ non-specific reserve was ''intended, in part, to provide adequate 'other species' quota to allow reasonable CDQ fisheries.'' At its June 2001 meeting, the Council requested that NMFS adjust the contribution of arrowtooth flounder CDQ to the CDQ non-specific reserve from 15 percent to 50 percent via emergency rulemaking. This was done in the SSL/Harvest Specifications interim emergency rule extension on July 17, 2001 (66 FR 37167). During the 2002 BSAI groundfish specification setting process, the Council again requested that NMFS amend the CDQ non-specific reserve to increase the contribution of arrowtooth flounder to the CDQ non-specific reserve from 15 percent of the arrowtooth flounder CDQ reserve to 50 percent of the arrowtooth flounder CDQ reserve for 2002.

In response to the Council's request, NMFS is amending the CDQ non-specific reserve to increase the contribution of arrowtooth flounder to the CDQ non-specific reserve from 15 percent of the arrowtooth flounder CDQ reserve to 50 percent of this reserve for 2002. This increase will allow CDQ groups to transfer additional quota from the CDQ non-specific reserve to the ''other species'' CDQ account to reduce the possibility that the incidental catch of ''other species'' would prevent the CDQ groups from fully harvesting their target species allocations.

The maximum amount of ''other species'' available for harvest in the combined CDQ and non-CDQ fisheries is the aggregate amount of the following components: The open access ITAC (26,201 mt), the CDQ reserve (2,312 mt), and the current amount of arrowtooth flounder in the CDQ non-specific reserve that could be released to the ''other species'' category (180 mt). The sum of these components is 28,693 mt. If 50 percent (600 mt) of the arrowtooth flounder CDQ reserve is moved to the non-specific CDQ reserve and subsequently released to the ''other species'' CDQ category, the revised total amount of ''other species'' available for harvest in the combined open access and CDQ fisheries would increase to 29,113 mt. This is 420 mt more than the currently available total ''other species'' amount of 28,693 mt. However, the increase in the overall amount of ''other species'' available for harvest via transfers from the CDQ non-specific reserve is still less than the combined CDQ and non-CDQ fisheries 2002 ''other species'' TAC of 30,825 mt and will not likely result in the total catch of ''other species'' exceeding the 2002 ''other species'' TAC. NMFS has determined that the TAC, ABC, and OFL controls associated with both the ''other species'' and arrowtooth flounder species categories are not compromised by this action. Even after adjusting the contribution of arrowtooth flounder to the CDQ non-specific reserve, the total permissible catch of ''other species'' and arrowtooth flounder in both the CDQ and non-CDQ groundfish fisheries remains below the initially recommended TAC for each species. The 2002 ABC and OFL thresholds are not impacted, since this action does not adjust permissible overall catch levels to the extent that they approach the ABC or OFL for either species. The aggregate amount of groundfish allocated to the CDQ sector will remain the same even with this increased contribution of arrowtooth flounder to the CDQ non-specific reserve, and the CDQ sector will still be constrained by existing prohibitions against exceeding specific CDQ amounts.

Gulf of Alaska

The SSC adopted the OFL recommendations from the Plan Team, which were provided in the November 2001 GOA SAFE report (See **ADDRESSES**) for all groundfish species categories. The SSC also adopted the ABC and area apportionment recommendations from the Plan Team, which were provided in the GOA SAFE report, for all of the groundfish species categories.

The AP adopted the SSC's OFL and ABC recommendations and developed TAC recommendations for all species. The Council adopted the AP's OFL, ABC, and TAC recommendations for all species.

The SSC's, AP's and Council's recommendation for the method of apportioning the sablefish ABC among management areas includes commercial fishery as well as survey data, as in 2001. NMFS stock assessment scientists believe that the use of unbiased commercial fishery data reflecting catch-per-unit effort provides a desirable input for stock distribution assessments. The use of commercial fishery data is evaluated annually to assure that unbiased information is included in stock distribution models. The Council's recommendation for sablefish area apportionments also takes into account the prohibition on the use of trawl gear in the Southeast Outside (SEO) District of the Eastern GOA and makes available 5 percent of the combined Eastern GOA sablefish ABCs to trawl gear for use as incidental catch in other directed groundfish fisheries in the West Yakutat (WYK) District.

The AP and Council recommended that the ABC for Pacific cod in the GOA be apportioned among regulatory areas based on the three most recent NMFS summer trawl surveys conducted in 1996, 1999, and 2001. As in previous years, the Plan Team, SSC, and Council recommended that total removals of Pacific cod from the GOA not exceed ABC recommendations. Accordingly, the Council recommended that the TACs be adjusted downward from the ABCs by amounts equal to the 2002 guideline harvest levels (GHL) established for Pacific cod by the State of Alaska for the State-managed fishery. The effect of the State's GHL on the Pacific cod TAC is discussed in greater detail below.

The Council's recommended ABCs are listed in Table 19. These amounts reflect harvest amounts that are less than the specified overfishing amounts. The sum of 2002 ABCs for all assessed groundfish is 394,780 mt, which is lower than the 2001 ABC total of 447,710 mt.

2002 GOA Harvest Specifications

Specifications of TAC and Reserves

The Council recommended that TACs be set equal to ABCs for pollock, deep-water flatfish, rex sole, sablefish, shortraker and rougheye rockfish, northern rockfish, Pacific Ocean perch, pelagic shelf rockfish, thornyhead rockfish, demersal shelf rockfish, and Atka mackerel. The Council recommended TACs be set less than the ABCs for Pacific cod, flathead sole, shallow-water flatfish, arrowtooth flounder, and other rockfish.

The TAC for pollock in the combined W/C/WYK area of the GOA has decreased from 89,415 mt in 2001 to 51,790 mt in 2002. The 2002 TAC in the SEO District of the Eastern GOA is unchanged from 2001 at 6,460 mt. The apportionment of annual pollock TAC among the Western and Central Regulatory Areas of the GOA reflects the seasonal biomass distribution and is discussed in greater detail below.

Under this emergency interim rule, the annual pollock TAC in the Western and Central Regulatory Areas of the GOA is divided into four equal seasonal apportionments. Twenty-five percent of the annual TAC in the Western and Central Regulatory Areas of the GOA is apportioned to the A season (January 20 through February 25), the B season (March 10 through May 31), the C season (August 25 through September 15), and the D season (October 1 through November 1) in Statistical Areas 610, 620, and 630 of the GOA (§ 679.23(d)(3)(i) through (iv)). The derivation of the seasonal apportionment amounts in these areas is discussed below.

The 2002 Pacific cod TAC is affected by the State's developing fishery for Pacific cod in State waters in the Central and Western GOA, as well as Prince William Sound (PWS). The SSC, AP, and Council recommended that the sum of all State and Federal water Pacific cod removals should not exceed the ABC. Accordingly, the Council recommended that the Pacific cod TAC be reduced from ABC levels to account for State GHLs in each regulatory area of the GOA so that the TAC for (1) The Eastern GOA is lower than the ABC by 864 mt, (2) the Central GOA is lower than the ABC by 6,890 mt, and (3) the Western GOA is lower than the ABC by 5,616 mt. These amounts reflect the sum of State's 2002 GHLs in these areas which are 25 percent, 21.75 percent, and 25 percent of the Eastern, Central,

and Western GOA ABCs, respectively. These percentages are unchanged from 2001.

NMFS is also establishing seasonal apportionments of the annual Pacific cod TAC in the Western and Central Regulatory Areas at 60 percent of the annual TAC for the January 1 through June 10 A season for nontrawl gear and January 20 through June 10 A season for trawl gear. 40 percent of the annual TAC is allocated to the B season. For nontrawl gear, the B season extends from September 1 through December 31 and for trawl gear the B seasons extends from September 1 through November 1. These seasonal apportionments of the annual Pacific cod TAC are discussed in greater detail below.

The FMP specifies that the amount for the ''other species'' category is calculated as 5 percent of the combined TAC amounts for target species. The 2002 GOA-wide ''other species'' TAC is 11,330 mt, which is 5 percent of the sum of the combined TAC amounts (226,560 mt) for the assessed target species. The sum of the TACs for all GOA groundfish is 237,890 mt, which is within the OY range specified by the FMP. The sum of the 2002 TACs is lower than the 2001 TAC sum of 285,994 mt. NMFS has reviewed the Council's recommended TAC specifications and apportionments and hereby approves these specifications under § 679.20(c)(3)(ii). The 2002 ABCs, TACs, and OFLs are shown in Table 19.

TABLE 19.—2002 ABCS, TACS, AND OVERFISHING LEVELS OF GROUNDFISH FOR THE WESTERN/CENTRAL/WEST YAKUTAT (W/C/WYK), WESTERN (W), CENTRAL (C), EASTERN (E) REGULATORY AREAS, AND IN THE WEST YAKUTAT (WYK), SOUTHEAST OUTSIDE (SEO), AND GULF-WIDE (GW) DISTRICTS OF THE GULF OF ALASKA

[Values are in metric tons]

Species	Area [1]	ABC	TAC	Overfishing
Pollock [2].				
Shumagin	(610)	17,730	17,730	
Chirikof	(620)	23,045	23,045	
Kodiak	(630)	9,850	9,850	
WYK	(640)	1,165	1,165	
Subtotal	W/C/WYK	51,790	51,790	75,480
SEO	(650)	6,460	6,460	8,610
Total		58,250	58,250	84,090
Pacific cod [3].				
	W	22,465	16,849	
	C	31,680	24,790	
	E	3,455	2,591	
Total		57,600	44,230	77,100
Flatfish (deep-water) [4]	W	180	180	
	C	2,220	2,220	
	WYK	1,330	1,330	
	SEO	1,150	1,150	
Total		4,880	4,880	6,430
Rex sole [4]	W	1,280	1,280	
	C	5,540	5,540	
	WYK	1,600	1,600	
	SEO	1,050	1,050	
Total		9,470	9,470	12,320
Flathead sole	W	9,000	2,000	
	C	11,410	5,000	
	WYK	1,590	1,590	
	SEO	690	690	
Total		22,690	9,280	29,530
Flatfish (shallow-water) [5]	W	23,550	4,500	
	C	23,080	13,000	
	WYK	1,180	1,180	
	SEO	1,740	1,740	
Total		49,550	20,420	61,810
Arrowtooth flounder	W	16,960	8,000	
	C	106,580	25,000	
	WYK	17,150	2,500	
	SEO	5,570	2,500	
Total		146,260	38,000	171,060
Sablefish [6]	W	2,240	2,240	
	C	5,430	5,430	
	WYK	1,940	1,940	
	SEO	3,210	3,210	
Subtotal	E	5,150	5,150	
Total		12,820	12,820	19,350
Pacific ocean perch [7]	W	2,610	2,610	3,110
	C	8,220	8,220	9,760

TABLE 19.—2002 ABCS, TACS, AND OVERFISHING LEVELS OF GROUNDFISH FOR THE WESTERN/CENTRAL/WEST YAKUTAT (W/C/WYK), WESTERN (W), CENTRAL (C), EASTERN (E) REGULATORY AREAS, AND IN THE WEST YAKUTAT (WYK), SOUTHEAST OUTSIDE (SEO), AND GULF-WIDE (GW) DISTRICTS OF THE GULF OF ALASKA—Continued

[Values are in metric tons]

Species	Area [1]	ABC	TAC	Overfishing
	WYK	780	780	
	SEO	1,580	1,580	
Subtotal	E			2,800
Total		13,190	13,190	15,670
Short raker/rougheye [8]	W	220	220	
	C	840	840	
	E	560	560	
Total		1,620	1,620	2,340
Other rockfish [9,10]	W	90	90	
	C	550	550	
	WYK	260	150	
	SEO	4,140	200	
Total		5,040	990	6,610
Northern Rockfish [10,12]	W	810	600	
	C	4,170	4,170	
	E	N/A	N/A	
Total		4,980	4,980	5,910
Pelagic shelf rockfish [13]	W	510	510	
	C	3,480	3,480	
	WYK	640	640	
	SEO	860	860	
Total		5,490	5,490	8,220
Thornyhead rockfish	W	360	360	
	C	840	840	
	E	790	790	
Total		1,990	1,990	2,330
Demersal shelf rockfish [11]	SEO	350	350	480
Atka mackerel	GW	600	600	6,200
Other species [14]	GW	[15] N/A	11,330	N/A
Total [16]		394,780	237,890	509,450

[1] Regulatory areas and districts are defined at § 679.2.

[2] Pollock is apportioned in the Western/Central Regulatory areas among three statistical areas. During the A and B seasons the apportionment is based on the relative distribution of pollock biomass at 23 percent, 68 percent, and 9 percent in Statistical Areas 610, 620, and 630 respectively. During the C and D seasons pollock is apportioned based on the relative distribution of pollock biomass at 47 percent, 23 percent, and 30 percent in Statistical Areas 610, 620, and 630 respectively. These seasonal apportionments are shown in Table 21. In the West Yakutat and the Southeast Outside Districts of the Eastern Regulatory Area the annual pollock TAC is not divided into seasonal allowances.

[3] The annual Pacific cod TAC is apportioned 60 percent to an A season and 40 percent to a B season in the Western and Central Regulatory Areas of the GOA. Pacific cod is allocated 90 percent for processing by the inshore component and 10 percent for processing by the offshore component. Seasonal apportionments and component allocations of TAC are shown in Table 22.

[4] ''Deep water flatfish'' means Dover sole, Greenland turbot, and deepsea sole.

[5] ''Shallow water flatfish'' means flatfish not including ''deep water flatfish,'' flathead sole, rex sole, or arrowtooth flounder.

[6] Sablefish is allocated to trawl and hook-and-line gears (Table 20).

[7] ''Pacific ocean perch'' means *Sebastes alutus.*

[8] ''Shortraker/rougheye rockfish'' means *Sebastes borealis* (shortraker) and *S. aleutianus* (rougheye).

[9] ''Other rockfish'' in the Western and Central Regulatory Areas and in the West Yakutat District means slope rockfish and demersal shelf rockfish. The category ''other rockfish'' in the Southeast Outside District means Slope rockfish.

[10] ''Slope rockfish'' means *Sebastes aurora* (aurora), *S. melanostomus* (blackgill), *S. paucispinis* (bocaccio), S. *goodei* (chilipepper), *S. crameri* (darkblotch), *S. elongatus* (greenstriped), *S. variegatus* (harlequin), *S. wilsoni* (pygmy), *S. babcocki* (redbanded), S. *proriger* (redstripe), *S. zacentrus* (sharpchin), *S. jordani* (shortbelly), *S. brevispinis* (silvergrey), S. *diploproa* (splitnose), *S. saxicola* (stripetail), *S. miniatus* (vermilion), and S. *reedi* (yellowmouth). In the Eastern GOA only, ''slope rockfish'' also includes northern rockfish, *S. polyspinous.*

[11] ''Demersal shelf rockfish'' means *Sebastes pinniger* (canary), *S. nebulosus* (china), *S. caurinus* (copper), *S. maliger* (quillback), *S. helvomaculatus* (rosethorn), *S. nigrocinctus* (tiger), and *S. ruberrimus* (yelloweye).

[12] ''Northern rockfish'' means *Sebastes polyspinis.*

[13] ''Pelagic shelf rockfish'' means *Sebastes ciliatus* (dusky), *S. entomelas* (widow), and *S. flavidus* (yellowtail).

[14] ''Other species'' means sculpins, sharks, skates, squid, and octopus. The TAC for ''other species'' equals 5 percent of the TACs of assessed target species.

[15] N/A means not applicable.

[16] The total ABC is the sum of the ABCs for assessed target species.

Apportionment of Reserves

Regulations implementing the FMP require 20 percent of each TAC for pollock, Pacific cod, flatfish, and the ''other species'' category be set aside in reserves for possible apportionment at a later date (§ 679.20(b)(2)). In 2001, NMFS reapportioned all of the reserves in the final harvest specifications. Between 1997 and 2000, NMFS retained the Pacific cod reserve to provide for a management buffer to account for excessive fishing effort and incomplete or late catch reporting. NMFS believes this is no longer necessary as estimates of catch and incidental catch needs in other directed fisheries have improved in recent years. For 2002, NMFS has reapportioned all of the reserve for pollock, Pacific cod, flatfish, and ''other species''. Specifications of TAC shown in Table 19 reflect apportionment of reserve amounts for these species and species groups.

Allocations of the Sablefish TACs to Vessels Using Hook-and-Line and Trawl Gear

Under § 679.20(a)(4)(i) and (ii), sablefish TACs for each of the regulatory areas and districts are allocated to hook-and-line and trawl gear. In the Western and Central Regulatory Areas, 80 percent of each TAC is allocated to hook-and-line gear and 20 percent of each TAC is allocated to trawl gear. In the Eastern Regulatory Area, 95 percent of the TAC is allocated to hook-and-line gear and 5 percent is allocated to trawl gear. The trawl gear allocation in the Eastern Regulatory Area may only be used to support incidental catch of sablefish in directed fisheries for other target species. In recognition of the trawl ban in the SEO District of the Eastern Regulatory Area, the Council recommended that 5 percent of the combined Eastern GOA sablefish be allocated to trawl gear in the WYK District and the remainder to vessels using hook-and-line gear. In the SEO District, 100 percent of the sablefish TAC is allocated to vessels using hook-and-line gear. This recommendation results in an allocation of 258 mt to trawl gear and 1,682 mt to hook-and-line gear in the WYK District and 3,210 mt to hook-and-line gear in the SEO District. Table 20 shows the allocations of the 2002 sablefish TACs between hook-and-line gear and trawl gear.

TABLE 20.—2002 SABLEFISH TAC SPECIFICATIONS IN THE GULF OF ALASKA AND ALLOCATIONS THEREOF TO HOOK-AND-LINE AND TRAWL GEAR

[Values are in metric tons]

Area/District	TAC	Hook-and-line apportionment	Trawl apportionment
Western	2,240	1,792	448
Central	5,430	4,344	1,086
West Yakutat	1,940	1,682	258
Southeast Outside	3,210	3,210	0
Total	12,820	11,028	1,792

Apportionments of Pollock TAC Among Seasons and Regulatory Areas, and Allocations for Processing by Inshore and Offshore Components

In the GOA, pollock is apportioned by season and area, and is further allocated for processing by inshore and offshore components. Under this emergency interim rule implementing Steller sea lion protection measures for 2002, the annual pollock TAC specified for the Western and Central Regulatory Areas of the GOA is apportioned into four equal seasonal allowances of 25 percent (§ 679.20(a)(5)(ii)(C)). As established by § 679.23(d)(3), the A, B, C, and D season allowances are available from January 20 through February 25, from March 10 through May 31, from August 25 through September 15, and from October 1 through November 1, respectively.

Pollock TACs in the Western and Central Regulatory Areas of the GOA in the A and B seasons are apportioned among Statistical Areas 610, 620, and 630 in proportion to the distribution of pollock biomass as determined by a composite of NMFS winter surveys and in the C and D seasons in proportion to the distribution of pollock biomass as determined by the four most recent NMFS summer surveys. Within any fishing year, underage or overage of a seasonal allowance may be added to or subtracted from subsequent seasonal allowances in a manner to be determined by the Regional Administrator, Alaska Region, NMFS, provided that the sum of the revised seasonal allowances does not exceed 30 percent of the annual TAC apportionment for the Central and Western Regulatory Areas in the GOA (§ 679.20(a)(5)(ii)(C)). For 2002, 30 percent of the annual TAC for the Central and Western Regulatory Areas is 15,187 mt. For 2002, the Regional Administrator has determined that within each area for which a seasonal allowance is established, any overage or underage of harvest at the beginning of the next season(s) shall be subtracted from or added to the following season provided that the resulting sum of seasonal allowances in the Central and Western Regulatory Areas does exceed 15,187 mt in any single season. The WYK and SEO District pollock TACs of 1,165 mt and 6,460 mt, respectively, are not allocated seasonally.

Regulations at § 679.20(a)(6)(ii) require that 100 percent of the pollock TAC in all regulatory areas and all seasonal allowances thereof be allocated to vessels catching pollock for processing by the inshore component after subtraction of amounts that are projected by the Regional Administrator to be caught by, or delivered to, the offshore component incidental to directed fishing for other groundfish species. The amount of pollock available for harvest by vessels harvesting pollock for processing by the offshore component is that amount actually taken as bycatch during directed fishing for groundfish species other than pollock, up to the maximum retainable bycatch amounts allowed under regulations at § 679.20(e) and (f). At this time, these bycatch amounts are unknown and will be determined during the fishing year.

The seasonal biomass distribution of pollock in the Western and Central GOA, area apportionments, and seasonal apportionments for the A, B, C, and D seasons are summarized in Table 21, except that amounts of pollock for processing by the inshore and offshore component are not shown.

TABLE 21.—DISTRIBUTION OF POLLOCK IN THE CENTRAL AND WESTERN REGULATORY AREAS OF THE GULF OF ALASKA; SEASONAL BIOMASS DISTRIBUTION, AREA APPORTIONMENTS; AND SEASONAL ALLOWANCES OF ANNUAL TAC IN 2002

[Values are in mt]

Area				
Season [1]	Shumagin (Area 610) (biomass distribution [2])	Chirikof (Area 620) (biomass distribution)	Kodiak (Area 630) (biomass distribution)	Total (biomass distribution)
A	2,916 (23%)	8,618 (68%)	1,122 (9%)	12,656 (100%)
B	2,916 (23%)	8,618 (68%)	1,122 (9%)	12,656 (100%)
C	5,949 (47%)	2,905 (23%)	3,803 (30%)	12,657 (100%)
D	5,949 (47%)	2,904 (23%)	3,803 (30%)	12,656 (100%)
Annual Total	17,730	23,045	9,850	50,625

[1] These emergency interim regulations for pollock in the GOA which specify A and B season dates and harvest limitations, expires July 8, 2002, before the C and D seasons are scheduled to begin. Therefore, the C and D seasons are not authorized unless either this emergency rule is extended, or proposed and final rulemaking is completed.

[2] Biomass distribution is rounded to the nearest 1%.

Seasonal Apportionments of Pacific Cod TAC and Allocations for Processing of Pacific Cod TAC Between Inshore and Offshore Components

As described in Part I above, Pacific cod fishing is divided into two seasons in the Western and Central Regulatory Areas of the GOA. The A season begins on January 1, 2002, and ends on June 10, 2002, for nontrawl gear and begins on January 20, 2002, and ends on June 10, 2002, for trawl gear. The B season begins on September 1, 2002, for all gear types and ends on December 31, 2002, for nontrawl gear and November 1, 2002, for trawl gear. After subtraction of incidental catch, 60 percent and 40 percent of the annual TAC will be available for harvest during the A and B seasons, respectively, and will be apportioned between the inshore and offshore processing components as provided in § 679.20(a)(6)(iii). Directed fishing for Pacific cod between the A and the B seasons is closed and fishermen participating in other directed fisheries may retain Pacific cod up to the maximum retainable bycatch amounts allowed under regulations at § 679.20(e) and (f). The time of day of all openings and closures of fishing seasons, other than the beginning and ending of the calender fishing year, is 1200 hours, A.l.t. For purposes of clarification, NMFS points out that the A season and the B season Pacific cod fishery dates differ from those of the A, B, C, and D seasons for the pollock fisheries. Any overage or underage of Pacific cod harvest from the A season shall be subtracted from or added to the subsequent B season. Any incidental catch of Pacific cod after the A season closes will be subtracted from the B season.

Regulations at § 679.20(a)(6)(iii) require that the TAC apportionment of Pacific cod in all regulatory areas be allocated to vessels catching Pacific cod for processing by the inshore and offshore components. Ninety percent of the Pacific cod TAC in each regulatory area is allocated to vessels catching Pacific cod for processing by the inshore component. The remaining 10 percent of the TAC is allocated to vessels catching Pacific cod for processing by the offshore component. These seasonal apportionments and allocations of the Pacific cod TAC for 2002 are shown in Table 22.

TABLE 22.—2002 SEASONAL APPORTIONMENTS AND ALLOCATION OF PACIFIC COD TAC AMOUNTS IN THE GULF OF ALASKA; ALLOCATIONS FOR PROCESSING BY THE INSHORE AND OFFSHORE COMPONENTS

[Values are in mt]

Regulatory area	TAC	Component Allocation	
		Inshore (90%)	Offshore (10%)
Western	16,849	15,164	1,685
A Season (60%)	10,109	9,098	1,011
B Season (40%)	6,740	6,066	674
Central	24,790	22,311	2,479
A Season (60%)	14,874	13,387	1,487
B Season (40%)	9,916	8,924	992
Eastern	2,591	2,332	259
Total	44,230	39,807	4,423

Pacific Halibut PSC Mortality Limits

Under § 679.21(d), annual Pacific halibut PSC limits are established and apportioned to trawl and hook-and-line gear and may be established for pot gear.

As in 2001, the Council recommended that pot gear, jig gear, and the hook-and-line sablefish fishery be exempted from the non-trawl halibut limit for 2002. The Council recommended these exemptions because of the low halibut bycatch mortality experienced in the pot gear fisheries (4 mt in 2001) and because of the 1995 implementation of the sablefish and halibut Individual Fishing Quota program, which allows legal-sized halibut to be retained in the

sablefish fishery. Halibut mortality for the jig gear fleet cannot be estimated because these vessels do not carry observers. However, halibut mortality is assumed to be very low given the small amount of groundfish harvested by this gear type (336 mt in 2001) and the assumed high survival rate of any halibut that are incidentally taken and released.

As in 2001, the Council recommended a hook-and-line halibut PSC mortality limit of 300 mt. Ten mt of this limit are apportioned to the demersal shelf rockfish fishery in the Southeast Outside District. The fishery is defined at § 679.21(d)(4)(iii)(A) and historically has been apportioned this amount in recognition of its small scale harvests. Observer data are not available to verify actual bycatch amounts given that most vessels are less than 60 ft (13.5 m) LOA and are exempt from observer coverage. The remainder of the PSC limit is seasonally apportioned among the non-sablefish hook-and-line gear fisheries as shown in Table 23.

The Council continued to recommend a trawl halibut PSC mortality limit of 2,000 mt for 2002. The PSC limit has remained unchanged since 1989. Regulations at § 679.21(d)(3)(iii) authorize separate apportionments of the trawl halibut PSC limit between trawl fisheries for deep-water and shallow-water species. Regulations at § 679.21(d)(5) authorize seasonal apportionments of halibut PSC limits.

NMFS concurs in the Council's recommendations described above and listed in Table 23. The following types of information as presented in, and summarized from, the current SAFE report, or as otherwise available from NMFS, ADF&G, the International Pacific Halibut Commission (IPHC), or public testimony were considered:

(A) Estimated Halibut Bycatch in Prior Years

The best available information on estimated halibut bycatch is data collected by observers during 2001. The calculated halibut bycatch mortality by trawl, hook-and-line, and pot gear through December 7, 2001, is 2,205 mt, 286 mt, and 4 mt, respectively, for a total halibut mortality of 2,495 mt.

Halibut bycatch restrictions seasonally constrained trawl gear fisheries during the 2001 fishing year. Trawling for the deep-water fishery complex was closed for the second season on May 25 (66 FR 29511, May 31, 2001) and for the third season on July 23 (66 FR 39119, July 27, 2001). The shallow-water fishery complex was closed for the second season on April 27 (66 FR 21886, May 2, 2001), the fishery was reopened from May 21 to May 26 (66 FR 28679, May 24, 2001, and 66 FR 29512, May 31, 2001), for the third season on June 27 (66 FR 34852, July 2, 2001), and for the fourth season on August 4 (66 FR 41455, August 8, 2001). The fishery was reopened from September 1 to September 4 (66 FR 34852, July 2, 2001, and 66 CF 46967, September 10, 2001). All trawling in the GOA closed (with the exception of pelagic trawl gear targeting pollock) for the remainder of the year on October 21 (66 FR 53736, October 24, 2001).

The three seasonal apportionments of the hook-and-line halibut bycatch mortality limit resulted in closures of hook-and-line gear fisheries for groundfish other than sablefish and demersal shelf rockfish on February 26 (66 FR 12912, March 1, 2001), May 17 (66 FR 27043, May 16, 2000), and on September 4 (66 FR 46404, September 5, 2001).

(B) Expected Changes in Groundfish Stocks

In December 2001, the Council adopted higher 2002 ABCs for rex sole, shallow water flatfish, flathead sole, other rockfish, northern rockfish, and demersal shelf rockfish than those established for 2001. The Council adopted lower 2002 ABCs for pollock, Pacific cod, deep water flatfish, arrowtooth flounder, sablefish, Pacific Ocean perch, shortraker and rougheye rockfish, pelagic shelf rockfish, and thornyhead rockfish than those established for 2001. More information on these changes is included in the final SAFE report (November 2001) and in the Council and SSC December 2001 meeting minutes.

(C) Expected Changes in Groundfish Catch

The total of the 2002 TACs for the GOA is 237,888 mt, a decrease of 17 percent from the 2001 TAC total of 285,994 mt. Those fisheries for which the 2002 TACs are lower than in 2001 are pollock (decreased to 58,250 mt from 95,875 mt), Pacific cod (decreased to 44,230 mt from 52,110 mt), deep water flatfish (decreased to 4,880 mt from 5,300 mt), sablefish (decreased to 12,820 mt from 12,840 mt), Pacific Ocean perch (decreased to 13,190 mt from 13,510 mt), shortraker and rougheye rockfish (decreased to 1,620 mt from 1,730 mt), other rockfish (decreased to 990 mt from 1,010 mt), pelagic shelf rockfish (decreased to 5,490 mt from 5,980 mt), thornyhead rockfish (decreased to 1,990 mt from 2,310 mt), and ''other species'' (decreased to 11,330 mt from 13,619 mt). Those species for which the 2002 TACs are higher than in 2001 are rex sole (increased to 9,470 mt from 9,440 mt), flathead sole (increased to 9,280 mt from 9,060 mt), shallow water flatfish (increased to 20,420 mt from 19,400 mt), northern rockfish (increased to 4,980 mt from 4,880 mt), and demersal shelf rockfish (increased to 350 mt from 330 mt).

(D) Current Estimates of Halibut Biomass and Stock Condition

The most recent halibut stock assessment was conducted by the International Pacific Halibut Commission (IPHC) in December 2000. The halibut resource is considered to be healthy, with total catch near record levels. The current exploitable halibut biomass for 2001 is estimated to be 249,007 mt, using an age-specific estimate for 2001. In the age-specific estimate, the assumption is that the selection of fish by the survey is based primarily on the age of the fish and reflects the availability of fish of different ages on the grounds. This is an increase from the estimate of 135,172 mt in 2000. The difference is in large part due to omitting a precautionary downward correction used in the 1999 assessment which was based on presumed increased fishing power of baits recently used in the surveys. The 2000 estimate for exploitable biomass in 2001 of 249,007 mt is now similar to the 1998 estimate for exploitable biomass in 1999 of 227,366 mt before the fishing power correction was made. The IHPC believes that exploitable biomass of the Pacific halibut stock peaked at 326,520 mt in 1988. According to the IHPA, the long-term average reproductive biomass for the Pacific halibut resource is estimated at 118,000 mt. Long-term average yield is estimated at 26,980 mt, round weight. The species is fully utilized. Average catches (1994–96) are 33,580 mt for the U.S. and 6,410 mt for Canada, for a combined total of 39,990 mt for the entire Pacific halibut resource. This catch is 48 percent higher than the long-term potential yield, which reflects the good condition of the Pacific halibut resource. In January 2001, the IPHC recommended commercial catch limits totaling 37,120 mt (round weight equivalents) for Alaska in 2001, up from 33,910 mt in 2000. Through November 23, 2001, commercial hook-and-line harvests of halibut in Alaska totaled 35,293 mt (round weight equivalents).

The major change in the assessment results for 2000 came from the elimination of the downward correction in recent survey catch rates that was applied in 1999, to account for a suspected increase in the fishing power

of the surveys due to a bait change in 1993. Experiments conducted in 2000 have shown that the precautionary adjustment is not required. The stock assessment shows only minor changes for the southern portion of the range (Areas 2A, 2B, and 2C). Improvements in the estimated biomass of the stock in Area 3A are accounted for largely by the change in the treatment of historical survey data. Weight at age for halibut in the central portion of the range increased slightly in 2000 over the very low values of recent years. However, recruitment of year classes born between 1989 and 1993 appears to be poor. The outlook for the stock biomass over the near future is for a decline from the record high levels of recent years until increased recruitment to the stock occurs.

Additional information on the Pacific halibut stock assessment may be found in the final SAFE report (November 2001) and in the IPHC's 2000 Pacific halibut stock assessment (December 2000). The 2001 Pacific halibut stock assessment for 2002 will be considered by the IPHC at its January 2002 annual meeting in setting the 2002 commercial halibut fishery quotas. IPHC staff have made a preliminary catch recommendation of 36,812 mt (round weight equivalents) for Alaska waters in 2002, a decrease of 308 mt from 2001.

(E) Other Factors

The allowable commercial catch of halibut will be adjusted to account for the overall halibut PSC mortality limit established for groundfish fisheries. The 2002 GOA groundfish fisheries are expected to use the entire proposed halibut PSC limit of 2,300 mt. The allowable directed commercial catch is determined by accounting for the recreational and subsistence catch, waste, and bycatch mortality and then providing the remainder to the directed fishery. Groundfish fishing is not expected to adversely affect the halibut stocks.

Methods available for reducing halibut bycatch include: (1) Reducing halibut bycatch rates through the Vessel Incentive Program; (2) modifications to gear; (3) changes in groundfish fishing seasons; (4) individual transferable quota programs; and (5) time/area closures.

Reductions in groundfish TAC amounts provide no incentive for fishermen to reduce bycatch rates. Costs that would be imposed on fishermen as a result of reducing TAC amounts depend on the species and amounts of groundfish foregone.

Trawl vessels carrying observers for purposes of complying with observer coverage requirements (§ 679.50) are subject to the Vessel Incentive Program. This program encourages trawl fishermen to avoid high halibut bycatch rates while conducting groundfish fisheries by specifying bycatch rate standards for various target fisheries.

Current regulations (§ 679.2 Authorized fishing gear (12)) specify requirements for biodegradable panels and tunnel openings for groundfish pots to reduce halibut bycatch. As a result, low bycatch and mortality rates of halibut in pot fisheries have justified exempting pot gear from PSC limits.

The regulations also define pelagic trawl gear in a manner intended to reduce bycatch of halibut by displacing fishing effort off the bottom of the sea floor when certain halibut bycatch levels are reached during the fishing year. The definition provides standards for physical conformation (§ 679.2, see Authorized fishing gear) and performance of the trawl gear in terms of crab bycatch (§ 679.7(a)(14)). Furthermore, all hook-and-line vessel operators are required to employ careful release measures when handling halibut bycatch (§ 679.7(a)(13)). These measures are intended to reduce handling mortality, to increase the amount of groundfish harvested under the available halibut mortality bycatch limits, and to possibly lower overall halibut bycatch mortality in groundfish fisheries.

The sablefish/halibut IFQ program (implemented in 1995) was intended, in part, to reduce the halibut discard mortality in the sablefish fishery.

Consistent with the goals and objectives of the FMP to reduce halibut bycatch while providing an opportunity to harvest the groundfish OY, NMFS approves the assignments of 2,000 mt and 300 mt of halibut PSC limits to trawl and hook-and-line gear, respectively. While these limits will reduce the harvest quota for commercial halibut fishermen, NMFS has determined that they will not result in unfair allocation to any particular user group as these PSCs establish an upper limit on the impact of the groundfish fisheries on the commercial halibut fishery in the GOA. NMFS recognizes that some halibut bycatch will occur in the groundfish fishery, but the Vessel Incentive Program, required modifications to gear, and implementation of the halibut/sablefish IFQ program are intended to reduce adverse impacts on halibut fishermen while promoting the opportunity to achieve the OY from the groundfish fishery. NMFS and the Council will review the methods available for reducing halibut bycatch listed here to determine their effectiveness, and will initiate changes, as necessary, in response to this review or to public testimony and comment.

Fishery and Seasonal Apportionments of the Halibut PSC Limits

Under § 679.21(d)(5), NMFS seasonally apportions the halibut PSC limits based on recommendations from the Council. The FMP requires that the following information be considered by the Council in recommending seasonal apportionments of halibut PSC limits: (a) Seasonal distribution of halibut, (b) seasonal distribution of target groundfish species relative to halibut distribution, (c) expected halibut bycatch needs on a seasonal basis relative to changes in halibut biomass and expected catches of target groundfish species, (d) expected bycatch rates on a seasonal basis, (e) expected changes in directed groundfish fishing seasons, (f) expected actual start of fishing effort, and (g) economic effects of establishing seasonal halibut allocations on segments of the target groundfish industry.

In December 2001, the Council and its AP recommended seasonal PSC apportionments in order to maximize harvest among gear types, fisheries, and seasons while minimizing bycatch of PSC based upon the criteria above. NMFS adjusts the Council's recommended start date for the third seasonal allowance of trawl halibut PSC from July 1 to June 30 to coincide with the trawl rockfish opening in the BSAI on June 30 and to facilitate inseason management of rockfish harvest over the July 4 holiday. NMFS approves the PSC apportionments specified in Tables 23 and 24, below. Regulations at § 679.21(d)(5)(iii) and (iv) specify that any overages or shortfalls in a seasonal apportionment of a PSC limit will be deducted from or added to the next respective seasonal apportionment within the 2002 season.

TABLE 23.—FINAL 2002 PACIFIC HALIBUT PSC LIMITS, ALLOWANCES, AND APPORTIONMENTS. THE PACIFIC HALIBUT PSC LIMIT FOR HOOK-AND-LINE GEAR IS ALLOCATED TO THE DEMERSAL SHELF ROCKFISH (DSR) FISHERY AND FISHERIES OTHER THAN DSR. THE HOOK-AND-LINE SABLEFISH FISHERY IS EXEMPT FROM HALIBUT PSC LIMITS. (VALUES ARE IN MT)

Trawl gear		Hook-and-line gear			
		Other than DSR		DSR	
Dates	Amount	Dates	Amount	Dates	Amount
Jan 1– Apr 1	550 (27.5%)	Jan 1–June 10	250 (86.2%)	Jan 1–Dec 31	10 (100%)
Apr 1–June 30	400 (20%)	June 10–Sept 1	5 (1.7%)		
June 30–Sept 1	600 (30%)	Sept 1–Dec 31	35 (12.1%)		
Sept 1–Oct 1	150 (7.5%)				
Oct 1–Dec 31	300 (15%)				
Total	2,000 (100%)		290 (100%)		10 (100%)

Regulations at § 679.21(d)(3)(iii) authorize apportionments of the trawl halibut PSC limit to a deep-water species complex, comprised of sablefish, rockfish, deep-water flatfish, rex sole and arrowtooth flounder; and a shallow-water species complex, comprised of pollock, Pacific cod, shallow-water flatfish, flathead sole, Atka mackerel, and ''other species''. The apportionment for these two trawl fishery complexes is presented in Table 24.

TABLE 24.—FINAL 2002 APPORTIONMENT OF PACIFIC HALIBUT PSC TRAWL LIMITS BETWEEN THE TRAWL GEAR DEEP-WATER SPECIES COMPLEX AND THE SHALLOW-WATER SPECIES COMPLEX (VALUES ARE IN METRIC TONS)

Season	Shallow-water	Deep-water	Total
Jan 20–Apr 1	450	100	550
Apr 1–June 30	100	300	400
June 30–Sept 1	200	400	600
Sept 1–Oct 1	150	Any Remainder	150
Subtotal: Jan 20–Oct 1	900	800	1,700
Oct 1–Dec 31			300
Total			2,000

No apportionment between shallow-water and deep-water fishery complexes during the 4th quarter of the calendar year.

Halibut Discard Mortality Rates

The Council recommended that the revised halibut discard mortality rates (DMRs) recommended by the IPHC be adopted for purposes of monitoring halibut bycatch mortality limits established for the 2002 groundfish fisheries. NMFS concurs in the Council's recommendation. The IPHC recommended use of a long-term average as preseason assumed DMRs for the 2001–2003 groundfish fisheries. The IPHC recommendation also includes a provision that revised DMRs would be proposed should analysis indicate that a fishery's annual DMR diverges substantially (up or down) from the long-term average. Most of the IPHC's assumed DMRs were based on an average of mortality rates determined from NMFS observer data collected between 1990 and 1999. Rates were lacking for some fisheries, so rates from the most recent years were used. For the ''other species'' fishery, where insufficient mortality data are available, the mortality rate of halibut caught in the Pacific cod fishery for that gear type was recommended as a default rate. The assumed mortality rates recommended for 2002 are unchanged from those used in 2001 in the GOA. The recommended rates for hook-and-line targeted fisheries range from 8 to 24 percent. The recommended rates for trawl targeted fisheries range from 58 to 72 percent. The recommended rate for all pot targeted fisheries is 14 percent. The 2002 assumed DMRs are listed in Table 25.

TABLE 25.—2002 ASSUMED PACIFIC HALIBUT MORTALITY RATES FOR VESSELS FISHING IN THE GULF OF ALASKA (LISTED VALUES ARE PERCENT OF HALIBUT BYCATCH ASSUMED TO BE DEAD)

Gear and target	Mortality rate
Hook-and-Line:	
Pacific cod	14
Rockfish	8
Other species	14
Sablefish	24
Trawl:	
Midwater pollock	72
Rockfish	69
Shallow-water flatfish	69
Pacific cod	61

TABLE 25.—2002 ASSUMED PACIFIC HALIBUT MORTALITY RATES FOR VESSELS FISHING IN THE GULF OF ALASKA (LISTED VALUES ARE PERCENT OF HALIBUT BYCATCH ASSUMED TO BE DEAD)—Continued

Gear and target	Mortality rate
Deep-water flatfish	60
Flathead sole	58
Rex sole	61
Bottom pollock	61
Arrowtooth Flounder	62
Atka mackerel	70
Sablefish	66
Other species	61
POT:	
Pacific cod Other species	14

Non-Exempt American Fisheries Act (AFA) Catcher Vessel Groundfish Harvest and PSC Limitations

One of the provisions implemented under the AFA was to specify groundfish harvesting and processing limitations, also called sideboards, on AFA catcher/processors and catcher vessels in the GOA. These limitations are considered necessary for fishermen

and processors who have received exclusive harvesting and processing privilege under the AFA to protect the interests of fishermen and processors who have not directly benefitted from the AFA. In the GOA, unrestricted AFA catcher/processors are prohibited from fishing for any species of fish and from processing any groundfish harvested in Statistical Area 630 of the GOA. The Council recommended that certain AFA catcher vessels in the GOA be exempt from groundfish harvest limitations. Exempted AFA catcher vessels in the GOA are those less than 125 ft (38.1 m) length overall whose annual BSAI pollock landings totaled less than 5,100 mt and that made 40 or more GOA groundfish landings from 1995 through 1997 (§ 679.63(b)(1)(i)(B)).

For non-exempt AFA catcher vessels in the GOA, harvest limitations are based upon their traditional harvest levels of TAC in groundfish fisheries covered by the GOA FMP. The amounts of the groundfish harvest limits in the GOA are based on the retained catch of non-exempt AFA catcher vessels of each sideboard species from 1995 through 1997 divided by the TAC for that species over the same period (§ 679.63(b)(1)(ii)(C)). For 2002, the ratio of 1995 to 1997 non-exempt AFA catcher vessel retained catch to the 1995 to 1997 TAC has been revised from 2001 by NMFS. These revisions are based upon ADF&G editing of fish tickets and NMFS editing of observer catch data and weekly production reports. These amounts are listed in Table 26. All harvests of sideboard species made by non-exempt AFA catcher vessels, whether as targeted catch or bycatch, will be deducted from the sideboard limits in Table 26.

TABLE 26.—FINAL 2002 GOA NON-EXEMPT AFA CATCHER VESSEL (CV) GROUNDFISH HARVEST LIMITATIONS (SIDEBOARDS) (VALUES ARE IN MT)

Species	Apportionments and Allocations by Area/Season/processor/Gear	Ratio of 1995–1997 Non-Exempt AFA CV Catch to 1995–1997 TAC	2002 TAC	2002 Non-Exempt AFA Catcher Vessel Sideboard
Pollock	*A Season (W/C areas only)*.			
	January 20—February 25.			
	Shumagin (610)	0.6112	2,916	1,782
	Chirikof (620)	0.1427	8,618	1,230
	Kodiak (630)	0.2438	1,122	274
	B Season (W/C areas only).			
	March 10—May 31.			
	Shumagin (610)	0.6112	2,916	1,782
	Chirikof (620)	0.1427	8,618	1,230
	Kodiak (630)	0.2438	1,122	274
	C Season (W/C areas only).			
	August 25—September 15.			
	Shumagin (610)	0.6112	5,949	3,636
	Chirikof (620)	0.1427	2,905	414
	Kodiak (630)	0.2438	3,803	927
	D Season (W/C areas only).			
	October 1—November 1.			
	Shumagin (610)	0.6112	5,949	3,636
	Chirikof (620)	0.1427	2,904	414
	Kodiak (630)	0.2438	3,803	927
	Annual.			
	WYK (640)	0.3499	1,165	408
	SEO (650)	0.3499	6,460	2,260
Pacific cod	A Season [1].			
	January 1—June 10.			
	W inshore	0.1423	9,098	1,295
	offshore	0.1026	1,011	104
	C inshore	0.0722	13,387	966
	offshore	0.0721	1,487	107
	B Season [2].			
	September 1—December 31.			
	W inshore	0.1423	6,066	863
	offshore	0.1026	674	69
	C inshore	0.0722	8,924	644
	offshore	0.0721	992	72
	Annual.			
	January 1—December 31.			
	E inshore	0.0079	2,332	18
	Offshore	0.0078	259	2
Flatfish deep-water	W	0.0000	180	0
	C	0.0670	2,220	149
	E	0.0171	2,480	42
Rex sole	W	0.0010	1,280	1
	C	0.0402	5,540	223
	E	0.0153	2,650	41
Flathead sole	W	0.0036	2,000	7
	C	0.0261	5,000	130
	E	0.0048	2,280	11
Flatfish shallow-water	W	0.0156	4,500	70

TABLE 26.—FINAL 2002 GOA NON-EXEMPT AFA CATCHER VESSEL (CV) GROUNDFISH HARVEST LIMITATIONS (SIDEBOARDS) (VALUES ARE IN MT)—Continued

Species	Apportionments and Allocations by Area/Season/processor/Gear	Ratio of 1995–1997 Non-Exempt AFA CV Catch to 1995–1997 TAC	2002 TAC	2002 Non-Exempt AFA Catcher Vessel Sideboard
	C	0.0598	13,000	777
	E	0.0126	2,920	37
Arrowtooth flounder	W	0.0021	8,000	17
	C	0.0309	25,000	772
	E	0.0020	5,000	10
Sablefish	W trawl gear	0.0000	448	0
	C trawl gear	0.0720	1,086	78
	WYK trawl gear	0.0488	258	13
Pacific Ocean perch	W	0.0623	2,610	163
	C	0.0866	8,220	712
	E	0.0466	2,360	110
Shortraker/Rougheye	W	0.0000	220	0
	C	0.0237	840	20
	E	0.0124	560	7
Other rockfish	W	0.0034	90	0
	C	0.2065	550	114
	E	0.0000	350	0
Northern rockfish	W	0.0003	810	0
	C	0.0336	4,170	140
Pelagic shelf rockfish	W	0.0001	510	0
	C	0.0000	3,480	0
	E	0.0067	1,500	10
Thornyhead rockfish	W	0.0308	360	11
	C	0.0308	840	26
	E	0.0308	790	24
Demersal shelf rockfish	SEO	0.0020	350	1
Atka mackerel	Gulfwide	0.0309	600	19
Other species	Gulfwide	0.0090	11,330	102

Notes:[1] The Pacific cod A season for trawl gear does not open until January 20.
[2] The Pacific cod B season for trawl gear closes November 1.

PSC bycatch limits for non-exempt AFA catcher vessels in the GOA are based upon the ratio of aggregate retained groundfish catch by non-exempt AFA catcher vessels in each PSC target category from 1995 through 1997 relative to the retained catch of all vessels in that fishery from 1995 through 1997 (§ 679.63(b)(1)(iii)). These amounts are shown in Table 27.

TABLE 27.—FINAL 2002 NON-EXEMPT AFA CATCHER VESSEL PROHIBITED SPECIES CATCH (PSC) LIMITS FOR THE GOA (VALUES ARE IN MT)

PSC species	Target fishery and season	Ratio of 1995–1997 non-exempt AFA CV retained catch to total retained catch	2002 PSC limit	2002 Non-exempt AFA catcher vessel PSC limit
Halibut (mortality in mt)	Trawl 1st Seasonal Allowance; January 20–April 1.			
	shallow water targets	0.340	450	153
	deep water targets	0.070	100	7
	Trawl 2nd Seasonal Allowance; April 1–June 30.			
	shallow water targets	0.340	100	34
	deep water targets	0.070	300	21
	Trawl 3rd Seasonal Allowance; June 30–Sept. 1.			
	shallow water targets	0.340	200	68
	deep water targets	0.070	400	28
	Trawl 4th Seasonal Allowance; Sept. 1–October 1.			
	shallow water targets	0.340	150	51
	deep water targets	0.070	0	any remainder from 3rd season above
	Trawl 5th Seasonal Allowance; October 1–December 31.			
	all targets	0.205	300	62

Closures

In accordance with § 679.20(d)(1)(i), if the Regional Administrator determines that the amount of a target species or ''other species'' category apportioned to a fishery or, with respect to pollock and Pacific cod, to an inshore or offshore component allocation, will be reached, the Regional Administrator may establish a directed fishing allowance for that species or species group. If the Regional Administrator establishes a directed fishing allowance, and that allowance is or will be reached before the end of the fishing year, NMFS will prohibit directed fishing for that species or species group in the specified GOA Regulatory Area or district (§ 679.20(d)(1)(iii)).

The Regional Administrator has determined that the following TAC amounts (Table 28) are necessary as incidental catch to support other anticipated groundfish fisheries for the 2002 fishing year.

TABLE 28.—INCIDENTAL CATCH NEEDED TO SUPPORT OTHER DIRECTED FISHERIES IN THE GOA IN 2002 (AMOUNTS ARE IN MT)

Target	Regulatory area	Gear/component	Amount
Atka Mackerel	Entire GOA	All	600
Thornyhead Rockfish	Entire GOA	All	1,990
Shortraker and Rougheye Rockfish	Entire GOA	All	1,620
Other Rockfish	Entire GOA	All	990
Sablefish	Entire GOA	Trawl	1,792
Pollock	Entire GOA	All/offshore	0

Consequently, in accordance with § 679.20(d)(1)(i), the Regional Administrator establishes the directed fishing allowances for the above species or species groups as zero and in accordance with § 679.20(d)(1)(iii), NMFS is prohibiting directed fishing for those species, areas, gear types, components, and seasons listed in Table 28.

Regulations at § 679.63(b)(1)(iv) provide for management of AFA catcher vessel groundfish harvest limits and PSC bycatch limits using directed fishing closures and PSC closures according to procedures set out at § 679.20(d)(1)(iv) and § 679.21(d)(8). The Regional Administrator has determined that in addition to the closures listed above, many of the non-exempt AFA catcher vessel sideboard amounts listed in Table 26 are necessary as incidental catch to support other anticipated groundfish fisheries for the 2001 fishing year. In accordance with § 679.20(d)(1)(iv), the Regional Administrator establishes these amounts as directed fishing allowances. The Regional Administrator finds that many of these directed fishing allowances will be reached before the end of the year. Therefore, in accordance with § 679.20(d)(1)(iii), NMFS is prohibiting directed fishing by non-exempt AFA catcher vessels in the GOA for the species and specified areas set out in Table 29.

TABLE 29.—NON-EXEMPT AFA CATCHER VESSEL SIDEBOARD DIRECTED FISHING CLOSURES IN THE GOA

Species	Regulatory Area/District	Gear
Pelagic shelf rockfish	Entire GOA	All.
Deep-water flatfish	W and E GOA	All.
Rex sole	W and E GOA	All.
Flathead sole	W and E GOA	All.
Arrowtooth Flounder	W and E GOA	All.
Northern rockfish	W GOA	All.
Shallow-water Flatfish	E GOA	All.
Pacific cod	E GOA	All.
Demersal shelf rockfish	SEO District	All.

Response to Comments

NMFS received two letters of comment in response to the July 17, 2001, emergency interim rule (66 FR 37167) that extended and modified Steller sea lion protection measures and harvest specifications through 2001. The letters indicated concern about the perceived inadequacy of the measures in the emergency interim rule to protect Steller sea lions, inadequacy of the accompanying NEPA analysis, and strength of data used for making decisions. The comments are responded to in this action because NMFS has completed the analysis of the current status of Steller sea lions and the interactions with the groundfish fisheries, making responses based on the best scientific information available. The changes made to Steller sea lion protection measures by the July 17, 2001, emergency interim rule were short-term changes that were likely to be modified for 2002 and the comments received were considered in the development of 2002 protection measures. Copies of the Environmental Assessment (EA) for the extension of the 2001 Steller sea lion protection measures and harvest specifications are available from NMFS (see **ADDRESSES**).

Comment 1. One of the main reasons for reducing 2001 protection measures is to allow access to certain areas important to commercial fisheries. According to the economic analysis for the 2001 protection measures, the selection of Alternative 3 from the Economic Assessment for the extension of the 2001 emergency rule ensures minimal economic impact. Minimizing economic hardship is not a legitimate reason for choosing protection measures.

Response. Economic considerations can be used as a basis for selecting Steller sea lion protection measures only from alternatives that avoid jeopardizing the continued existence of an endangered or threatened species and that avoid destroying or adversely modifying designated critical habitat.

Because Alternative 2 and 3 met or exceeded the level of protection necessary to avoid the likelihood of jeopardy and adverse modification of critical habitat, NMFS was able to choose between Alternatives 2 and 3 and selected the option less likely to cause adverse economic impact. NMFS determined that Alternative 2 would have excessive adverse economic impact; therefore, Alternative 3 was chosen.

Comment 2. Recent telemetry data analysis has led NMFS to reduce the size of Steller sea lion protection areas. Using the telemetry data in this way ignores the facts that (1) Steller sea lions forage beyond 10 nm of land, (2) the telemetry data are biased because the data are limited to Steller sea lions likely to occur closer to shore (lactating females and pups), and (3) NMFS is required to prevent adverse modification in all designated critical habitat.

Response. The best available information on the foraging patterns of Steller sea lions was summarized in a series of white papers by NMFS and the Alaska Department of Fish and Game. This information, along with historical data, was incorporated into an October 2001 Section 7 consultation under the ESA for the two populations of Steller sea lions. This new information was primarily gathered through satellite telemetry on sea lions, observing their at sea distribution, dive characteristics, and haulout patterns. The data indicate a strong preference among juveniles and lactating females to remain close to shore, generally within 10 nm. Some trips by tagged sea lions went beyond 10 nm; however, these were infrequent and often much longer trips going well beyond the boundaries of critical habitat. About 90 percent of the at-sea observations of these tagged animals were within 10 nm from shore.

NMFS recognizes certain limitations in the data that could create undetected biases; these were described in detail in the biological opinion. However, at this time, NMFS has no data to support these possible biases and has no reason to believe that the data mis-represent the at sea distribution of these animals. Little detailed information exists on the foraging patterns of adult males, mostly due to the difficulty in capturing and tagging these large animals. Anecdotal observations, including the Platform of Opportunity (POP) database, indicated that adult males forage over very large areas, often many miles from shore. Additionally, the available data suggest that the lack of juvenile survival may be the greatest cause of the decline, further supporting the use of the telemetry information as a reasonable description of the foraging areas important to Steller sea lions.

In 2002, numerous areas will receive greater protection than in the past; many sites will be protected out to 20 nm as well as parts of the sea lion aquatic foraging areas. NMFS used a zonal approach for closure areas, prohibiting nearly all fishing for the three species within 3 nm from rookeries and haulouts; limited fishing from 3–10 nm by gear types less likely to cause localized depletions of prey; and finally prohibiting fishing with trawl gear from 10–20 nm from most sites. Over the next 1–2 years, the Steller Sea Lion Recovery Team will evaluate the most up to date scientific and commercial data and make recommendations to NMFS on the appropriate boundaries for Steller sea lion critical habitat. NMFS has determined that the limited fishing that is expected to occur in critical habitat would not adversely modify or destroy that critical habitat.

Comment 3. Observed increases in some population segments of Steller sea lions is no reason for reducing protection measures in those localized areas.

Response. In developing protection measures for 2002, the entire western population of Steller sea lions was taken into account. In most cases, where an area was experiencing greater decline, greater protection was provided. Conversely, in some regions with consistent population increases such as Amak Island, the trawl closure zones were actually reduced. Although NMFS did consider some local population trend analyses, the policy was to minimize the impacts on the entire population in order to get a resulting population trajectory that was better than the expected trajectory from the RPA from the November 2000 Biological Opinion. NMFS does not believe that it has adequate information on the sub-populations of sea lions or their prey resources in the western stock to implement management measures that rely on the underlying site-by-site trend of the prey biomass estimates on similarly small scales.

Comment 4. The EA improperly tiers off the 1998 SEIS and the 2001 Draft Programmatic SEIS. A full environmental impact statement should have been developed.

Response. The EA incorporated relevant and accurate discussion and analysis in the 1998 SEIS. The EA did not tier off of the draft programmatic SEIS but it did reference a significant amount of analysis that may be found in that document. This was the latest scientific information available regarding the harvest specifications and it was appropriate to reference this material.

A full environmental impact statement was not developed for the emergency interim rule extension because the short term nature of the action with the protection measures proposed made a significant impact on the environment unlikely, making an environmental impact statement unnecessary. An environmental impact statement for the 2002 Steller sea lion protection measures was in the process of being developed and has been completed for this action.

Comment 5. Many of the comments submitted for the draft Programmatic SEIS also apply to the EA. These comments should also be included with the emergency interim rule extension record.

Response. Comments received on the draft Programmatic SEIS are in the process of being reviewed by NMFS and will be addressed in the final Programmatic SEIS. The comments are included in the administrative record for the July 17, 2001, emergency interim rule extension.

Comment 6. The management decisions determining the 2001 protection measures were based on scat data indicating that a diversity of prey is consumed throughout the year. These data consistently indicated that pollock, Atka mackerel, and Pacific cod were the three most common prey items and that stricter proactive action was needed.

Response. In an analysis by Sinclair and Zeppelin (submitted for publication), scat samples were collected and analyzed from 1991–1998. That paper concluded that pollock, Pacific cod, Atka mackerel, and salmon were the most commonly found four prey items for Steller sea lions based upon the animals sampled. NMFS is implementing Steller sea lion conservation measures for the fisheries for the three species managed by NMFS under the groundfish FMPs.

Comment 7. The telemetry data was based on 100 animals, primarily mothers and nursing pups, and the sightings were from the summer. One cannot assume similar behavior during other times of the year. The data also miss the sub-adults which are experiencing the greatest rate of decline.

Response. The available information on the at-sea distribution of Steller sea lions is quite large, but admittedly incomplete. Numerous research projects are under way to attempt to obtain more information on the distribution of the animals NMFS considers to be most at-risk. Currently, the best available information indicates that juvenile and

lactating females generally stay within 10 nm of shore during the summer, and perhaps make longer trips in the winter period as described in the biological opinion and associated white papers. NMFS is implementing management measures which avoid adverse impacts to these sensitive areas and time periods for Steller sea lions.

One letter of comments was received by NMFS on the draft EA prepared for the 2002 TAC specifications. A summary of the comments and NMFS' response follows:

Comment 1. The TAC setting process framework used by the Council and NMFS is inconsistent with the Magnuson-Stevens Act and the national standard guidelines because the North Pacific groundfish fisheries do not have overfishing status assessments consisting of both a maximum fishing mortality threshold and a minimum stock size threshold (MSST). Thus, NMFS and the Council lack criteria for determining whether stocks are overfished and thus subject to rebuilding plans.

The overfishing definitions employed by NMFS and the Council under Amendments 56/56 to the groundfish FMPs allow a stock abundance to drop to $B_{2\%}$ before harvest no longer is permitted. This policy allows for a species to be fished to the edge of extinction, with being declared overfished and for fishing efforts to be abandoned only at the edge of extinction. Thus, the 2002 TAC specifications are not in compliance with the Magnuson-Stevens Act. The failure of the Council and NMFS to adopt explicit MSSTs, to declare species as overfished, and to then institute multi-faceted ''rebuilding'' endangers the health of individual stocks already at low abundance levels. This, in turn, has significant impacts on the BSAI and GOA ecosystems and renders the analysis in the EA insufficient for NMFS to determine that the impacts on target species and the ecosystems as a whole are ''insignificant.''

Response. NMFS disagrees that the 2002 TAC specifications violate national standard 1 or the Magnuson-Stevens Act. The harvest control rules set forth in Amendments 56/56 (64 FR 10952, March 8, 1999) define OFL and constrain ABC for stocks managed under the fishery management plans for BSAI and GOA groundfish. In approving Amendments 56/56 (64 FR 10953, March 8, 1999), the Secretary of Commerce considered public comments submitted on the proposed amendments, including concerns that the amendments do not specify an MSST, and determined that the reasonable proxy for MSST is contained in the overfishing definitions and associated control rules are in compliance with national standard 1 and all other provisions of the Magnuson-Stevens Act.

Nonetheless, every stock managed under tiers 1–3 (defined under Amendments 56/56) of the BSAI and GOA groundfish FMPs was evaluated with respect to its MSST in the most recent SAFE reports. The TAC specifications use harvest control rules that are related to the MSY-based management required by the Magnuson Act. The control rules used to define OFL and the maximum permissible ABC restrict fishing at all stock sizes, not just at stock sizes below 5 percent of the MSY level. Not only is fishing restricted at all stock sizes, it is restricted in a conservative manner.

NMFS notes that the Steller sea lion protection measures recommended by the Council in October 2001, approved by NMFS, and described above under Part I of this preamble to the emergency interim rule, include a conservative modification of the existing harvest control rule for pollock, Pacific cod, and Atka mackerel.

Comment 1 appears to presume that harvest control rules can, by themselves, force stock biomass to increase. In fact, harvest control rules are rules used to control harvest, not biomass. All harvest control rules ''allow'' a depleted stock to remain at a low abundance level indefinitely, because no harvest control rule can control the size of incoming year classes. However, the control rules adopted in Amendments 56/56 are explicitly designed to be precautionary, especially in the context of managing stocks whose biomass have fallen below reference levels.

In 1998, NMFS did prepare a Supplemental Environmental Impact Statement (SEIS) on the TAC setting process. NMFS also recognizes that in a July 8, 1999 order, amended on July 13, 1999, the Court in *Greenpeace* v. *NMFS, Civ No. 98–0492 (W.D. Wash.)* held that the 1998 SEIS was too limited in scope by not adequately addressing aspects of the GOA and BSAI groundfish fishery management plans other than TAC setting and, therefore, was insufficient in scope under the National Environmental Policy Act. In response to the Court's order, NMFS prepared a new 2001 draft programmatic SEIS for the GOA and BSAI groundfish fishery management plans. In response to public comments and internal agency review, NMFS has determined that the draft 2001 programmatic SEIS should be revised to include additional analyses concerning environmental, economic, and cumulative impacts; to restructure alternatives; and to more clearly define the proposed action. The revised draft programmatic SEIS is scheduled to be distributed for public review and comment late Fall 2002.

Notwithstanding the less expansive scope of the 1998 SEIS, NMFS believes that the discussion and analysis of impacts and alternatives in the 1998 SEIS, which focused on the issue of TAC setting, is directly applicable to the EA prepared in support of this action-the setting of TACs for the 2002 fishery. Consequently, the EA adopts the discussion and analysis in the 1998 SEIS, as well as pertinent sections of the 2001 draft programmatic SEIS.

Finally, NMFS believes that the extensive discussion and analysis of the environmental impacts associated with various levels of TACs in the 1998 SEIS's and in the draft 2001 programmatic SEIS, coupled with the 2002 TAC EA's additional discussion, provide ample support for its determination that the 2002 specifications will not have significant environmental impacts.

Comment 2. Given the concerns expressed in Comment 1, above, many groundfish stocks are below B_{msy} and the 2002 TACs even would allow fishing on a number of stocks below $B_{2\%}$ without triggering a rebuilding plan, including GOA Greenland turbot, Bering Sea northern rockfish, GOA vermillion rockfish, and GOA Atka mackerel. The EA is deficient because the preferred alternative does not acknowledge that some species presently are at or approaching an ''overfished'' condition. The EA's failure to recognize overfished species means that the impacts to the ecosystem as a whole are not adequately analyzed. The NEPA analysis should look at the direct, indirect, cumulative, and synergistic effects of allowing TACs on species with very low biomasses.

Response. Currently, the best scientific information available indicates that no stock managed under the BSAI or GOA groundfish FMPs is being subjected to an inappropriate harvest rate and that no stock managed under tiers 1–3 of the BSAI or GOA groundfish FMPs are overfished. NMFS acknowledges that it is currently not possible to determine the status of stocks in tiers 4–6 with respect to their MSSTs because stocks qualify for management under these tiers only if the best scientific information available is insufficient to estimate the relevant biological reference points.

Currently, the best scientific information available indicates that no stock managed under the BSAI or GOA groundfish fishery management plans is

being subjected to an inappropriate harvest rate, and that no stock managed under the groundfish FMPs is overfished. NMFS believes, therefore, that the 2002 TAC specifications reflect the correct use of MSSTs.

The EA addresses uncertainty and ecosystem considerations associated with each stock assessment and acknowledges that all of the groundfish species are predators or prey at some stage of life. A review of ecosystem status and trends also was provided in the ecosystems chapter of the SAFE reports.

Comment 3. The concept of combining rockfish assemblages masks the fact that individual species currently are at an overfished level and the EA does not adequately analyze the present status of these long lived species. Specifically, the EA fails to analyze their biomass in relation to an overfished determination criterion that complies with the Magnuson-Stevens Act.

Response. NMFS disagrees that rockfish species are at an overfished level. However, NMFS does agree that potential concerns about disproportionate harvest relative to abundance of species within groups or assemblages could be at least partially addressed if existing complexes or assemblages were broken out to separate species and managed accordingly. Species within the rockfish assemblages tend to reflect tiers 4 or 5 stocks and it is not possible to determine whether any species is overfished or whether it is approaching an overfished condition.

Difficulties exist in working towards species specific management for existing assemblages, particularly for some of the rockfish assemblages. Most paramount of these difficulties is the collection of adequate species specific catch data upon which to monitor and manage species specific TACs. NMFS is working with its North Pacific Observer Program and stock assessment scientists to address this issue for 2003 and arrive at a subsampling protocol for rockfish species to meet this need. At that time, enhanced species specific management may be possible, notwithstanding other management issues that arise from very small TAC amounts.

Classification

The Administrator, Alaska Region, NMFS (Regional Administrator), has determined that this rule is necessary for the conservation and management of the groundfish fisheries of the BSAI and GOA. The Regional Administrator also has determined that this emergency interim rule is consistent with the Magnuson-Stevens Act and other applicable laws. No relevant Federal rules exist that may duplicate, overlap, or conflict with this action.

The Steller sea lion protection measures have been determined to be significant for purposes of Executive Order 12866 and a regulatory impact review was prepared. The regulatory impact review is available from NMFS as part of the final SEIS. (see **ADDRESSES**).

Consistent with the National Environmental Policy Act, NMFS prepared an environmental assessment for the TAC specifications portion of this action. NMFS also prepared an SEIS for the Steller sea lion protection measures; a notice of availability of the draft SEIS was published in the **Federal Register** on August 31, 2001 (66 FR 45984). Comments were received and responded to in the final SEIS and the final document was issued November 23, 2001 (66 FR 58734). The final SEIS and EA are available from NMFS (see **ADDRESSES**). Based on a comparison of the effects of the other alternatives in the SEIS, NMFS determined that this action meets the ESA requirements for Steller sea lion protection and environmental protection without providing extreme economic hardship that was anticipated from the most environmentally desirable alternative. Potential adverse impacts on marine mammals resulting from fishing activities conducted under this emergency interim rule are discussed in the EA and final SEIS for this action.

This rule contains and refers to collection-of-information requirements subject to the Paperwork Reduction Act. The requirement for a vessel fishing permit has been approved under OMB control number 0648–0444 (expiration date May 31, 2002). The estimated response time for an application to amend a permit and register for the Atka mackerel, pollock, or Pacific cod directed fisheries is 31 minutes. The CDQ reporting requirement has been approved by the OMB and issued OMB control number 0648–0269, expiration date October 31, 2004. Public reporting burden of CDQ collection of information is estimated to be an average of 15 minutes per response for a CDQ catch report. This time includes the time for reviewing instructions, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The requirement to install and use a VMS has been approved under OMB control number 0648–0445 (expiration date June 30, 2002). The response times for VMS-related requirements are 6 hours to install a unit, 12 minutes to fax a check-in report that the VMS is operational, 5 seconds per automated position report, and 4 hours per year for VMS maintenance.

The response-time estimates above include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding these burden estimates, or any other aspect of these data collections, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (Attn: NOAA Desk Officer).

Notwithstanding any other provisions of the law, no person is required to respond to, and no person shall be subject to a penalty for failure to comply with a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

A formal section 7 consultation under the ESA was initiated for this emergency interim rule under the FMPs for the groundfish fisheries of the BSAI and the GOA. In biological opinions dated October 17, 2001, December 22, 1999, and December 23, 1999, the Director of the Office of Protected Resources determined that fishing activities conducted under the emergency interim rule are not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of critical habitat. In a memorandum dated December 11, 2001, from the Office of Protected Resources to the Office of Sustainable Fisheries, the 1999 BiOps were extended for one year from January 1, 2002, for purposes of this action. This emergency interim rule is consistent with the objectives for Steller sea lion protection measures implemented in 2001 under section 209(c)(6) of Public Law 106–554, the ESA, and other applicable laws.

NMFS is establishing the 2002 TAC specifications for the BSAI and GOA by this emergency interim rule. The normal procedure of publishing proposed, interim, and final TAC specifications was not followed in 2002 because the information needed to establish the harvest specifications did not become available until mid-November and the Council recommendations were not received by NMFS until December 11, 2001. Analysis of the action and the preparation of the **Federal Register** notification could not be completed until the Council recommendations were received for the final specifications as well as the Steller sea lion protection

measures, of which the specifications are an integral part and must be in place by January 1, 2002, to allow the orderly commencement of the 2002 groundfish fisheries. Accordingly, it is impracticable to provide prior notice and an opportunity for public comment, or to delay for 30 days the effective date of this rule. Further, it would be contrary to the public interest to delay the start of the season to allow for prior notice, an opportunity for public comment, and for a 30-day delay in the effective date. Therefore, good cause exists to waive those requirements pursuant to 5 U.S.C. 553(b)(3). For the same reason, good cause exists to waive the 30-day delay in effective date. Accordingly, under 5 U.S.C. 553(d)(3), a delay in the effective date is hereby waived. Because prior notice and opportunity for public comment are not required for this emergency interim rule by 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* are not applicable. Therefore, no regulatory flexibility analysis has been prepared.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: December 27, 2001.

Rebecca Lent,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For reasons set out in the preamble, 50 CFR part 679 is amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

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

Authority: 16 U.S.C. 773 *et seq.*; 1801 *et seq.*; 3631 *et seq.*; Title II of Division C, Pub. L. 105–277; Sec. 3027, Pub. L. 106–31; 113 Stat. 57; 16 U.S.C. 1540(f); and Sec. 209, Pub. L. 106–554.

2. In § 679.2, the definitions for ''Steller Sea Lion Protection Areas'' and paragraph (5) under ''Directed Fishing'' are suspended until July 8, 2002, and definitions for ''Harvest limit area for platoon managed Atka mackerel directed fishing'', ''Inshore component in the GOA'', and ''Offshore component in the GOA'' are added in alphabetical order to read as follows:

§ 679.2 Definitions.

* * * * *

Harvest limit area for platoon managed Atka mackerel directed fishing (applicable through July 8, 2002) for the purposes of §§ 679.4(b)(5)(iv), 679.20(a)(8)(ii) and (iii) and 679.22(a)(12)(iv)(A), means the waters of statistical areas 542 and 543 west of 178° W long. within 20 nm seaward of sites listed in Table 24 of this part and located west of 177.58° W long.

* * * * *

Inshore component in the GOA (applicable through July 8, 2002) means the following three categories of the U.S. groundfish fishery that process groundfish harvested in the BSAI or GOA:

(1) Shoreside processing operations;

(2) Vessels less than 125 ft (38.1 m) LOA that process no more than 126 mt per week in round-weight equivalents of an aggregate amount of pollock and Pacific cod; and

(3) Vessels that process pollock or Pacific cod, harvested in a directed fishery for those species, at a single geographic location in Alaska State waters during a fishing year.

* * * * *

Offshore component in the GOA (applicable through July 8, 2002) means all vessels not included in the definition of ''inshore component in the GOA'' that process groundfish in the BSAI or GOA.

* * * * *

3. In § 679.4, paragraphs (b)(5)(iv)(E) and (F) are added to read as follows:

§ 679.4 Permits.

* * * * *

(b) * * *

(5) * * *

(iv) * * *

(E) (Applicable through July 8, 2002) If the vessel will be using pot, hook-and-line, or trawl gear in the directed fisheries for pollock, Atka mackerel or Pacific cod in the GOA or in the BSAI.

(F) (Applicable through July 8, 2002) If the vessel owner will be fishing in the harvest limit area in Statistical Areas 542 or 543 in the directed fishery for Atka mackerel.

* * * * *

4. In § 679.5, paragraph (n)(2)(iii)(A)(*4*) is added to read as follows:

§ 679.5 Recordkeeping and reporting.

* * * * *

(n) * * *

(2) * * *

(iii) * * *

(A) * * *

(*4*) (Applicable through July 8, 2002) Indicate the intended target species.

* * * * *

5. In § 679.7, paragraphs (a)(11), (b), (d)(16), and (d)(23) are suspended until July 8, 2002, paragraph (c)(3) is suspended 1200 hours, A.l.t., June 10, 2002, until July 8, 2002, and paragraphs (a)(7)(iii) through (vii), (a)(17), (a)(18), (a)(19), (d)(26), (j), and (k) are added to read as follows:

§ 679.7 Prohibitions.

* * * * *

(a) * * *

(7) * * *

(iii) (Applicable through July 8, 2002) Operate any vessel in the BSAI under both the ''inshore component in the GOA'' and the ''offshore component in the BSAI'' or under both the ''offshore component in the GOA'' and the ''inshore component in the BSAI'' definitions in § 679.2 during the same fishing year.

(iv) (Applicable through July 8, 2002) Operate any vessel in the GOA in more than one of the three categories included in the definitions of ''inshore component in the GOA,'' in § 679.2, during any fishing year.

(v) (Applicable through July 8, 2002) Operate any vessel in the GOA under both the ''inshore component in the GOA'' and the ''offshore component in the GOA'' definitions in § 679.2 during the same fishing year.

(vi) (Applicable through July 8, 2002) Operate any vessel in the GOA under both the ''inshore component in the GOA'' and the ''offshore component in the BSAI'' or under both the ''offshore component in the GOA'' and the ''inshore component in the BSAI'' definitions in § 679.2 during the same fishing year.

(vii) (Applicable through July 8, 2002) Operate any vessel that processes pollock or Pacific cod, harvested in a directed fishery for those species, at a single location in Alaska State waters under the ''inshore component in the BSAI'' and the ''inshore component in the GOA'' definitions in § 679.2 during the same fishing year.

* * * * *

(17) *Tender vessel* (applicable through July 8, 2002).

(i) Use a catcher vessel or catcher/processor as a tender vessel before offloading all groundfish or groundfish product harvested or processed by that vessel.

(ii) Use a catcher vessel or catcher/processor to harvest groundfish while operating as a tender vessel.

(18) *Pollock, Pacific Cod, and Atka Mackerel Directed Fishing and VMS* (applicable 1200 hours, A.l.t., June 10, 2002, through July 8, 2002). When a vessel using pot, hook-and-line, or trawl gear in the BSAI or GOA is authorized under § 679.4(b)(5)(iv)(E) to participate in the Atka mackerel, Pacific cod, or pollock directed fisheries; conduct directed fishing for groundfish or for Pacific halibut IFQ under § 679.4(d),

unless the vessel carries an operable NMFS-approved Vessel Monitoring System (VMS) transmitter and complies with the requirements in § 679.28(f) at all times any of these directed fisheries which the vessel is authorized for is open.

(19) *Atka Mackerel Harvest Limit Area Groundfish Prohibition* (applicable through July 8, 2002). For vessels registered for the Atka mackerel harvest limit area directed fishery under § 679.20(a)(8)(iii), conduct directed fishing for groundfish, other than Atka mackerel in an assigned harvest limit area directed fishery under § 679.20(a)(8)(iii), during the time period that the first Atka mackerel directed fishery assigned to the vessel under § 679.20(a)(8)(iii)(B) is open.

* * * * *

(d) * * *

(26) (Applicable through July 8, 2002) Use any groundfish CDQ species as a basis species for calculating retainable amounts of non-CDQ species under § 679.20.

* * * * *

(j) *Prohibitions specific to the GOA* (applicable through July 8, 2002)—(1) *Southeast Outside trawl closure.* Use any gear other than non-trawl gear in the GOA east of 140° W long.

(2) *Catcher vessel trip limit for pollock.* Retain on board a catcher vessel at any time during a trip, more than 300,000 lb (136 mt) of unprocessed pollock.

(3) *Tender vessel restrictions for pollock.* (i) Operate as a tender vessel east of 157°00′ W long. for pollock harvested in the GOA.

(ii) Operate as a tender vessel west of 157°00′ W long. while retaining on board at any time more than 600,000 lb (272 mt) of unprocessed pollock.

(k) *Prohibitions specific to AFA* (applicable January 15, 2002, through July 8, 2002) It is unlawful for any person to do any of the following:

(1) *Catcher vessels.* Use an AFA catcher vessel to retain any BSAI crab species unless the catcher vessel's AFA permit contains a crab sideboard endorsement for that crab species.

(2) *Crab processing limits.* It is unlawful for an AFA entity that processes pollock harvested in the BSAI directed pollock fishery by an AFA inshore or AFA mothership catcher vessel cooperative to use an AFA crab facility to process crab in excess of the crab processing sideboard cap established for that AFA inshore or mothership entity. The owners and operators for the individual entities comprising the AFA inshore or mothership entity will be held jointly and severally liable for any overages of the AFA inshore or mothership entity's crab processing sideboard cap.

6. In § 679.20, paragraphs (a)(5)(i)(A), (a)(5)(ii)(B), (a)(7)(i)(C)(*2*), (a)(7)(i)(C)(*3*), (a)(7)(ii)(A), (a)(7)(iii)(A), (a)(7)(iii)(B), (f)(2), and (f)(3) are suspended until July 8, 2002, and paragraphs (a)(5)(i)(B), (a)(5)(i)(F), (a)(5)(ii)(C), (a)(6)(ii), (a)(6)(iii), (a)(7)(i)(C)(*4*), (a)(7)(i)(C)(*5*), (a)(7)(ii)(D) and (E), (a)(7)(iii)(D), (a)(8)(ii)(C), (a)(8)(iii), (a)(11), (b)(2)(i), (b)(2)(ii), (d)(4), and (f)(4) are added to read as follows:

§ 679.20 General limitations.

* * * * *

(a) * * *

(5) * * *

(i) * * *

(B) *BSAI seasonal allowances* (applicable through July 8, 2002)—(*1*) *Inshore, catcher/processor, mothership, and CDQ components.* The portions of the BS subareas pollock directed fishing allowances allocated to each component under sections 206(a) and 206(b) of the American Fisheries Act will be divided into two seasonal allowances corresponding to the two fishing seasons set out at § 679.23(e)(5), as follows: A Season, 40 percent; B Season, 60 percent.

(*2*) *Inseason adjustments.* Within any fishing year, the Regional Administrator will add or subtract any under harvest or over harvest of a seasonal allowance for a component to the subsequent seasonal allowance for the component through notification published in the **Federal Register**.

* * * * *

(F) *Steller sea lion conservation area harvest limit* (applicable through July 8, 2002).

(*1*) For each component under Sections 206(a) and 206(b) of the American Fisheries Act and for the open access fishery, no more than 28 percent of the annual pollock directed fishery allowance may be taken from the Steller sea lion conservation area (SCA) before April 1. The SCA is defined at § 679.22(a)(11)(vii).

(*2*) After April 1, the unharvested amount available in the SCA before April 1 is available for directed fishing either within or outside the SCA during the remainder of the A season.

(ii) * * *

(C) *GOA seasonal apportionments* (applicable through July 8, 2002). Each apportionment established under paragraph (a)(5)(ii)(A) of this section will be divided into four seasonal apportionments corresponding to the four fishing seasons set out at § 679.23(d)(3) of this part as follows: A Season, 25 percent; B Season, 25 percent; C Season, 25 percent; D Season, 25 percent. Within any fishing year, under harvest or over harvest of a seasonal apportionment may be added to or subtracted from remaining seasonal apportionments in a manner to be determined by the Regional Administrator, provided that any revised seasonal apportionment does not exceed 30 percent of the annual TAC apportionment for the combined GOA Western and Central Regulatory Areas.

(6) * * *

(ii) *GOA pollock* (applicable through July 8, 2002). The apportionment of pollock in all GOA regulatory areas and for each seasonal apportionment described in paragraph (a)(5)(ii) of this section will be allocated entirely to vessels catching pollock for processing by the inshore component in the GOA after subtraction of an amount that is projected by the Regional Administrator to be caught by, or delivered to, the offshore component in the GOA incidental to directed fishing for other groundfish species.

(iii) *GOA Pacific cod* (applicable through July 8, 2002). The apportionment of Pacific cod in all GOA regulatory areas will be allocated 90 percent to vessels catching Pacific cod for processing by the inshore component in the GOA and 10 percent to vessels catching Pacific cod for processing by the offshore component in the GOA.

(7) * * *

(i) * * *

(C) * * *

(*4*) (Applicable through July 8, 2002) Harvest of Pacific cod made by catcher vessels less than 60 ft (18.3 m) LOA using pot gear:

(*i*) Will accrue against the 18.3 percent specified in paragraph (a)(7)(i)(C)(*1*)(*iii*) of this section when the Pacific cod fishery for vessels equal to or greater than 60 ft (18.3 m) LOA using pot gear is open.

(*ii*) Will accrue against the 1.4 percent specified in paragraph (a)(7)(i)(C)(*1*)(*iv*) of this section when the Pacific cod fishery for vessels equal to or greater than 60 ft (18.3 m) LOA using pot gear is closed.

(*5*) (Applicable through July 8, 2002) Harvest of Pacific cod made by catcher vessels less than 60 ft (18.3 m) LOA using hook-and-line gear:

(*i*) Will accrue against the 0.3 percent specified in paragraph (a)(7)(i)(C)(*1*)(*ii*) of this section when the Pacific cod fishery for vessels equal to or greater than 60 ft (18.3 m) LOA using hook-and-line gear is open.

(*ii*) Will accrue against the 1.4 percent specified in paragraph (a)(7)(i)(C)(*1*)(*iv*) of this section when the Pacific cod fishery for vessels equal to or greater than 60 ft (18.3 m) LOA using hook-and-line gear is closed.

* * * * *

(ii) * * *

(D) *Reallocation within the trawl sector* (applicable through July 8, 2002). If, during a fishing season, the Regional Administrator determines that either catcher vessels using trawl gear or catcher/processors using trawl gear will not be able to harvest the entire amount of Pacific cod in the BSAI allocated to those vessels under paragraph (a)(7)(i) or (a)(7)(ii)(C) of this section, he/she may reallocate the projected unused amount of Pacific cod to vessels using trawl gear in the other trawl component through notification in the **Federal Register** before any reallocation to vessels using other gear type(s).

(E) *Unused seasonal allowance for trawl* (applicable through July 8, 2002). Any unused portion of a seasonal allowance of Pacific cod for vessels using trawl gear under paragraph (a)(7)(i)(C) of this section may be reapportioned by the Regional Administrator, through notification published in the **Federal Register**, to the subsequent seasonal allocations for vessels using trawl gear.

(iii) * * *

(D) *Seasonal apportionment and gear allocations* (applicable through July 8, 2002). The Pacific cod BSAI gear allocations and apportionments by seasons, as specified in § 679.23 (e)(6), are as follows:

Gear type	A season (percent)	B season (percent)	C season (percent)
Trawl	60	20	20
Trawl CV	70	10	20
Trawl CP	50	30	20
Hook-and-line ≥60 ft (18.3 m) LOA, non-CDQ pot vessels ≥60 ft (18.3 m) LOA, and jig vessels	60	40	
All other nontrawl vessels	No seasonal apportionment.		

CV = catcher vessels.
CP = catcher/processor vessels.

(8) * * *

(ii) * * *

(C) *Atka mackerel harvest limit area* (applicable through July 8, 2002). Harvest of Atka mackerel is limited in the harvest limit area, as defined in § 679.2, as follows:

(*1*) For the Atka mackerel harvest limit area as defined in § 679.2, the Regional Administrator will establish a harvest limit of no more than 60 percent of the seasonal TAC as specified in paragraph (a)(8)(ii)(A) of this section.

(*2*) *CDQ fishing.* A CDQ group is prohibited from exceeding the CDQ portion of the percentage of annual Atka mackerel in the Western and/or Central districts of the AI specified in paragraph (a)(8)(ii)(C)(*1*) of this section for the harvest limit area as defined in § 679.2.

(iii) *Platoon management of Atka mackerel harvest limit area directed fishing* (applicable through July 8, 2002)—(A) *Registration.* All vessels using trawl gear for directed fishing for Atka mackerel in the harvest limit area, as defined in § 679.2, are required to register with NMFS by January 15, 2002. To register, the vessel owner or operator must provide information required by § 679.4(b)(5)(iv) for an endorsement to the vessel's Federal fishery permit issued under § 679.4.

(B) *Platoon assignment.* For each season, NMFS will manage the harvest limit area fishery for the vessels registered to fish in areas 542 or 543 under paragraph (a)(8)(iii)(A) of this section as follows:

(*1*) *Lottery.* The Regional Administrator or his/her designee randomly will assign each vessel to a platoon for one of two directed fisheries for each statistical area in which the vessel is registered under paragraph (a)(8)(iii)(A) of this section. Each platoon within a statistical area will be assigned an equal number of vessels unless there is an odd number of vessels registered under paragraph (a)(8)(iii)(A) of this section. In the case of an odd number of vessels, the Regional Administrator will assign one additional vessel to one platoon. Vessels registering under paragraph (a)(8)(iii)(A) of this section to fish in both area 542 and area 543 will be randomly assigned to a harvest limit area directed fishery in area 542 and will be placed in the area 543 harvest limit area directed fishery occurring at an alternate time during the season.

(*2*) *Notification.* The Regional Administrator will provide the results of the lottery under (a)(8)(iii)(B)(*1*) of this section by notification published in the **Federal Register** and other means of practicable notification.

(C) *Harvest limit area directed fisheries.* 48 hours after a seasonal closure of the area 541 Atka mackerel directed fishery, the Regional Administrator will open the directed fisheries within the harvest limit area in areas 542 and 543, as defined at § 679.2. The Regional Administrator will provide notification by publication in the **Federal Register** of the opening and closure date of the directed fisheries, as determined by paragraph (a)(8)(iii)(E) of this section. Closures specified in Table 24 of this part and in § 679.22(a)(12) will remain in effect.

(D) *Harvest limit area harvest limit.* The Regional Administrator will establish the harvest limit for each harvest limit area directed fishery for areas 542 and 543 based on the seasonal apportionment at paragraph (a)(8)(ii)(C) of this section and in proportion to the number of vessels in a platoon compared to the total number of vessels participating in the harvest limit area directed fishery for area 542 or 543 during a season.

(E) *Harvest limit area directed fisheries closures.* The Regional Administrator will establish the closure date of the Atka mackerel directed fisheries in the harvest limit area for areas 542 and 543 based on the estimated fishing capacity of vessels registered to fish in the area and assigned to the platoon under paragraph (a)(8)(iii)(B) of this section. Each harvest limit area directed fishery will last no longer than 14 days.

(F) *Groundfish directed fishery prohibition.* Vessels registering under paragraph (a)(8)(iii)(A) of this section are prohibited from participating in any groundfish directed fishery other than the one assigned under paragraph (a)(8)(iii)(B) of this section during the opening of the first harvest limit area directed fishery to which the vessel is assigned in a season, as specified in § 679.7(a)(19).

* * * * *

(11) *GOA Pacific cod TAC* (applicable through July 8, 2002)—(i) *Seasonal apportionment.* The TAC established for Pacific cod in the Western and Central areas of the GOA will be divided 60 percent to the A season and 40 percent to the B season, as specified in § 679.23(d)(4).

(ii) The Regional Administrator may apply any underage or overage of Pacific

cod harvest from one season to the subsequent season. In adding or subtracting any underages or overages to the subsequent season, the Regional Administrator must consider bycatch needed to optimize catch by gear groups and sectors.

(iii) *Bycatch.* Pacific cod bycatch taken between the closure of the A season and opening of the B season shall be deducted from the B season TAC apportionment.

(b) * * *

(2) * * *

(i) *Pollock inshore-offshore reapportionment* (applicable through July 8, 2002). Any amounts of the GOA reserve that are reapportioned to pollock as provided by paragraph (b) of this section must be apportioned between the inshore component in the GOA and the offshore component in the GOA in the same proportions specified in paragraph (a)(6)(ii) of this section.

(ii) *Pacific Cod inshore-offshore reapportionment* (applicable through July 8, 2002). Any amounts of the GOA reserve that are reapportioned to Pacific cod as provided by paragraph (b) of this section must be apportioned between the inshore component in the GOA and the offshore component in the GOA in the same proportion specified in paragraph (a)(6)(iii) of this section.

* * * * *

(d) * * *

(4) *Harvest control for pollock, Atka mackerel and Pacific cod* (applicable through July 8, 2002). If a biological assessment of stock condition for pollock, Pacific cod, or Atka mackerel within an area projects that the biomass in an area will be below 20 percent of the projected unfished biomass during a fishing year, the Regional Administrator will prohibit the directed fishery for the relevant species within the area. The Regional Administrator will prohibit the directed fishery under this paragraph by notification published in the **Federal Register**. The directed fishery will remain closed until a subsequent biological assessment projects that the biomass for the species in the area will exceed 20 percent of the projected unfished biomass during a fishing year.

* * * * *

(f) * * *

(4) *Retainable amounts* (applicable through July 8, 2002). Except as provided in Table 10 to this part, arrowtooth flounder, or any groundfish species for which directed fishing is closed may not be used to calculate retainable amounts of other groundfish species. CDQ species may only be used to calculate retainable amounts of other CDQ species.

* * * * *

7. In § 679.22, paragraphs (a)(5)(i) through (iii), (a)(7), (a)(8), and (b)(2) are suspended until July 8, 2002, and paragraphs (a)(5)(iv), (a)(11), (a)(12), (b)(3), and (b)(6) are added to read as follows:

§ 679.22 Closures.

(a) * * *

(5) * * *

(iv) *Catcher/processor restrictions* (applicable through July 8, 2002). A catcher/processor vessel authorized to fish for BSAI pollock under § 679.4 is prohibited from conducting directed fishing for pollock in the CVOA during the pollock B season defined at § 679.23(e)(5)(ii), unless it is operating under a CDP approved by NMFS.

* * * * *

(11) *Steller sea lion protection areas, Bering Sea subarea* (applicable through July 8, 2002)—(i) *Bogoslof area*—(A) Boundaries. The Bogoslof area consists of all waters of area 518 as described in Figure 1 of this part south of a straight line connecting 55°00′ N lat./170°00′ W long., and 55°00′ N lat./168°11′4.75″ W long.;

(B) *Fishing prohibition.* All waters within the Bogoslof area are closed to directed fishing for pollock, Pacific cod, and Atka mackerel by federally permitted vessels, except as provided in paragraph (a)(11)(i)(C) of this section.

(C) *Bogoslof Pacific cod exemption area.* (*1*) All catcher vessels less than 60 ft (18.3 m) LOA using jig or hook-and-line gear for directed fishing for Pacific cod are exempt from the Pacific cod fishing prohibition as described in paragraph (a)(11)(i)(B) of this section in the portion of the Bogoslof area south of a line connecting a point that is 3 nm north of Bishop Point (54°01′25″ N lat./166° 57′00'' W long.) to Cape Tanak (53°33′50″ N lat./168°00′00″ W long.), not including waters of the Bishop Point Pacific cod fishing closures as described in Table 23 of this part.

(*2*) If the Regional Administrator determines that 113 mt of Pacific cod has been caught by catcher vessels less than 60 ft (18.3 m) LOA using jig or hook-and-line gear in the exemption area described in paragraph (a)(11)(i)(C)(*1*) of this section, the Regional Administrator will prohibit directed fishing for Pacific cod by catcher vessels less than 60 ft (18.3 m) LOA using jig or hook-and-line gear in the exemption area by notification published in the **Federal Register**.

(ii) *Bering Sea Pollock Restriction Area*—(A) *Boundaries.* The Bering Sea Pollock Restriction Area consists of all waters of the Bering Sea subarea south of a line connecting the points 163°0′00″ W long./55°46′30″ N lat., 165°08′00″ W long./54°42′9″ N lat., 165°40′00″ W long./54°26′30″ N lat., 166°12′00″ W long./54°18′40″ N lat., and 167°0′00″ W long./54°8′50″ N lat.

(B) *Fishing prohibition.* All waters within the Bering Sea Pollock Restriction Area are closed to directed fishing for pollock by federally permitted vessels during the A season, as defined at § 679.23(e)(5).

(iii) Groundfish closures. Directed fishing for groundfish by federally permitted vessels is prohibited within 3 nm of selected sites. These sites are listed in Table 21 of this part and are identifiable by ''Bering Sea'' in column 2.

(iv) *Pollock closures.* Directed fishing for pollock by federally permitted vessels is prohibited within pollock no fishing zones around selected sites. These sites are listed in Table 22 of this part and are identifiable by ''Bering Sea'' in column 2.

(v) *Pacific cod closures.* Directed fishing for Pacific cod by federally permitted vessels using trawl, hook-and-line, and pot gear is prohibited within the Pacific cod no fishing zones around selected sites. These sites and gear types are listed in Table 23 of this part and are identifiable by ''BS'' in column 2.

(vi) *Atka mackerel closures.* Directed fishing for Atka mackerel by federally permitted vessels using trawl gear is prohibited within Atka mackerel no fishing zones around selected sites. These sites are listed in Table 24 of this part and are identifiable by ''Bering Sea'' in column 2.

(vii) *Steller sea lion conservation area (SCA).* (A) General. When the Regional Administrator announces, by notification in the **Federal Register**, that the criteria set out in paragraph (a)(11)(vii)(C) of this section have been met by one or more industry component(s) made of vessels catching pollock for processing by the inshore component, catcher/processors in the offshore component, motherships in the offshore component, or directed fishing for pollock CDQ; directed fishing for pollock by that industry component(s) is prohibited within the SCA until April 1.

(B) *Boundaries.* The SCA consists of the area of the Bering Sea subarea between 170°00′ W long. and 163°00′ W long., south of straight lines connecting the following points in the order listed: 55°00′ N lat., 170°00′ W long.; 55°00′ N lat., 168°00′ W long.; 55°30′ N lat., 168°00′ W long.; 55°30′ N lat., 166°00′ W long.; 56°00′ N lat., 166°00′ W long.; and, 56°00′ N lat., 163°00′ W long.

(C) *Criteria for closure*—(1) *General.* The directed fishing closures identified in paragraph (a)(11)(vii)(A) of this section will take effect when the Regional Administrator determines that the harvest limit for pollock within the SCA, as specified in § 679.20(a)(5)(i)(F)(1) is reached before April 1. The Regional Administrator will close the directed pollock fishery in the SCA by notification published in the **Federal Register**.

(*2*) *Inshore catcher vessels greater than 99 ft (30.2 m) LOA.* The Regional Administrator will prohibit directed fishing for pollock to vessels greater than 99 ft (30.2 m) LOA, catching pollock for processing by the inshore component before reaching the inshore SCA harvest limit before April 1 to accommodate fishing by vessels less than or equal to 99 ft (30.2 m) inside the SCA until April 1. The Regional Administrator will estimate how much of the inshore seasonal allowance is likely to be harvested by catcher vessels less than or equal to 99 ft (30.2 m) LOA and reserve a sufficient amount of the inshore SCA allowance to accommodate fishing by such vessels after the closure of the SCA to inshore vessels greater than 99 ft (30.2 m) LOA. The Regional Administrator will prohibit directed fishing for all inshore catcher vessels within the SCA when the harvest limit specified in § 679.20(a)(5)(i)(F) has been met before April 1.

(12) *Steller sea lion protection areas, Aleutian Islands subarea* (applicable through July 8, 2002)—(i) *Seguam Foraging area.* (A) The Seguam foraging area is established as all waters within the area between 52° N lat. and 53° N lat. and between 173°30′ W long. and 172°30′ W long.

(B) Directed fishing for pollock, Pacific cod, and Atka mackerel by federally permitted vessels is prohibited in the Seguam Foraging area as described in paragraph (a)(12)(i)(A) of this section.

(ii) *Pollock Closure.* Directed fishing for pollock by federally permitted vessels is prohibited within the Aleutian Islands subarea at all times.

(iii) *Groundfish closures.* Directed fishing for groundfish by federally permitted vessels is prohibited within 3 nm of selected sites. These sites are listed in Table 21 of this part and are identifiable by ''Aleutian Islands'' in column 2.

(iv) *Pacific cod closures*—(A) *Central and Western Aleutian Islands harvest limit area.* Directed fishing for Pacific cod by federally permitted vessels using trawl gear is prohibited in the Atka mackerel harvest limit area in area 542 or area 543, as defined in § 679.2, when the Atka mackerel harvest limit area directed fishery in area 542 or area 543 is open.

(B) *Gear specific closures.* Directed fishing for Pacific cod by federally permitted vessels using trawl, hook-and-line, or pot gear is prohibited within the Pacific cod no fishing zones around selected sites. These sites and gear types are listed in Table 23 of this part and are identifiable by ''AI'' in column 2.

(v) *Atka mackerel closures.* Directed fishing for Atka mackerel by federally permitted vessels using trawl gear is prohibited within Atka mackerel no fishing zones around selected sites. These sites are listed in Table 24 of this part and are identifiable by ''Aleutian Islands'' in column 2.

(b) * * *

(3) *Steller sea lion protection areas* (applicable through July 8, 2002)—(i) *Groundfish closures.* Directed fishing for groundfish by federally permitted vessels is prohibited within 3 nm of selected sites. These sites are listed in Table 21 of this part and are identifiable by ''Gulf of Alaska'' in column 2.

(ii) *Pollock closures.* Directed fishing for pollock by federally permitted vessels is prohibited within pollock no fishing zones around selected sites. These sites are listed in Table 22 of this part and are identifiable by ''Gulf of Alaska'' in column 2.

(iii) *Pacific cod closures.* Directed fishing for Pacific cod by federally permitted vessels using trawl, hook-and-line, or pot gear is prohibited within Pacific cod no fishing zones around selected sites. These sites and gear types are listed in Table 23 of this part and are identifiable by ''GOA'' in column 2.

(iv) *Atka mackerel closure.* Directed fishing for Atka mackerel by federally permitted vessels within the Gulf of Alaska is prohibited at all times.

* * * * *

(6) *Chiniak Gully Research Area* (applicable through July 8, 2002)—(i) *Description of Chiniak Gully Research Area.* The Chiniak Gully Research Area is defined as that part of Statistical Area 630 bounded by straight lines connecting the coordinates in the order listed: 57.81° N lat., 152.37° W long.; 57.81° N lat., 151.85° W long.; 57.22° N lat., 150.64° W long.; 56.98° N lat., 151.27° W long.; 57.62° N lat., 152.16° W long.; and hence counterclockwise along the shoreline of Kodiak Island to 57.81° N lat., 152.37° W long.

(ii) *Closure.* (A) The Chiniak Gully Research Area is closed to federally permitted vessels using trawl gear from August 1 to a date no later than September 20, except that trawl gear may be tested in the manner described at § 679.24(d)(2) in the Kodiak Test Area defined at § 679.24(d)(4)(i) and illustrated in Figure 7 to this part.

(B) Prior to September 20, the Regional Administrator may publish notification in the **Federal Register** rescinding the trawl closure in the Chiniak Gully Research Area described in paragraph (b)(6)(ii)(A) of this section.

* * * * *

8. In § 679.23, paragraphs (d)(2), (e)(2), (e)(3), and (e)(4)(iii), are suspended until July 8, 2002, and paragraphs (d)(3), (d)(4), (e)(4)(iv), (e)(4)(v), (e)(5), (e)(6), (e)(7), and (i) are added to read as follows:

§ 679.23 Seasons.

* * * * *

(d) * * *

(3) *Directed fishing for pollock* (applicable through July 8, 2002). Subject to other provisions of this part, directed fishing for pollock in the Western and Central Regulatory Areas is authorized only during the following four seasons:

(i) *A season.* From 1200 hours, A.l.t., January 20 through 1200 hours, A.l.t., February 25;

(ii) *B season.* From 1200 hours, A.l.t., March 10 through 1200 hours, A.l.t., May 31;

(iii) *C season.* From 1200 hours, A.l.t., August 25 through 1200 hours, A.l.t., September 15; and

(iv) *D season.* From 1200 hours, A.l.t., October 1 through 1200 hours, A.l.t., November 1.

(4) *Directed fishing for Pacific cod* (applicable through July 8, 2002)—(i) *Hook-and-line, pot, or jig gear.* Subject to other provisions of this part, directed fishing for Pacific cod with hook-and-line, pot, or jig gear in the Western and Central Regulatory Areas is authorized only during the following two seasons:

(A) *A season.* From 0001 hours, A.l.t., January 1 through 1200 hours, A.l.t., June 10; and

(B) *B season.* From 1200 hours, A.l.t., September 1 through 2400 hours, A.l.t., December 31.

(ii) *Trawl gear.* Subject to other provisions of this part, directed fishing for Pacific cod with trawl gear in the Western and Central Regulatory Areas is authorized only during the following two seasons:

(A) *A season.* From 1200 hours, A.l.t., January 20 through 1200 hours, A.l.t., June 10; and

(B) *B season.* From 1200 hours, A.l.t., September 1 through 1200 hours, A.l.t., November 1.

(e) * * *

(4) * * *

(iv) *Groundfish CDQ* (applicable through July 8, 2002). Fishing for

groundfish CDQ species, other than pollock CDQ; hook-and-line, jig, or trawl Pacific cod CDQ; and fixed gear sablefish CDQ under subpart C of this part, is authorized from 0001 hours, A.l.t., January 1 through the end of each fishing year, except as provided under paragraph (c) of this section.

(v) *Pollock CDQ and Pacific cod CDQ harvested with hook-and-line, jig or trawl gear* (applicable through July 8, 2002). (A) Fishing for pollock CDQ is authorized under paragraph (e)(5) of this section.

(B) Fishing for Pacific cod CDQ with hook-and-line, jig or trawl gear is authorized under paragraph (e)(6) of this section.

(5) *Directed fishing for pollock in the Bering Sea Subarea by inshore, offshore catcher/processor, and mothership components and pollock CDQ fisheries* (applicable through July 8, 2002). Subject to other provisions of this part, directed fishing for pollock by vessels catching pollock for processing by the inshore component, catcher/processors in the offshore component, and motherships in the offshore component in the Bering Sea subarea or directed fishing for pollock CDQ in the Bering Sea subarea is authorized only during the following two seasons:

(i) *A season.* From 1200 hours, A.l.t., January 20 through 1200 hours, A.l.t., June 10; and

(ii) *B season.* From 1200 hours, A.l.t., June 10 through 1200 hours, A.l.t., November 1.

(6) *Directed fishing for Pacific cod* (applicable through July 8, 2002). (i) *Fixed gear.* Subject to other provisions of this part, directed fishing for Pacific cod with fixed gear in the BSAI is authorized only during the following two seasons:

(ii) *Hook-and-line and jig gear.* Subject to other provisions of this part, directed fishing for CDQ and non-CDQ Pacific cod with vessels equal to or greater than 60 ft (18.3 m) LOA using hook-and-line and with vessels using jig gear in the BSAI is authorized only during the following two seasons:

(A) *A season.* From 0001 hours, A.l.t., January 1 through 1200 hours, A.l.t., June 10; and

(B) *B season.* From 1200 hours, A.l.t., June 10 through 2400 hours, A.l.t., December 31.

(iii) *Trawl gear.* Subject to other provisions of this part, directed fishing for CDQ and non-CDQ Pacific cod with trawl gear in the BSAI is authorized only during the following three seasons:

(A) *A season.* From 1200 hours, A.l.t., January 20 through 1200 hours, A.l.t., April 1;

(B) *B season.* From 1200 hours, A.l.t., April 1 through 1200 hours, A.l.t., June 10; and

(C) *C season.* From 1200 hours, A.l.t., June 10 through 1200 hours, A.l.t., November 1.

(iv) *Pot gear.* Subject to other provisions of this part, non-CDQ directed fishing for Pacific cod with vessels equal to or greater than 60 ft (18.3 m) LOA using pot gear in the BSAI is authorized only during the following two seasons:

(A) *A season.* From 0001 hours, A.l.t., January 1 through 1200 hours, A.l.t., June 10; and

(B) *B season.* From 1200 hours, A.l.t., September 1 through 2400 hours, A.l.t., December 31.

(7) *Directed fishing for Atka mackerel with trawl gear* (applicable through July 8, 2002). Subject to other provisions of this part, non-CDQ directed fishing for Atka mackerel with trawl gear in the Aleutian Islands subarea is authorized only during the following two seasons:

(i) *A season.* From 1200 hours, A.l.t., January 20 through 1200 hours, A.l.t., April 15; and

(ii) *B season.* From 1200 hours, A.l.t., September 1 through 1200 hours, A.l.t., November 1.

* * * * *

(i) *Catcher vessel exclusive fishing seasons for pollock* (applicable through July 8, 2002). Catcher vessels are prohibited from participating in directed fishing for pollock under the following conditions. Vessels less than 125 ft (38.1 m) LOA are exempt from this restriction when fishing east of 157°00' W long. GOA and Bering Sea seasons are specified at § 679.23(d)(3) and § 679.23(e)(5).

If you own or operate a catcher vessel and engage in directed fishing for pollock in the	During the	Then you are prohibited from subsequently engaging in directed fishing for pollock with that catcher vessel in the
Bering Sea subarea	A season	GOA until the following C season.
	B season	GOA until the A season of the next year.
GOA	A season	BSAI until the following B season.
	B season	BSAI until the following B season.
	C season	BSAI until the A season of the following year.
	D season	BSAI until the A season of the following year.

8a. In §679.23, new paragraph (e)(6)(i) is suspended until July 8, 2002.

9. In § 679.28, paragraph (f)(3)(viii) is added to read as follows:

§ 679.28 Equipment and operational requirements.

* * * * *

(f) * * *

(3) * * *

(viii) (Applicable 1200 hours A. l. t. June 10, 2002, through July 8, 2002) For vessels permitted to fish in the pollock, Pacific cod, or Atka mackerel directed fisheries under § 679.4(b)(5)(iv)(E), the vessel owner must inform NMFS Enforcement Division by FAX at least 72 hours before entering the area the vessel is permitted to directed fish for pollock, Atka mackerel, or Pacific cod, of the VMS transponder ID and the vessel ID on which the VMS unit is used and the approximate time and location that the vessel will begin directed fishing for groundfish or halibut IFQ.

10. In § 679.31, paragraph (f) is suspended until July 8, 2002, and paragraph (g) is added to read as follows:

§ 679.31 CDQ reserves.

* * * * *

(g) Non-specific CDQ reserve (applicable through July 8, 2002). Annually, NMFS will apportion 50 percent of the arrowtooth flounder CDQ and 15 percent of the ''other species'' CDQ for each CDQ group to a non-specific CDQ reserve. A CDQ group's non-specific CDQ reserve must be for the exclusive use of that CDQ group. A release from the non-specific reserve to the CDQ group's arrowtooth flounder or ''other species'' CDQ is a technical amendment to a community development plan as described in § 679.30(g)(5). The technical amendment must be approved before harvests relying on CDQ transferred from the non-specific CDQ reserve may be conducted.

11. In § 679.32, paragraphs (a)(2) and (e) are suspended until July 8, 2002.

12. In § 679.50, paragraph (c)(4)(i) is suspended until July 8, 2002, paragraph (c)(5) is added and reserved, and paragraphs (c)(1)(x), (c)(4)(vi), and (c)(6) are added to read as follows:

§ 679.50 Groundfish observer program applicable through December 31, 2002.

* * * * *

(c) * * *

(1) * * *

(x) (Applicable through July 8, 2002) *A vessel directed fishing with trawl gear for Atka mackerel in the Aleutian Islands subarea* must carry two NMFS-certified observers at all times while directed fishing for Atka mackerel in the harvest limit area for platoon managed Atka mackerel directed fishing, as defined in § 679.2.

* * * * *

(4) * * *

(vi) *Motherships or catcher/processors using trawl gear* (applicable January 15, 2002, through July 8, 2002). (A) A mothership or catcher/processor vessel using trawl gear to participate in a directed fishery for pollock CDQ must have at least two NMFS-certified observers aboard the vessel, at least one of whom must be certified as a lead CDQ observer as described at paragraph (h)(1)(i)(E) of this section.

(B) A mothership or catcher/processor vessel using trawl gear to participate in a directed fishery for other than pollock CDQ must have at least two CDQ observes as described at paragraphs (h)(1)(i)(D) and (E) of this section aboard the vessel, at least one of whom must be certified as a lead CDQ observer.

* * * * *

(6) *AFA catcher/processors and motherships* (applicable January 15, 2002, through July 8, 2002).

(i) *Coverage requirement*—(A) *Unrestricted AFA catcher/processors and AFA motherships.* The owner or operator of an unrestricted AFA catcher/processor or AFA mothership must provide at least two NMFS-certified observers for each day that the vessel is used to harvest, process, or take deliveries of groundfish. More than two observers are required if the observer workload restriction in paragraph (c)(6)(iii) of this section would otherwise preclude sampling.

(B) *Restricted AFA catcher/processors.* The owner or operator of a restricted AFA catcher/processor must provide at least two NMFS-certified observers for each day that the vessel is used to engage in directed fishing for pollock in the BSAI, or take deliveries of pollock harvested in the BSAI. When a restricted AFA catcher/processor is not engaged in directed fishing for BSAI pollock and is not receiving deliveries of pollock harvested in the BSAI, the observer coverage requirements in paragraph (c)(1)(iv) of this section apply.

(ii) *Certification level.* At least one of the observers required under paragraphs (c)(6)(i)(A) and (B) of this section must be certified as a lead CDQ observer as specified in paragraph (h)(1)(i)(E)(*1*) of this section.

(iii) *Observer work load.* The time required for the observer to complete sampling, data recording, and data communication duties may not exceed 12 consecutive hours in each 24-hour period, and the observer may not sample more than 9 hours in each 24-hour period.

* * * * *

13. In 50 CFR part 679, Tables 4, 5, and 6 are suspended until July 8, 2002, and Tables 21, 22, 23, and 24 are added to read as follows:

Table 21 to 50 CFR Part 679 Steller Sea Lion Protection Areas 3nm No Groundfish Fishing Sites

Column Number 1	2	3	4	5	6	7
Site name	Subarea	Boundaries from		Boundaries to [1]		No transit [2]
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	3 nm
Walrus I. (Pribilofs)	Bering Sea	57 11.00 N	169 56.00 W			Y
Attu I./Cape Wrangell	Aleutian I.	52 54.60 N	172 27.90 E	52 55.40 N	172 27.20 E	Y
Agattu I./Gillon Pt	Aleutian I.	52 24.13 N	173 21.31 E			Y
Agattu I./Cape Sabak	Aleutian I.	52 22.50 N	173 43.30 E	52 21.80 N	173 41.40 E	Y
Buldir I.	Aleutian I.	52 20.25 N	175 54.03 E	52 20.38 N	175 53.85 E	Y
Kiska I./Cape St. Stephen	Aleutian I.	51 52.50 N	177 12.70 E	51 53.50 N	177 12.00 E	Y
Kiska I./Lief Cove	Aleutian I.	51 57.16 N	177 20.41 E	51 57.24 N	177 20.53 E	Y
Ayugadak Point	Aleutian I.	51 45.36 N	178 24.30 E			Y
Amchitka I./Column Rocks	Aleutian I.	51 32.32 N	178 49.28 E			Y
Amchitka I./East Cape	Aleutian I.	51 22.26 N	179 27.93 E	51 22.00 N	179 27.00 E	Y
Semisopochnoi/Petrel Pt.	Aleutian I.	52 01.40 N	179 36.90 E	52 01.50 N	179 39.00 E	Y
Semisopochnoi I./Pochnoi Pt.	Aleutian I.	51 57.30 N	179 46.00 E			Y
Ulak I./Hasgox Pt.	Aleutian I.	51 18.90 N	178 58.90 W	51 18.70 N	178 59.60 W	Y
Tag I.	Aleutian I.	51 33.50 N	178 34.50 W			Y
Gramp Rock	Aleutian I.	51 28.87 N	178 20.58 W			Y
Adak I.	Aleutian I.	51 35.50 N	176 57.10 W	51 37.40 N	176 59.60 W	Y
Kasatochi I.	Aleutian I.	52 11.11 N	175 31.00 W			Y
Agligadak I.	Aleutian I.	52 06.09 N	172 54.23 W			Y
Seguam I./Saddleridge Pt.	Aleutian I.	52 21.05 N	172 34.40 W	52 21.02 N	172 33.60 W	Y
Yunaska I.	Aleutian I.	52 41.40 N	170 36.35 W			Y
Adugak I.	Bering Sea	52 54.70 N	169 10.50 W			Y
Ogchul I.	Gulf of Alaska	52 59.71 N	168 24.24 W			Y
Bogoslof I./Fire I.	Bering Sea	53 55.69 N	168 02.05 W			Y
Akutan I./Cape Morgan	Gulf of Alaska	54 03.39 N	165 59.65 W	54 03.70 N	166 03.68 W	Y
Akun I./Billings Head	Bering Sea	54 17.62 N	165 32.06 W	54 17.57 N	165 31.71 W	Y
Ugamak I.	Gulf of Alaska	54 13.50 N	164 47.50 W	54 12.80 N	164 47.50 W	Y

Column Number 1	2	3	4	5	6	7
Site name	Subarea	Boundaries from		Boundaries to [1]		No transit [2]
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	3 nm
Sea Lion Rock (Amak)	Bering Sea	55 27.82 N	163 12.10 W			Y
Clubbing Rocks (S)	Gulf of Alaska	54 41.98 N	162 26.7 W			Y
Clubbing Rocks (N)	Gulf of Alaska	54 42.75 N	162 26.7 W			Y
Pinnacle Rock	Gulf of Alaska	54 46.06 N	161 45.85 W			Y
Chernabura I.	Gulf of Alaska	54 45.18 N	159 32.99 W	54 45.87 N	159 35.74 W	Y
Atkins I.	Gulf of Alaska	55 03.20 N	159 17.40 W			Y
Chowiet I.	Gulf of Alaska	56 00.54 N	156 41.42 W	56 00.30 N	156 41.60 W	Y
Chirikof I.	Gulf of Alaska	55 46.50 N	155 39.50 W	55 46.44 N	155 43.46 W	Y
Sugarloaf I.	Gulf of Alaska	58 53.25 N	152 02.40 W			Y
Marmot I.	Gulf of Alaska	58 13.65 N	151 47.75 W	58 09.90 N	151 52.06 W	Y
Outer (Pye) I.	Gulf of Alaska	59 20.50 N	150 23.00 W	59 21.00 N	150 24.50 W	Y
Wooded I. (Fish I.)	Gulf of Alaska	59 52.90 N	147 20.65 W			
Seal Rocks (Cordova)	Gulf of Alaska	60 09.78 N	146 50.30 W			

[1] Where two sets of coordinates are given, the baseline extends in a clock-wise direction from the first set of geographic coordinates along the shoreline at mean lower-low water to the second set of coordinates. Where only one set of coordinates is listed, that location is the base point.

[2] See 50 CFR 223.202(a)(2)(i) for regulations regarding 3 nm no transit zones.

Note: No groundfish fishing zones are the waters between 0 nm to 3 nm surrounding each site.

Table 22 to 50 CFR Part 679 Steller Sea Lion Protection Areas Pollock Fisheries Restrictions

Column Number 1	2	3	4	5	6	7
Site name	Subarea	Boundaries from		Boundaries to [1]		Pollock No Fishing Zones for Trawl Gear[2, 8] (nm)
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	
St. Lawrence I./S Punuk I.	Bering Sea	63 04.00 N	168 51.00 W			20
St. Lawrence I./SW Cape	Bering Sea	63 18.00 N	171 26.00 W			20
Hall I.	Bering Sea	60 37.00 N	173 00.00 W			20
St Paul I./Sea Lion Rock	Bering Sea	57 06.00 N	170 17.50 W			3
St Paul I./NE Pt.	Bering Sea	57 15.00 N	170 06.50 W			3
Walrus I. (Pribilofs)	Bering Sea	57 11.00 N	169 56.00 W			10
St. George I./Dalnoi Pt.	Bering Sea	56 36.00 N	169 46.00 W			3
St. George I./S Rookery	Bering Sea	56 33.50 N	169 40.00 W			3
Cape Newenham	Bering Sea	58 39.00 N	162 10.50 W			20
Round (Walrus Islands)	Bering Sea	58 36.00 N	159 58.00 W			20
Uliaga[3]	Bering Sea	53 04.00 N	169 47.00 W	53 05.00 N	169 46.00 W	10
Chuginadak	Gulf of Alaska	52 46.70 N	169 41.90 W			20
Kagamil[3]	Bering Sea	53 02.10 N	169 41.00 W			10
Samalga	Gulf of Alaska	52 46.00 N	169 15.00 W			20
Adugak I.[3]	Bering Sea	52 54.70 N	169 10.50 W			10
Umnak I./Cape Aslik[3]	Bering Sea	53 25.00 N	168 24.50 W			BA
Ogchul I.	Gulf of Alaska	52 59.71 N	168 24.24 W			20
Bogoslof I./Fire I.[3]	Bering Sea	53 55.69 N	168 02.05 W			BA
Polivnoi Rock	Gulf of Alaska	53 15.96 N	167 57.99 W			20
Emerald I.	Gulf of Alaska	53 17.50 N	167 51.50 W			20
Unalaska/Cape Izigan	Gulf of Alaska	53 13.64 N	167 39.37 W			20

Column Number 1	2	3	4	5	6	7
Site name	Subarea	Boundaries from		Boundaries to [1]		Pollock No Fishing Zones for Trawl Gear[2, 8] (nm)
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	
Unalaska/Bishop Pt[9]	Bering Sea	53 58.40 N	166 57.50 W			10
Akutan I./Reef-lava[9]	Bering Sea	54 08.10 N	166 06.19 W	54 09.10 N	166 05.50 W	10
Unalaska I./Cape Sedanka[6]	Gulf of Alaska	53 50.50 N	166 05.00 W			20
Old Man Rocks[6]	Gulf of Alaska	53 52.20 N	166 04.90 W			20
Akutan I./Cape Morgan[6]	Gulf of Alaska	54 03.39 N	165 59.65 W	54 03.70 N	166 03.68 W	20
Akun I./Billings Head[9]	Bering Sea	54 17.62 N	165 32.06 W	54 17.57 N	165 31.71 W	10
Rootok[6]	Gulf of Alaska	54 03.90 N	165 31.90 W	54 02.90 N	165 29.50 W	20
Tanginak I.[6]	Gulf of Alaska	54 12.00 N	165 19.40 W			20
Tigalda/Rocks NE[6]	Gulf of Alaska	54 09.60 N	164 59.00 W	54 09.12 N	164 57.18 W	20
Unimak/Cape Sarichef[9]	Bering Sea	54 34.30 N	164 56.80 W			10
Aiktak[6]	Gulf of Alaska	54 10.99 N	164 51.15 W			20
Ugamak I.[6]	Gulf of Alaska	54 13.50 N	164 47.50 W	54 12.80 N	164 47.50 W	20
Round (GOA)[6]	Gulf of Alaska	54 12.05 N	164 46.60 W			20
Sea Lion Rock (Amak)[9]	Bering Sea	55 27.82 N	163 12.10 W			10
Amak I. and rocks[9]	Bering Sea	55 24.20 N	163 09.60 W	55 26.15 N	163 08.50 W	10
Bird I.	Gulf of Alaska	54 40.00 N	163 17.2 W			10
Caton I.	Gulf of Alaska	54 22.70 N	162 21.30 W			3
South Rocks	Gulf of Alaska	54 18.14 N	162 41.3 W			10
Clubbing Rocks (S)	Gulf of Alaska	54 41.98 N	162 26.7 W			10
Clubbing Rocks (N)	Gulf of Alaska	54 42.75 N	162 26.7 W			10
Pinnacle Rock	Gulf of Alaska	54 46.06 N	161 45.85 W			3
Sushilnoi Rocks	Gulf of Alaska	54 49.30 N	161 42.73 W			10
Olga Rocks	Gulf of Alaska	55 00.45 N	161 29.81 W	54 59.09 N	161 30.89 W	10
Jude I.	Gulf of Alaska	55 15.75 N	161 06.27 W			20
Sea Lion Rocks (Shumagins)	Gulf of Alaska	55 04.70 N	160 31.04 W			3

Column Number 1	2	3	4	5	6	7
Site name	Subarea	Boundaries from		Boundaries to [1]		Pollock No Fishing Zones for Trawl Gear[2, 8] (nm)
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	
Nagai I./Mountain Pt.	Gulf of Alaska	54 54.20 N	160 15.40 W	54 56.00 N	160 15.00 W	3
The Whaleback	Gulf of Alaska	55 16.82 N	160 05.04 W			3
Chernabura I.	Gulf of Alaska	54 45.18 N	159 32.99 W	54 45.87 N	159 35.74 W	20
Castle Rock	Gulf of Alaska	55 16.47 N	159 29.77 W			3
Atkins I.	Gulf of Alaska	55 03.20 N	159 17.40 W			20
Spitz I.	Gulf of Alaska	55 46.60 N	158 53.90 W			3
Mitrofania	Gulf of Alaska	55 50.20 N	158 41.90 W			3
Kak	Gulf of Alaska	56 17.30 N	157 50.10 W			20
Lighthouse Rocks	Gulf of Alaska	55 46.79 N	157 24.89 W			20
Sutwik I.	Gulf of Alaska	56 31.05 N	157 20.47 W	56 32.00 N	157 21.00 W	20
Chowiet I.	Gulf of Alaska	56 00.54 N	156 41.42 W	56 00.30 N	156 41.60 W	20
Nagai Rocks	Gulf of Alaska	55 49.80 N	155 47.50 W			20
Chirikof I.	Gulf of Alaska	55 46.50 N	155 39.50 W	55 46.44 N	155 43.46 W	20
Puale Bay	Gulf of Alaska	57 40.60 N	155 23.10 W			10
Kodiak/Cape Ikolik	Gulf of Alaska	57 17.20 N	154 47.50 W			3
Takli I.	Gulf of Alaska	58 01.75 N	154 31.25 W			10
Cape Kuliak	Gulf of Alaska	58 08.00 N	154 12.50 W			10
Cape Gull	Gulf of Alaska	58 11.50 N	154 09.60 W	58 12.50 N	154 10.50 W	10
Kodiak/Cape Ugat	Gulf of Alaska	57 52.41 N	153 50.97 W			10
Sitkinak/Cape Sitkinak	Gulf of Alaska	56 34.30 N	153 50.96 W			10
Shakun Rock	Gulf of Alaska	58 32.80 N	153 41.50 W			10
Twoheaded I.	Gulf of Alaska	56 54.50 N	153 32.75 W	56 53.90 N	153 33.74 W	10
Cape Douglas (Shaw I.)	Gulf of Alaska	59 00.00 N	153 22.50 W			10
Kodiak/Cape Barnabas	Gulf of Alaska	57 10.20 N	152 53.05 W			3
Kodiak/Gull Point[4]	Gulf of Alaska	57 21.45 N	152 36.30 W			10, 3
Latax Rocks	Gulf of Alaska	58 40.10 N	152 31.30 W			10
Ushagat I./SW	Gulf of Alaska	58 54.75 N	152 22.20 W			10

Column Number 1	2	3	4	5	6	7
Site name	Subarea	Boundaries from		Boundaries to [1]		Pollock No Fishing Zones for Trawl Gear[2, 8] (nm)
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	
Ugak I.[4]	Gulf of Alaska	57 23.60 N	152 17.50 W	57 21.90 N	152 17.40 W	10, 3
Sea Otter I.	Gulf of Alaska	58 31.15 N	152 13.30 W			10
Long I.	Gulf of Alaska	57 46.82 N	152 12.90 W			10
Sud I.	Gulf of Alaska	58 54.00 N	152 12.50 W			10
Kodiak/Cape Chiniak	Gulf of Alaska	57 37.90 N	152 08.25 W			10
Sugarloaf I.	Gulf of Alaska	58 53.25 N	152 02.40 W			20
Sea Lion Rocks (Marmot)	Gulf of Alaska	58 20.53 N	151 48.83 W			10
Marmot I.[5]	Gulf of Alaska	58 13.65 N	151 47.75 W	58 09.90 N	151 52.06 W	15, 20
Nagahut Rocks	Gulf of Alaska	59 06.00 N	151 46.30 W			10
Perl	Gulf of Alaska	59 05.75 N	151 39.75 W			10
Gore Point	Gulf of Alaska	59 12.00 N	150 58.00 W			10
Outer (Pye) I.	Gulf of Alaska	59 20.50 N	150 23.00 W	59 21.00 N	150 24.50 W	20
Steep Point	Gulf of Alaska	59 29.05 N	150 15.40 W			10
Seal Rocks (Kenai)	Gulf of Alaska	59 31.20 N	149 37.50 W			10
Chiswell Islands	Gulf of Alaska	59 36.00 N	149 34.00 W			10
Rugged Island	Gulf of Alaska	59 50.00 N	149 23.10 W	59 51.00 N	149 24.70 W	10
Point Elrington[7, 10]	Gulf of Alaska	59 56.00 N	148 15.20 W			20
Perry I.[7]	Gulf of Alaska	60 44.00 N	147 54.60 W			
The Needle[7]	Gulf of Alaska	60 06.64 N	147 36.17 W			
Point Eleanor[7]	Gulf of Alaska	60 35.00 N	147 34.00 W			
Wooded I. (Fish I.)	Gulf of Alaska	59 52.90 N	147 20.65 W			20
Glacier Island[7]	Gulf of Alaska	60 51.30 N	147 14.50 W			
Seal Rocks (Cordova)[10]	Gulf of Alaska	60 09.78 N	146 50.30 W			20
Cape Hinchinbrook[10]	Gulf of Alaska	60 14.00 N	146 38.50 W			20
Middleton I.	Gulf of Alaska	59 28.30 N	146 18.80 W			10
Hook Point[10]	Gulf of Alaska	60 20.00 N	146 15.60 W			20
Cape St. Elias	Gulf of Alaska	59 47.50 N	144 36.20 W			20

Column Number 1	2	3	4	5	6	7
Site name	Subarea	Boundaries from		Boundaries to [1]		Pollock No Fishing Zones for Trawl Gear[2, 8] (nm)
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	

[1]Where two sets of coordinates are given, the baseline extends in a clock-wise direction from the first set of geographic coordinates along the shoreline at mean lower-low water to the second set of coordinates. Where only one set of coordinates is listed, that location is the base point.

[2] Closures as stated in § 679.22(a)(11)(iv) and (b)(3)(ii).

[3]This site lies within the Bogoslof area (BA). The BA consists of all waters of Area 518 as described in Figure 1 of this part south of a straight line connecting 55°00' N/170°00' W, and 55°00' N/168°11'4.75" W.

[4]The trawl closure between 0 nm to 10 nm is effective from January 20 through May 31. Trawl closure between 0 nm to 3 nm is effective from August 25 through November 1.

[5]Trawl closure between 0 nm to 15 nm is effective from January 20 through May 31. Trawl closure between 0 nm to 20 nm is effective from August 25 to November 1.

[6]Restriction area includes only waters of the Gulf of Alaska Area.

[7]Contact the Alaska Department of Fish and Game for fishery restrictions at these sites.

[8] No fishing zones are the waters between 0 nm and the nm specified in column 7 around each site and within the BA.

[9] This site is located in the Bering Sea Pollock Restriction Area, closed to pollock trawling during the A season. This area consists of all waters of the Bering Sea subarea south of a line connecting the points 163° 0'00" W long./55°46'30" N lat., 165°08'00" W long./54°42'9" N lat., 165°40'00" long./54°26'30" N lat., 166°12'00" W long./54°18'40" N lat., and 167°0'00" W long./54°8'50" N lat.

[10] The 20 nm closure around this site is effective in federal waters outside of State of Alaska waters of Prince William Sound.

Table 23 to 50 CFR Part 679 Steller Sea Lion Protection Areas Pacific Cod Fisheries Restrictions

Column Number 1	2	3	4	5	6	7	8	9
Site name	Subarea	Boundaries from		Boundaries to [1]		Pacific Cod No Fishing Zones for Trawl Gear[2,3]	Pacific Cod No Fishing Zone for Hook-and-Line Gear[2,3]	Pacific Cod No Fishing Zone for Pot Gear[2,3]
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	(nm)	(nm)	(nm)
St. Lawrence I./S Punuk I.	BS	63 04.00 N	168 51.00 W			20	20	20
St. Lawrence I./SW Cape	BS	63 18.00 N	171 26.00 W			20	20	20
Hall I.	BS	60 37.00 N	173 00.00 W			20	20	20
St Paul I./Sea Lion Rock	BS	57 06.00 N	170 17.50 W			3	3	3
St Paul I./NE Pt.	BS	57 15.00 N	170 06.50 W			3	3	3
Walrus I. (Pribilofs)	BS	57 11.00 N	169 56.00 W			10	3	3
St. George I./Dalnoi Pt.	BS	56 36.00 N	169 46.00 W			3	3	3
St. George I./S Rookery	BS	56 33.50 N	169 40.00 W			3	3	3
Cape Newenham	BS	58 39.00 N	162 10.50 W			20	20	20
Round (Walrus Islands)	BS	58 36.00 N	159 58.00 W			20	20	20
Attu I./Cape Wrangell[11]	AI	52 54.60 N	172 27.90 E	52 55.40 N	172 27.20 E	20, 10	3	3
Agattu I./Gillon Pt[11]	AI	52 24.13 N	173 21.31 E			20, 10	3	3
Attu I./Chirikof Pt.[11]	AI	52 49.75 N	173 26.00 E			20, 3		
Agattu I./Cape Sabak[11]	AI	52 22.50 N	173 43.30 E	52 21.80 N	173 41.40 E	20, 10	3	3
Alaid I.[11]	AI	52 46.50 N	173 51.50 E	52 45.00 N	173 56.50 E	20,3		
Shemya I.[11]	AI	52 44.00 N	174 08.70 E			20,3		
Buldir I.[11]	AI	52 20.25 N	175 54.03 E	52 20.38 N	175 53.85 E	20, 10	10	10
Kiska I./Cape St. Stephen[11]	AI	51 52.50 N	177 12.70 E	51 53.50 N	177 12.00 E	20, 10	3	3

Column Number 1	2	3	4	5	6	7	8	9
Site name	Subarea	Boundaries from		Boundaries to [1]		Pacific Cod No Fishing Zones for Trawl Gear[2,3]	Pacific Cod No Fishing Zone for Hook-and-Line Gear[2,3]	Pacific Cod No Fishing Zone for Pot Gear[2,3]
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	(nm)	(nm)	(nm)
Kiska I./Sobaka & Vega[11]	AI	51 49.50 N	177 19.00 E	51 48.50 N	177 20.50 E	20, 3		
Kiska I./Lief Cove[11]	AI	51 57.16 N	177 20.41 E	51 57.24 N	177 20.53 E	20, 10	3	3
Kiska I./Sirius Pt.[11]	AI	52 08.50 N	177 36.50 E			20, 3		
Tanadak I. (Kiska)[11]	AI	51 56.80 N	177 46.80 E			20, 3		
Segula I.[11]	AI	51 59.90 N	178 05.80 E	52 03.06 N	178 08.80 E	20, 3		
Ayugadak Point[11]	AI	51 45.36 N	178 24.30 E			20, 10	3	3
Rat I./Krysi Pt.[11]	AI	51 49.98 N	178 12.35 E			20, 3		
Little Sitkin I.[11]	AI	51 59.30 N	178 29.80 E			20, 3		
Amchitka I./Column Rocks[11]	AI	51 32.32 N	178 49.28 E			20, 10	3	3
Amchitka I./East Cape[11]	AI	51 22.26 N	179 27.93 E	51 22.00 N	179 27.00 E	20, 10	3	3
Amchitka I./Cape Ivakin[11]	AI	51 24.46 N	179 24.21 E			20, 3		
Semisopochnoi/Petrel Pt.[11]	AI	52 01.40 N	179 36.90 E	52 01.50 N	179 39.00 E	20, 10	3	3
Semisopochnoi I./Pochnoi Pt.[11]	AI	51 57.30 N	179 46.00 E			20, 10	3	3
Amatignak I./Nitrof Pt.[11]	AI	51 13.00 N	179 07.80 W			20, 3		
Unalga & Dinkum Rocks[11]	AI	51 33.67 N	179 04.25 W	51 35.09 N	179 03.66 W	20, 3		
Ulak I./Hasgox Pt.[11]	AI	51 18.90 N	178 58.90 W	51 18.70 N	178 59.60 W	20, 10	3	3
Kavalga I[11].	AI	51 34.50 N	178 51.73 W	51 34.50 N	178 49.50 W	20, 3		
Tag I.[11]	AI	51 33.50 N	178 34.50 W			20, 10	3	3
Ugidak I.[11]	AI	51 34.95 N	178 30.45 W			20, 3		
Gramp Rock[11]	AI	51 28.87 N	178 20.58 W			20, 10	3	3

Column Number 1	2	3	4	5	6	7	8	9
Site name	Subarea	Boundaries from		Boundaries to [1]		Pacific Cod No Fishing Zones for Trawl Gear[2,3]	Pacific Cod No Fishing Zone for Hook-and-Line Gear[2,3]	Pacific Cod No Fishing Zone for Pot Gear[2,3]
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	(nm)	(nm)	(nm)
Tanaga I./Bumpy Pt.	AI	51 55.00 N	177 58.50 W	51 55.00 N	177 57.10 W	3		
Bobrof I.	AI	51 54.00 N	177 27.00 W			3		
Kanaga I./Ship Rock	AI	51 46.70 N	177 20.72 W			3		
Kanaga I./North Cape	AI	51 56.50 N	177 09.00 W			3		
Adak I.	AI	51 35.50 N	176 57.10 W	51 37.40 N	176 59.60 W	10	3	3
Little Tanaga Strait	AI	51 49.09 N	176 13.90 W			3		
Great Sitkin I.	AI	52 06.00 N	176 10.50 W	52 06.60 N	176 07.00 W	3		
Anagaksik I.	AI	51 50.86 N	175 53.00 W			3		
Kasatochi I.	AI	52 11.11 N	175 31.00 W			10	3	3
Atka I./N. Cape	AI	52 24.20 N	174 17.80 W			3		
Amlia I./Sviech. Harbor[4]	AI	52 01.80 N	173 23.90 W			3		
Sagigik I.[4]	AI	52 00.50 N	173 09.30 W			3		
Amlia I./East[4]	AI	52 05.70 N	172 59.00 W	52 05.75 N	172 57.50 W	3	20	20
Tanadak I. (Amlia[4]	AI	52 04.20 N	172 57.60 W			3	20	20
Agligadak I[4]	AI	52 06.09 N	172 54.23 W			20	20	20
Seguam I./Saddleridge Pt.[4]	AI	52 21.05 N	172 34.40 W	52 21.02 N	172 33.60 W	10	20	20
Seguam I./Finch Pt.	AI	52 23.40 N	172 27.70 W	52 23.25 N	172 24.30 W	3	20	20
Seguam I./South Side	AI	52 21.60 N	172 19.30 W	52 15.55 N	172 31.22 W	3	20	20
Amukta I. & Rocks	AI	52 27.25 N	171 17.90 W			3	20	20
Chagulak I.	AI	52 34.00 N	171 10.50 W			3	20	20
Yunaska I.	AI	52 41.40 N	170 36.35 W			10	20	20
Uliaga[5, 14]	BS	53 04.00 N	169 47.00 W	53 05.00 N	169 46.00 W	10	BA	BA
Chuginadak[14]	GOA	52 46.70 N	169 41.90 W			20	10	20
Kagamil[5, 14]	BS	53 02.10 N	169 41.00 W			10	BA	BA

Column Number 1	2	3	4	5	6	7	8	9
Site name	Subarea	Boundaries from		Boundaries to [1]		Pacific Cod No Fishing Zones for Trawl Gear[2,3]	Pacific Cod No Fishing Zone for Hook-and-Line Gear[2,3]	Pacific Cod No Fishing Zone for Pot Gear[2,3]
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	(nm)	(nm)	(nm)
Samalga	GOA	52 46.00 N	169 15.00 W			20	10	20
Adugak I[5]	BS	52 54.70 N	169 10.50 W			10	BA	BA
Umnak I./Cape Aslik[5]	BS	53 25.00 N	168 24.50 W			BA	BA	BA
Ogchul I.	GOA	52 59.71 N	168 24.24 W			20	10	20
Bogoslof I./Fire Island[5]	BS	53 55.69 N	168 02.05 W			BA	BA	BA
Polivnoi Rock[9]	GOA	53 15.96 N	167 57.99 W			20	10	20
Emerald I. [13, 9]	GOA	53 17.50 N	167 51.50 W			20	10	20
Unalaska/Cape Izigan[9]	GOA	53 13.64 N	167 39.37 W			20	10	20
Unalaska/Bishop Pt[6, 13]	BS	53 58.40 N	166 57.50 W			10	10	3
Akutan I./Reef-lava[6]	BS	54 08.10 N	166 06.19 W	54 09.10 N	166 05.50 W	10	10	3
Unalaska I./Cape Sedanka[9]	GOA	53 50.50 N	166 05.00 W			20	10	20
Old Man Rocks[9]	GOA	53 52.20 N	166 04.90 W			20	10	20
Akutan I./Cape Morgan[9]	GOA	54 03.39 N	165 59.65 W	54 03.70 N	166 03.68 W	20	10	20
Akun I./Billings Head	BS	54 17.62 N	165 32.06 W	54 17.57 N	165 31.71 W	10	3	3
Rootok[9]	GOA	54 03.90 N	165 31.90 W	54 02.90 N	165 29.50 W	20	10	20
Tanginak I.[9]	GOA	54 12.00 N	165 19.40 W			20	10	20
Tigalda/Rocks NE[9]	GOA	54 09.60 N	164 59.00 W	54 09.12 N	164 57.18 W	20	10	20
Unimak/Cape Sarichef	BS	54 34.30 N	164 56.80 W			10	3	3
Aiktak[9]	GOA	54 10.99 N	164 51.15 W			20	10	20
Ugamak I.[9]	GOA	54 13.50 N	164 47.50 W	54 12.80 N	164 47.50 W	20	10	20
Round (GOA)[9]	GOA	54 12.05 N	164 46.60 W			20	10	20
Sea Lion Rock (Amak)	BS	55 27.82 N	163 12.10 W			10	7	7
Amak I. and rocks	BS	55 24.20 N	163 09.60 W	55 26.15 N	163 08.50 W	10	3	3

Column Number 1	2	3	4	5	6	7	8	9
Site name	Subarea	Boundaries from		Boundaries to [1]		Pacific Cod No Fishing Zones for Trawl Gear[2,3]	Pacific Cod No Fishing Zone for Hook-and-Line Gear[2,3]	Pacific Cod No Fishing Zone for Pot Gear[2,3]
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	(nm)	(nm)	(nm)
Bird I.	GOA	54 40.00 N	163 17.2 W			10		
Caton I.	GOA	54 22.70 N	162 21.30 W			3	3	3
South Rocks	GOA	54 18.14 N	162 41.3 W			10		
Clubbing Rocks (S)	GOA	54 41.98 N	162 26.7 W			10	3	3
Clubbing Rocks (N)	GOA	54 42.75 N	162 26.7 W			10	3	3
Pinnacle Rock	GOA	54 46.06 N	161 45.85 W			3	3	3
Sushilnoi Rocks	GOA	54 49.30 N	161 42.73 W			10		
Olga Rocks	GOA	55 00.45 N	161 29.81 W	54 59.09 N	161 30.89 W	10		
Jude I.	GOA	55 15.75 N	161 06.27 W			20		
Sea Lion Rocks (Shumagins)	GOA	55 04.70 N	160 31.04 W			3	3	3
Nagai I./Mountain Pt.	GOA	54 54.20 N	160 15.40 W	54 56.00 N	160 15.00 W	3	3	3
The Whaleback	GOA	55 16.82 N	160 05.04 W			3	3	3
Chernabura I.	GOA	54 45.18 N	159 32.99 W	54 45.87 N	159 35.74 W	20	3	3
Castle Rock	GOA	55 16.47 N	159 29.77 W			3	3	3
Atkins I.	GOA	55 03.20 N	159 17.40 W			20	3	3
Spitz I.	GOA	55 46.60 N	158 53.90 W			3	3	3
Mitrofania	GOA	55 50.20 N	158 41.90 W			3	3	3
Kak	GOA	56 17.30 N	157 50.10 W			20	20	20
Lighthouse Rocks	GOA	55 46.79 N	157 24.89 W			20	20	20
Sutwik I.	GOA	56 31.05 N	157 20.47 W	56 32.00 N	157 21.00 W	20	20	20
Chowiet I.	GOA	56 00.54 N	156 41.42 W	56 00.30 N	156 41.60 W	20	20	20
Nagai Rocks	GOA	55 49.80 N	155 47.50 W			20	20	20
Chirikof I.	GOA	55 46.50 N	155 39.50 W	55 46.44 N	155 43.46 W	20	20	20
Puale Bay	GOA	57 40.60 N	155 23.10 W			10		
Kodiak/Cape Ikolik	GOA	57 17.20 N	154 47.50 W			3	3	3

Column Number 1	2	3	4	5	6	7	8	9
Site name	Subarea	Boundaries from		Boundaries to [1]		Pacific Cod No Fishing Zones for Trawl Gear[2,3]	Pacific Cod No Fishing Zone for Hook-and-Line Gear[2,3]	Pacific Cod No Fishing Zone for Pot Gear[2,3]
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	(nm)	(nm)	(nm)
Takli I.	GOA	58 01.75 N	154 31.25 W			10		
Cape Kuliak	GOA	58 08.00 N	154 12.50 W			10		
Cape Gull	GOA	58 11.50 N	154 09.60 W	58 12.50 N	154 10.50 W	10		
Kodiak/Cape Ugat	GOA	57 52.41 N	153 50.97 W			10		
Sitkinak/Cape Sitkinak	GOA	56 34.30 N	153 50.96 W			10		
Shakun Rock	GOA	58 32.80 N	153 41.50 W			10		
Twoheaded I.	GOA	56 54.50 N	153 32.75 W	56 53.90 N	153 33.74 W	10		
Cape Douglas (Shaw I.)	GOA	59 00.00 N	153 22.50 W			10		
Kodiak/Cape Barnabas	GOA	57 10.20 N	152 53.05 W			3	3	3
Kodiak/Gull Point[7]	GOA	57 21.45 N	152 36.30 W			10, 3		
Latax Rocks	GOA	58 40.10 N	152 31.30 W			10		
Ushagat I./SW	GOA	58 54.75 N	152 22.20 W			10		
Ugak I.[7]	GOA	57 23.60 N	152 17.50 W	57 21.90 N	152 17.40 W	10, 3		
Sea Otter I.	GOA	58 31.15 N	152 13.30 W			10		
Long I.	GOA	57 46.82 N	152 12.90 W			10		
Sud I.	GOA	58 54.00 N	152 12.50 W			10		
Kodiak/Cape Chiniak	GOA	57 37.90 N	152 08.25 W			10		
Sugarloaf I.	GOA	58 53.25 N	152 02.40 W			20	10	10
Sea Lion Rocks (Marmot)	GOA	58 20.53 N	151 48.83 W			10		
Marmot I.[8]	GOA	58 13.65 N	151 47.75 W	58 09.90 N	151 52.06 W	15, 20	10	10
Nagahut Rocks	GOA	59 06.00 N	151 46.30 W			10		
Perl	GOA	59 05.75 N	151 39.75 W			10		
Gore Point	GOA	59 12.00 N	150 58.00 W			10		
Outer (Pye) I.	GOA	59 20.50 N	150 23.00 W	59 21.00 N	150 24.50 W	20	10	10
Steep Point	GOA	59 29.05 N	150 15.40 W			10		

Column Number 1	2	3	4	5	6	7	8	9
Site name	Subarea	Boundaries from		Boundaries to [1]		Pacific Cod No Fishing Zones for Trawl Gear[2,3]	Pacific Cod No Fishing Zone for Hook-and-Line Gear[2,3]	Pacific Cod No Fishing Zone for Pot Gear[2,3]
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	(nm)	(nm)	(nm)
Seal Rocks (Kenai)	GOA	59 31.20 N	149 37.50 W			10		
Chiswell Islands	GOA	59 36.00 N	149 34.00 W			10		
Rugged Island	GOA	59 50.00 N	149 23.10 W	59 51.00 N	149 24.70 W	10		
Point Elrington[10,12]	GOA	59 56.00 N	148 15.20 W			20		
Perry I.[10]	GOA	60 44.00 N	147 54.60 W					
The Needle[10]	GOA	60 06.64 N	147 36.17 W					
Point Eleanor[10]	GOA	60 35.00 N	147 34.00 W					
Wooded I. (Fish I.)	GOA	59 52.90 N	147 20.65 W			20	3	3
Glacier Island[10]	GOA	60 51.30 N	147 14.50 W					
Seal Rocks (Cordova)[12]	GOA	60 09.78 N	146 50.30 W			20	3	3
Cape Hinchinbrook[12]	GOA	60 14.00 N	146 38.50 W			20		
Middleton I.	GOA	59 28.30 N	146 18.80 W			10		
Hook Point[12]	GOA	60 20.00 N	146 15.60 W			20		
Cape St. Elias	GOA	59 47.50 N	144 36.20 W			20		

BS = Bering Sea, AI = Aleutian Islands, GOA = Gulf of Alaska

[1]Where two sets of coordinates are given, the baseline extends in a clock-wise direction from the first set of geographic coordinates along the shoreline at mean lower-low water to the second set of coordinates. Where only one set of coordinates is listed, that location is the base point.

[2] Closures as stated in § 679.22(a)(11)(v), (a)(12)(iv), and (b)(3)(iii).

[3] No fishing zones are the waters between 0 nm and the nm specified in columns 7, 8, and 9 around each site and within the Bogoslof Area (BA) and the Seguam Foraging Area (SFA).

[4] Some or all of the restricted area is located in the SFA which is closed to all gears types. The SFA is established as all waters within the area between 52° N lat. and 53° N lat. and between 173°30' W long. and 172°30' W long.

[5]This site lies within the BA which is closed to all gear types. The BA consists of all waters of Area 518 as

Column Number 1	2	3	4	5	6	7	8	9
Site name	Subarea	Boundaries from		Boundaries to [1]		Pacific Cod No Fishing Zones for Trawl Gear[2,3]	Pacific Cod No Fishing Zone for Hook-and-Line Gear[2,3]	Pacific Cod No Fishing Zone for Pot Gear[2,3]
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	(nm)	(nm)	(nm)

described in Figure 1 of this part south of a straight line connecting 55°00'N/170°00'W, and 55°00' N/168°11'4.75" W.

[6]Hook-and-line no fishing zones apply only to vessels greater than or equal to 60 feet LOA in waters east of 167° W long. For Bishop Point the 10 nm closure west of 167° W. long. applies to all hook and line vessels.

[7]The trawl closure between 0 nm to 10 nm is effective from January 20 through June 10. Trawl closure between 0 nm to 3 nm is effective from September 1 through November 1.

[8] The trawl closure between 0 nm to 15 nm is effective from January 20 through June 10. Trawl closure between 0 nm to 20 nm is effective from September 1 through November 1.

[9]Restriction area includes only waters of the Gulf of Alaska Area.

[10]Contact the Alaska Department of Fish and Game for fishery restrictions at these sites.

[11]Trawling is prohibited 0 nm to 20 nm of rookeries and haulouts until the harvest limit area Atka mackerel fishery in the A or B season are completed. After closure of the Atka mackerel harvest limit area fishery, trawling is prohibited between 0 nm to 10 nm of rookeries and between 0 nm and 3 nm of haulouts.

[12] The 20 nm closure around this site is effective only in waters outside of the State of Alaska waters of Prince William Sound.

[13] See § 679.22(a)(11)(i)(C) for exemptions for catcher vessels less than 60 feet (18.3 m) LOA using jig or hook-and-line gear between Bishop Point and Emerald Island closure areas.

[14]Trawl closure around this site is limited to waters east of 170°0'00" W long.

Table 24 to 50 CFR Part 679 Steller Sea Lion Protection Areas Atka Mackerel Fisheries Restrictions

Column Number 1	2	3	4	5	6	7
Site name	Subarea	Boundaries from		Boundaries to [1]		Atka mackerel no fishing zone[2,3] (nm)
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	
St. Lawrence I./S Punuk I.	Bering Sea	63 04.00 N	168 51.00 W			20
St. Lawrence I./SW Cape	Bering Sea	63 18.00 N	171 26.00 W			20
Hall I.	Bering Sea	60 37.00 N	173 00.00 W			20
St Paul I./Sea Lion Rock	Bering Sea	57 06.00 N	170 17.50 W			20
St Paul I./NE Pt.	Bering Sea	57 15.00 N	170 06.50 W			20
Walrus I. (Pribilofs)	Bering Sea	57 11.00 N	169 56.00 W			20
St. George I./Dalnoi Pt.	Bering Sea	56 36.00 N	169 46.00 W			20
St. George I./S Rookery	Bering Sea	56 33.50 N	169 40.00 W			20
Cape Newenham	Bering Sea	58 39.00 N	162 10.50 W			20
Round (Walrus Islands)	Bering Sea	58 36.00 N	159 58.00 W			20
Attu I./Cape Wrangell	Aleutian Islands	52 54.60 N	172 27.90 E	52 55.40 N	172 27.20 E	10
Agattu I./Gillon Pt	Aleutian Islands	52 24.13 N	173 21.31 E			10
Attu I./Chirikof Pt.	Aleutian Islands	52 49.75 N	173 26.00 E			3
Agattu I./Cape Sabak	Aleutian Islands	52 22.50 N	173 43.30 E	52 21.80 N	173 41.40 E	10
Alaid I.	Aleutian Islands	52 46.50 N	173 51.50 E	52 45.00 N	173 56.50 E	3
Shemya I.	Aleutian Islands	52 44.00 N	174 08.70 E			3
Buldir I.	Aleutian Islands	52 20.25 N	175 54.03 E	52 20.38 N	175 53.85 E	15
Kiska I./Cape St. Stephen	Aleutian Islands	51 52.50 N	177 12.70 E	51 53.50 N	177 12.00 E	10

Column Number 1	2	3	4	5	6	7
Site name	Subarea	Boundaries from		Boundaries to [1]		Atka mackerel no fishing zone[2,3] (nm)
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	
Kiska I./Sobaka & Vega	Aleutian Islands	51 49.50 N	177 19.00 E	51 48.50 N	177 20.50 E	3
Kiska I./Lief Cove	Aleutian Islands	51 57.16 N	177 20.41 E	51 57.24 N	177 20.53 E	10
Kiska I./Sirius Pt.	Aleutian Islands	52 08.50 N	177 36.50 E			3
Tanadak I. (Kiska)	Aleutian Islands	51 56.80 N	177 46.80 E			3
Segula I.	Aleutian Islands	51 59.90 N	178 05.80 E	52 03.06 N	178 08.80 E	3
Ayugadak Point	Aleutian Islands	51 45.36 N	178 24.30 E			10
Rat I./Krysi Pt.	Aleutian Islands	51 49.98 N	178 12.35 E			3
Little Sitkin I.	Aleutian Islands	51 59.30 N	178 29.80 E			3
Amchitka I./Column Rocks	Aleutian Islands	51 32.32 N	178 49.28 E			10
Amchitka I./East Cape	Aleutian Islands	51 22.26 N	179 27.93 E	51 22.00 N	179 27.00 E	10
Amchitka I./Cape Ivakin	Aleutian Islands	51 24.46 N	179 24.21 E			3
Semisopochnoi/Petrel Pt.	Aleutian Islands	52 01.40 N	179 36.90 E	52 01.50 N	179 39.00 E	10
Semisopochnoi I./Pochnoi Pt.	Aleutian Islands	51 57.30 N	179 46.00 E			10
Amatignak I./Nitrof Pt.	Aleutian Islands	51 13.00 N	179 07.80 W			3
Unalga & Dinkum Rocks	Aleutian Islands	51 33.67 N	179 04.25 W	51 35.09 N	179 03.66 W	3
Ulak I./Hasgox Pt.	Aleutian Islands	51 18.90 N	178 58.90 W	51 18.70 N	178 59.60 W	10
Kavalga I.	Aleutian Islands	51 34.50 N	178 51.73 W	51 34.50 N	178 49.50 W	3
Tag I.	Aleutian Islands	51 33.50 N	178 34.50 W			10
Ugidak I.	Aleutian Islands	51 34.95 N	178 30.45 W			3
Gramp Rock	Aleutian Islands	51 28.87 N	178 20.58 W			10
Tanaga I./Bumpy Pt.[4]	Aleutian Islands	51 55.00 N	177 58.50 W	51 55.00 N	177 57.10 W	20
Bobrof I.	Aleutian Islands	51 54.00 N	177 27.00 W			20

Column Number 1	2	3	4	5	6	7
Site name	Subarea	Boundaries from		Boundaries to [1]		Atka mackerel no fishing zone[2,3] (nm)
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	
Kanaga I./Ship Rock	Aleutian Islands	51 46.70 N	177 20.72 W			20
Kanaga I./North Cape	Aleutian Islands	51 56.50 N	177 09.00 W			20
Adak I.	Aleutian Islands	51 35.50 N	176 57.10 W	51 37.40 N	176 59.60 W	20
Little Tanaga Strait	Aleutian Islands	51 49.09 N	176 13.90 W			20
Great Sitkin I.	Aleutian Islands	52 06.00 N	176 10.50 W	52 06.60 N	176 07.00 W	20
Anagaksik I.	Aleutian Islands	51 50.86 N	175 53.00 W			20
Kasatochi I.	Aleutian Islands	52 11.11 N	175 31.00 W			20
Atka I./N. Cape	Aleutian Islands	52 24.20 N	174 17.80 W			20
Amlia I./Sviech. Harbor[5]	Aleutian Islands	52 01.80 N	173 23.90 W			20
Sagigik I.[5]	Aleutian Islands	52 00.50 N	173 09.30 W			20
Amlia I./East[5]	Aleutian Islands	52 05.70 N	172 59.00 W	52 05.75 N	172 57.50 W	20
Tanadak I. (Amlia)[5]	Aleutian Islands	52 04.20 N	172 57.60 W			20
Agligadak I.[5]	Aleutian Islands	52 06.09 N	172 54.23 W			20
Seguam I./Saddleridge Pt.[5]	Aleutian Islands	52 21.05 N	172 34.40 W	52 21.02 N	172 33.60 W	20
Seguam I./Finch Pt.[5]	Aleutian Islands	52 23.40 N	172 27.70 W	52 23.25 N	172 24.30 W	20
Seguam I./South Side[5]	Aleutian Islands	52 21.60 N	172 19.30 W	52 15.55 N	172 31.22 W	20
Amukta I. & Rocks	Aleutian Islands	52 27.25 N	171 17.90 W			20
Chagulak I.	Aleutian Islands	52 34.00 N	171 10.50 W			20
Yunaska I.	Aleutian Islands	52 41.40 N	170 36.35 W			20
Uliaga[6]	Bering Sea	53 04.00 N	169 47.00 W	53 05.00 N	169 46.00 W	20
Kagamil[6]	Bering Sea	53 02.10 N	169 41.00 W			20
Adugak I.[6]	Bering Sea	52 54.70 N	169 10.50 W			20
Umnak I./Cape Aslik[6]	Bering Sea	53 25.00 N	168 24.50 W			BA
Bogoslof I./Fire Island[6]	Bering Sea	53 55.69 N	168 02.05 W			BA
Unalaska/Bishop Pt	Bering Sea	53 58.40 N	166 57.50 W			20

Column Number 1	2	3	4	5	6	7
Site name	Subarea	Boundaries from		Boundaries to [1]		Atka mackerel no fishing zone[2,3] (nm)
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	
Akutan I./Reef-lava	Bering Sea	54 08.10 N	166 06.19 W	54 09.10 N	166 05.50 W	20
Akun I./Billings Head	Bering Sea	54 17.62 N	165 32.06 W	54 17.57 N	165 31.71 W	20
Unimak/Cape Sarichef	Bering Sea	54 34.30 N	164 56.80 W			20
Sea Lion Rock (Amak)	Bering Sea	55 27.82 N	163 12.10 W			20
Amak I. and rocks	Bering Sea	55 24.20 N	163 09.60 W	55 26.15 N	163 08.50 W	20

[1] Where two sets of coordinates are given, the baseline extends in a clock-wise direction from the first set of geographic coordinates along the shoreline at mean lower-low water to the second set of coordinates. Where only one set of coordinates is listed, that location is the base point.

[2] Closures as stated in § 679.22 (a)(11)(vi) and (a)(12)(v).

[3] No fishing zones are the waters between 0 nm and the nm specified in column 7 around each site and within the Bogoslof Area (BA).

[4] The 20 nm Atka mackerel fishery closure around the Tanaga I./Bumpy Pt. Rookery is established only for that portion of the area east of 178° W longitude.

[5] Some or all of the restricted area is located in the Seguam Foraging Area (SFA) which is closed to all gears types. The SFA is established as all waters within the area between 52° N lat. and 53° N lat. and between 173°30' W long. and 172°30' W long.

[6] This site lies in the BA, closed to all gear types. The BA consists of all waters of Area 518 described in Figure 1 of this part south of a straight line connecting 55°00'N/170°00'W and 55°00'N/168°11'4.75" W.

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Federal Register

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January 8, 2002

Part II

Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Part 679

Fisheries of the Exclusive Economic Zone Off Alaska; Steller Sea Lion Protection Measures for the Groundfish Fisheries Off Alaska; Final 2002 Harvest Specifications and Associated Management Measures for the Groundfish Fisheries Off Alaska; Interim Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 011218304–1304–01; I.D. 121701A]

RIN 0648–AP69

Fisheries of the Exclusive Economic Zone Off Alaska; Steller Sea Lion Protection Measures for the Groundfish Fisheries Off Alaska; Final 2002 Harvest Specifications and Associated Management Measures for the Groundfish Fisheries Off Alaska

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

ACTION: Emergency interim rule; request for comments.

SUMMARY: NMFS issues an emergency interim rule to implement Steller sea lion protection measures to avoid the likelihood that the groundfish fisheries off Alaska will jeopardize the continued existence of the western population of Steller sea lions or adversely modify their critical habitat. These management measures will disperse fishing effort over time and area to provide protection from potential competition for important Steller sea lion prey species in waters adjacent to rookeries and important haulouts. This action also announces final 2002 harvest specifications and associated management measures for the groundfish fisheries of the Bering Sea and Aleutian Islands management area (BSAI) and the Gulf of Alaska (GOA). The intended effect of this emergency interim rule is to protect the endangered western population of Steller sea lions, as required under the Endangered Species Act (ESA), and to conserve and manage the groundfish resources in the BSAI and the GOA in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: Effective January 1, 2002, except for the addition of § 679.7(a)(18), the suspension of § 679.7(c)(3), and the addition of § 679.28(f)(3)(viii) which will be effective 1200 hours A.l.t. on June 10, 2002, through July 8, 2002, and § 679.7(k), § 679.50(c)(4)(vi) and (c)(6) which will be effective January 15, 2002, through July 8, 2002. Comments must be received by February 7, 2002.

ADDRESSES: Comments may be sent to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK, 99802, Attn: Lori Gravel, or delivered to room 401 of the Federal Building, 709 West 9th Street, Juneau, AK. Comments will not be accepted if submitted via e-mail or Internet. Copies of the Supplemental Environmental Impact Statement on Steller Sea Lion Protection Measures in the Federal groundfish fisheries off Alaska (SEIS), including the 2001 biological opinion, and the Environmental Assessment (EA) for the Total Allowable Catch for the Year 2002 Alaska Groundfish Fisheries may be obtained from the same address. The SEIS and EA are also available on the NMFS Alaska Region homepage at *http://www.fakr.noaa.gov.* Send comments on collection-of-information requirements to the same address and to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB), Washington, DC 20503 (Attn: NOAA Desk Officer).

Copies of the Final 2002 Stock Assessment and Fishery Evaluation (SAFE) reports, dated November 2001, are available from the North Pacific Fishery Management Council, West 4th Avenue, Suite 306, Anchorage, AK 99510 or from its homepage at *http://www.fakr.noaa.gov/npfmc.*

FOR FURTHER INFORMATION CONTACT: Melanie Brown, Sustainable Fisheries Division, Alaska Region, 907–586–7228 or e-mail at *melanie.brown@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Background

NMFS manages the groundfish fisheries in the exclusive economic zone (EEZ) off Alaska under the Fishery Management Plan (FMP) for the Groundfish Fishery of the BSAI and the FMP for Groundfish of the GOA. The North Pacific Fishery Management Council (Council) prepared the FMPs under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801, *et seq.* Regulations governing U.S. fisheries and implementing the FMPs appear at 50 CFR parts 600 and 679. NMFS also has management responsibility for certain threatened and endangered species, including Steller sea lions, under the Endangered Species Act of 1973 (ESA), 16 U.S.C. 1531, *et seq.*, and the authority to promulgate regulations to enforce provisions of the ESA to protect such species.

Introduction

The preamble to this emergency rule contains two parts. Part I explains the background surrounding actions taken to protect the endangered western population of Steller sea lions, including information on the development of protection measures for 2002. Part II describes the harvest specifications for the 2002 groundfish fisheries of the BSAI and GOA. These specifications are consistent with the 2002 Steller sea lion protection measures.

Part I. Steller Sea Lion Protection Measures

Steller Sea Lion Endangered Species Status

In 1990, NMFS designated the Steller sea lion as a threatened species under the ESA. The designation followed severe declines throughout much of the GOA and Aleutian Islands region. In 1993, NMFS designated critical habitat for the species to include (among other areas) the marine areas within 20 nautical miles (nm) of major rookeries and haulouts of the species west of 144° W longitude (long.). In 1997, NMFS recognized two separate populations and reclassified the western population (west of 144° W long.) as endangered.

NMFS first began collecting information on the abundance of Steller sea lions during the 1950s and 1960s. However, the first counts based on reliable data were not available until the late 1970s; these counts reported approximately 109,800 animals. During the 1980s, a precipitous decline of Steller sea lions was observed. By 1996, the population had declined by 80 percent from the late 1970s. Counts of adult and juvenile Steller sea lions have continued to decline over the last decade, but at a much lower rate.

Based on the best available scientific information, NMFS attributes the continued decline to multiple factors. Considerable evidence indicates that the lack of available prey is a substantial factor. Diet studies confirm that Steller sea lions depend on pollock, Pacific cod, and Atka mackerel as major prey resources, and that they may be particularly sensitive to reduced availability of prey during the winter. The occurrence of pollock, Pacific cod, and Atka mackerel in the diet of sea lions may have increased since the 1970s due to shifts in the Bering Sea ecosystem related to atmospheric and oceanographic changes. More information on the environmental changes and potential effects on Steller sea lions is detailed in section 4.4.1 of the October 19, 2001, Biological Opinion on the BSAI and GOA groundfish fisheries and the effects on Steller sea lions (see **ADDRESSES**).

Past Biological Opinions and Court Cases

In accordance with the requirements of the ESA, since 1990 the NMFS Office of Protected Resources has issued biological opinions (BiOps) on the pollock fisheries of the BSAI and GOA, on the Atka mackerel fishery of the Aleutian Islands subarea, and on the entire groundfish fishery for the GOA and BSAI. These opinions analyzed the effects of the various groundfish fisheries with emphasis on the Atka mackerel, Pacific cod, and pollock fisheries in the waters off Alaska and recommended actions to avoid jeopardy for the western population of Steller sea lions and to avoid adverse modification of its habitat. The term ''jeopardize'' means ''to engage in an action that reasonably would be expected, directly or indirectly, to reduce appreciably the likelihood of both the survival and recovery of a listed species in the wild by reducing the reproduction, numbers, or distribution of that species'' (50 CFR 402.02). The phrase ''adversely modify its critical habitat'' means ''a direct or indirect alteration that appreciably diminishes the value of critical habitat for both the survival and recovery of a listed species. Such alterations include, but are not limited to, alterations adversely modifying any of those physical or biological features that were the basis for determining the habitat to be critical'' (50 CFR 402.02).

Two BiOps were issued by NMFS in December 1998. The first one analyzed the Atka mackerel and pollock fisheries (1998–1 BiOp) and the second one analyzed the 1999 harvest specifications for all the 1999 groundfish fisheries in the BSAI and GOA (1998–2 BiOp). The 1998–1 BiOp, issued December 3, 1998, and revised December 16, 1998, concluded that the Atka mackerel fishery, as modified by regulatory changes (64 FR 3446, January 22, 1999), was not likely to jeopardize the endangered western population of Steller sea lions or adversely modify its critical habitat. However, the 1998–1 BiOp concluded that the pollock fishery, as then proposed, was likely to jeopardize the endangered western population of Steller sea lions and adversely modify its critical habitat. Rather than offering a specific reasonable and prudent alternative (RPA) for the BSAI and GOA pollock fisheries, the 1998–1 BiOp provided a framework in which specific management measures could be developed to avoid the likelihood of jeopardizing the continued existence of the western population of Steller sea lions or adversely modifying its critical habitat. The framework consisted of three principles: (1) Temporal dispersion of fishing effort, (2) spatial dispersion of fishing effort, and (3) protection from fisheries competition for Steller sea lion prey in waters adjacent to rookeries and important haulouts. For each of these principles, the 1998–1 BiOp provided guidance on the development of management measures to meet the objectives and, ultimately, to avoid jeopardy and adverse modification. The 1998–1 BiOp stated that certain conservation measures could be phased in over a 2-year period.

In December 1998, NMFS staff briefed the Council on the 1998–1 BiOp. The Council then prepared recommendations for alternative management measures based on the BiOp framework to avoid jeopardy and adverse modification. The Council's recommendation did not contain Bering Sea subarea (BS) pollock harvest specifications for the second half of 1999. However, the Council planned to recommend these measures prior to mid-1999. The Council also recommended closing all but nine of the haulout zones specified by the 1998–1 BiOp in the BSAI and GOA. NMFS determined these recommendations to be acceptable as part of a 2-year phase-in strategy, in which equivalent or better protections would be extended for those areas for 2000 and beyond.

On December 16, 1998, NMFS adopted the measures recommended by the Council (with modifications) into the 1998–1 BiOp as part of the reasonable and prudent alternatives (RPAs) for the Alaska pollock fisheries. NMFS published an emergency interim rule implementing these measures in the **Federal Register** on January 22, 1999 (64 FR 3437), as amended on February 17, 1999 (64 FR 7814), and on February 25, 1999 (64 FR 9375), and effective through July 19, 1999. The preamble to the emergency interim rule provides a detailed description of the purpose and need for the implementation of emergency measures in 1999.

The Council met again in February, April, and June 1999 to consider recommendations for extending the emergency rule for the second half of 1999, and, at its June meeting, voted to extend the emergency rule. Using the Council's recommendation, NMFS extended the emergency rule through December 31, 1999 (64 FR 39087, July 21, 1999; technical amendment 64 FR 43297, August 10, 1999), with revisions that included BS pollock harvest specifications for the second half of 1999.

In June 1999, the Council also deliberated on various management measures to implement permanently the RPAs as described in the 1998–1 BiOp for 2000 and beyond. After significant debate and public comment, the Council voted to recommend a series of conservation measures to protect Steller sea lions.

Greenpeace, the American Oceans Campaign, and the Sierra Club challenged the 1998–1 BiOp in the U.S. District Court for the Western District of Washington (*Greenpeace* v. *NMFS*, Civ. No. C98–0492Z (W.D. Wash.)). Several industry groups and Alaska communities joined the lawsuit as defendant-intervenors. In an Order issued on July 9, 1999 (and amended on July 13, 1999), the Court upheld the no-jeopardy conclusion for the Atka mackerel fishery and the jeopardy conclusion for the pollock fisheries. However, the Court also found that ''the Reasonable and Prudent Alternatives * * * were arbitrary and capricious * * * because they were not justified under the prevailing legal standards and because the record does not support a finding that they were reasonably likely to avoid jeopardy.'' On August 6, 1999, the Court remanded the RPA back to NMFS for further analysis and explanation.

To comply with the Court's Order, NMFS conducted additional analyses and completed the Revised Final Reasonable and Prudent Alternatives (RFRPAs) on October 15, 1999. The RFRPAs described management measures to avoid the likelihood that the pollock fisheries authorized by regulations will jeopardize the continued existence of the endangered western population of Steller sea lions or adversely modify its critical habitat.

NMFS modified previous measures to conform with the RFRPA and implemented these measures by emergency interim rule for the 2000 groundfish fisheries (65 FR 3892, January 25, 2000, and 65 FR 36795, June 12, 2000). Although both environmental and fishing industry representatives challenged the adequacy of the RFRPAs in the U.S. District Court for the Western District of Washington, subsequent events in 2000 further modified measures to protect Steller sea lions (see below).

Greenpeace, the American Oceans Campaign, and the Sierra Club also challenged the legal adequacy of the 1998–2 BiOp, which NMFS issued on December 22, 1998. On January 25, 2000, the Court entered an Order finding the 1998–2 BiOp too narrow in scope (*Greenpeace* v. *NMFS*, 80 F. Supp. 2d 1137 (W.D. Wash. 2000)). On

July 19, 2000, the Court issued an injunction prohibiting fishing for groundfish with trawl gear in the EEZ within Steller sea lion critical habitat west of 144° W long. until NMFS issued a comprehensive biological opinion adequately analyzing the full scope of the FMPs. (*Greenpeace* v. *NMFS*, 106 F. Supp. 2d 1066 (W.D. Wash. 2000)). The critical habitat areas closed by the Court's injunction were defined in regulations codified at 50 CFR 226.202, and in Tables 1 and 2 of 50 CFR part 226. NMFS issued an interim final rule prohibiting fishing for groundfish with trawl gear in Steller sea lion critical habitat during the pendency of the Court's injunction (65 FR 49766, August 15, 2000).

In response to the Court's Order finding the 1998–2 BiOp inadequate, NMFS issued a biological opinion on the BSAI and GOA groundfish fisheries FMPs (Comprehensive BiOp) on November 30, 2000. The Comprehensive BiOp evaluated the Federal groundfish fisheries as implemented by the BSAI and GOA FMPs and their implementing regulations. After analyzing the direct and indirect effects of the groundfish fisheries, as authorized by the BSAI and GOA FMPs, on listed species, the cumulative effects of non-Federal actions, and the environmental baseline, NMFS concluded that the pollock, Pacific cod, and Atka mackerel fisheries as then configured jeopardized the continued existence of the western population of Steller sea lions and adversely modified its critical habitat. This conclusion was reached based on the likelihood that pollock, Pacific cod, and Atka mackerel fisheries compete with Steller sea lions and reduce their ability to survive and recover in the wild. Competition with fisheries is likely to cause reduced availability of sea lion prey (especially on small scales) which would reduce their foraging success and lead to nutritional stress, especially of juveniles and to a lesser extent adult females. The Comprehensive BiOp included an RPA that modified the three fisheries in such a manner as to reduce the likelihood of causing local depletion of key sea lion prey species and thus avoid jeopardizing the continued existence of Steller sea lions or adversely modifying their critical habitat.

On December 21, 2000, prior to the implementation of the Comprehensive BiOp RPAs, the President signed Public Law 106–554. This law contained a one-year timetable for implementing the RPA from the Comprehensive BiOp as well as provisions affecting its implementation. Public Law 106–554, section 209(c)(2) required the RPA contained in the Comprehensive BiOp to become effective in its entirety on January 1, 2002, unless revised as necessary and appropriate based on independent scientific review or other new information. In accordance with Public Law 106–554, and starting on January 1, 2001, the 2001 BSAI and GOA groundfish fisheries were initially managed in accordance with the fishery management plans and Federal regulations in effect for such fisheries prior to July 15, 2000. This initial management regime was subsequently replaced as provided in Public Law 106–554, section 209(c)(4), via an emergency interim rule issued by NMFS under the Magnuson-Stevens Act and effective on January 18, 2001 (66 FR 7276, January 22, 2001). The emergency interim rule contained a suite of management measures that phased in certain provisions of the RPA.

In response to the conclusions of the biological opinions since 1998 and Public Law 106–554, NMFS issued permanent regulations for the Atka mackerel fishery (64 FR 3446, January 22, 1999) and a series of emergency regulations for the pollock fishery (64 FR 3437, January 22, 1999; 65 FR 3892, January 25, 2000) and for Atka mackerel, pollock, and Pacific cod fisheries (66 FR 7276, January 22, 2001, extended and amended 66 FR 37167, July 17, 2001, and corrected 66 FR 44073, August 22, 2001, and 66 FR 48371, September 20, 2001). These regulations disperse harvest over time and area and provide protection to areas important to Steller sea lions. In July 2001, the parties to the litigation concerning the biological opinions and the RFRPA filed a joint status report and agreed to stay further litigation until completion of the 2001 BiOp in October 2001. A subsequent joint status report dated November 1, 2001, agreed to continue the temporary stay of litigation until January 18, 2002, when a follow-up status report will be filed with the Court.

Development of 2002 Steller Sea Lion Protection Measures

In January 2001, the Council established an RPA Committee to make recommendations on Steller sea lion protection measures for the second half of 2001 and to develop Steller sea lion protection measures for 2002 and beyond. The Council's RPA Committee was composed of 21 members from the fishing community, the environmental community, NMFS, the Council's Science and Statistical Committee, the Council's Advisory Panel, and the State of Alaska Department of Fish and Game.

In developing the protection measures for the second half of 2001 and for 2002, the RPA Committee's first goal was to determine adequate forage for Steller sea lions using the best scientific and commercial information available and the second goal was to maximize the economic benefit to the fishing industry within constraints imposed by the ESA. The RPA Committee met numerous times to review Steller sea lion biology and habitat requirements, RPA from the Comprehensive BiOp, the draft SEIS and draft 2001 BiOp for this action, and commercial fishery and scientific survey information. Meetings in 2001 were held on February 10, February 20, March 6–7, March 26–29, April 9, May 9–11, May 21–24, and August 23–24. These meetings were open to the public and the public was provided with several opportunities to comment at each meeting.

After the available scientific information on Steller sea lion biology was discussed, the Committee reviewed commercial fisheries and harvest data to determine the competitive overlap between fisheries and Steller sea lions. With all of this information, the Committee then developed a fisheries management program intended to meet the requirements of applicable law. In April 2001, the RPA Committee presented its recommendations to the Council for fishery management measures for the second half of 2001. These recommendations were then forwarded by the Council to NMFS.

In June 2001, the RPA Committee recommended Steller sea lion protection measures for 2002 and beyond. However, the Committee did not reach consensus regarding the recommendations; two representatives from the environmental community objected and provided a minority report with the May 21–24 Committee minutes. Both the Committee's recommendation and the minority recommendation developed by the American Oceans Campaign and the National Environmental Trust were included as alternatives analyzed in the SEIS. Additionally, protection measures in the GOA, developed by the Alaska Marine Conservation Council, were included as an option to the preferred alternative in the SEIS. Minutes from all RPA Committee meetings have been distributed at Council meetings and are available on the Council's Web site at *http://www.fakr.noaa.gov/npfmc/default.htm.*

In June 2001, the Council recommended a suite of alternatives to be analyzed in the SEIS, including the RPA Committee's recommendation and the protection measures described in the

minority report mentioned above. NMFS reviewed the recommendations and determined that they represented an adequate range of reasonable alternatives as required by the National Environmental Policy Act (NEPA). For purposes of identifying a proposed action in order to initiate formal consultation under Section 7 of the ESA, NMFS used the RPA Committee's recommendation as the preferred alternative (Alternative 4) in the draft SEIS. Alternative 4 also included three options added by the Council. Two of the options provided small boat exemptions for nontrawl gear Pacific cod fishing in the Chignik and Unalaska areas, and the third option established gear specific fishing zones for GOA Pacific cod fisheries (the Alaska Marine Conservation Council option).

In July 2001, the NMFS Office of Sustainable Fisheries (OSF) reinitiated consultation under the ESA with the NMFS Office of Protected Resources (OPR) based on the availability of new information and the substantial changes proposed in the fisheries since the completion of the Comprehensive BiOp. The new scientific information is described in more detail below under the specific protection measures. Consultation was requested on the management measures outlined in Alternative 4 of the draft SEIS. A draft biological opinion (2001 BiOp) was prepared by the OPR and distributed as Appendix A to the draft SEIS, which was available for public review on August 20, 2001 (comment period closed October 15, 2001). During informal consultations, the OSF and the OPR concurred that all other listed species occurring in Alaska other than Steller sea lions would not be adversely affected by the implementation of the proposed action. Therefore, only the endangered and threatened populations of Steller sea lions were the subject of the formal consultation and draft biological opinion issued by the OPR.

The draft 2001 BiOp, which is a consultation at the project level, did not supersede the previous Comprehensive BiOp. The Comprehensive BiOp remains valid and meets NMFS' requirement to consult at the FMP level. However, the RPA from the Comprehensive BiOp has been superseded by the managment measures in this rule.

The Council conducted a special meeting in September 2001 to review the draft SEIS and the draft 2001 BiOp. After review of these documents and public testimony, the Council identified Alternative 4 in the draft SEIS, with several modifications and without the options identified in June, as its preliminary preferred alternative. The Council decided not to include additional small boat exemptions for Unalaska and Chignik due to concerns that opening these areas would reduce their values as control sites for evaluating management measures and increase the likelihood for competitive interactions with sea lions, and that these sites have not been economically important to the small boat fleets. Also, the Council preliminarily decided not to include the GOA ''gear zone'' option due to potential conflicts with Magnuson-Stevens Act national standards 8 and 10 (i.e., local community access to fishing resources and safety).

Based on the analysis of alternatives in the SEIS, public testimony, and the draft 2001 BiOp, the Council made final recommendations for Steller sea lion protection measures. The 2001 BiOp determined that Alternative 4 met the requirements of the ESA by avoiding the likelihood of jeopardy to Steller sea lions and adverse modification of their critical habitat. Alternative 5 was determined in the SEIS to have similar effects as Alternative 4 on Steller sea lions and their critical habitat. Alternatives 2 and 3 were determined in the SEIS to have less adverse effects on Steller sea lions than Alternatives 4 and 5. Alternative 1 was more adverse to Steller sea lions than Alternative 4, based on the SEIS analysis. Given the results of the SEIS and the draft 2001 BiOp, the Council assumed that Alternatives 2, 3, 4, and 5 would meet the requirements of the ESA because Alternatives 2, 3, and 5 were considered to have similar or less adverse effects on Steller sea lions compared to Alternative 4. After the alternatives were identified that met the ESA requirements, the Council then determined which alternative provided the least impact on the human environment, including socioeconomic impacts, and which also met the requirements of the Magnuson-Stevens Act, including the national standards. The Council chose Alternative 4 because it met ESA requirements and came closer to meeting the overall objectives of the Magnuson-Stevens Act, including the national standards, and NMFS concurs with this decision. The final SEIS is available from NMFS (see **ADDRESSES**) or on the NMFS home page at *http://www.fakr.noaa.gov.*

NMFS solicited comments on the draft 2001 BiOp, which were considered in the final biological opinion. NMFS released the final 2001 BiOp on October 19, 2001, which was included as an appendix to the SEIS. Copies of the 2001 BiOp are available from the NMFS, Alaska Region homepage at *http://www.fakr.noaa.gov* (or see **ADDRESSES**). The 2001 BiOp concluded that the proposed action under Alternative 4, which is implemented by this emergency interim rule, is not likely to jeopardize the continued existence of either the eastern or western populations of Steller sea lions or adversely modify their critical habitat.

At its October 2001 meeting, the Council slightly modified its preferred alternative to provide limited relief to small vessels in response to public comments. These changes do not undermine the primary objective of avoiding jeopardy and adverse modifications to the Steller sea lions or their critical habitat. All of these modifications fell within the scope of the draft SEIS and the 2001 BiOp. Two modifications provided additional protection to Steller sea lions during 2002 in the Aleutian Islands subarea by eliminating the directed fishery for pollock and by reducing the proposed harvest of Atka mackerel in Steller sea lion critical habitat. The third modification is a near shore exemption for small vessels directed fishing for Pacific cod using hook-and-line or jig gear in the Bogoslof area and includes a harvest limit. Because of the extremely small harvest amount and closures around Steller sea lion haulouts in the area, this modification is expected to have no appreciable effects on Steller sea lions or their critical habitat. Public comment on the 2001 BiOp provided at the October Council meeting raised questions regarding the efficacy of using the Bogoslof area as a control site for comparing the fishery effects on Steller sea lions. Based on the extremely limited fishing by small vessels for Pacific cod and fishing prohibitions around Bishop Point, the Council changed its recommendation from September and requested NMFS implement a small boat exemption in the Bogoslof area (option 2 to Alternative 4 in the SEIS). The small vessel exemption in the Bogoslof area is within the scope of option 2 analyzed in the SEIS.

NMFS concurs with the protection measures recommended by the Council and these measures are contained in this emergency interim rule. NMFS intends to supersede this emergency interim rule implementing 2002 protection measures with proposed and final rulemaking to implement these or similar measures for the remainder of 2002 and beyond. The protection measures also replace the RPA identified in the Comprehensive BiOp.

Protection Measures and the Most Recent Information

Scientists generally agree that the decline of the western population of Steller sea lions is due to a combination of factors including nutritional stress, predation, and natural environmental changes. These factors are primarily thought to affect juveniles, and to a lesser extent adult females, although how this occurs and the magnitude of the effects are largely unknown. Of these factors, the groundfish fisheries primarily affect nutritional stress and, through indirect mechanisms, may increase the likelihood for predation due to increased search time for prey. Funding for Steller sea lion research has increased over the past few years and may provide clarification on the causes for the sea lion decline.

The ESA requires NMFS to develop a Steller sea lion recovery plan, which includes criteria for delisting the species. A recovery plan was developed in 1992 with a set of delisting criteria, but these criteria were never adopted by the agency. A new Steller sea lion recovery team has been assembled and plans to meet in January 2002. Over a course of one to two years, the team will review the best available scientific and commercial data and will develop a new recovery plan replacing the outdated version. Because no recovery criteria are available, the 2001 BiOp addressed recovery in terms of effects of the proposed action on Steller sea lion population trajectories.

The 2001 BiOp concluded that the contribution of the groundfish fisheries to the Steller sea lion decline is likely to be small under the protection measures specified in this emergency interim rule. Although, adverse impacts to the two populations of Steller sea lions and their critical habitat are expected to result from these groundfish fisheries, the fisheries are unlikely to jeopardize the continued existence or adversely modify critical habitat for these populations. These protection measures are intended to avoid fishery-related reductions in abundance of Steller sea lion prey in key local foraging areas, as such reductions could reduce the effectiveness of sea lion foraging.

These protection measures address competitive interactions between the groundfish fishery and Steller sea lions in several ways. First, these measures will modify the existing harvest control rule to ensure that in the future enough prey resources exist overall and that prey densities are sufficient for Steller sea lions on a large scale. Second, the protection measures will distribute the catch of important prey species over zones of key importance to critical components of the Steller sea lion population and over time to reduce the effects of localized depletion. Localized depletion for a Steller sea lion is the reduction of prey resources to a level that decreases the efficiency of a foraging sea lion so that it adversely affects its health or increases its risk to predation. Finally, the protection measures will prohibit fishing in areas immediately surrounding all rookery and many haulout sites and curtail fishing for important prey species in significant portions of designated critical habitat to relieve competition in areas considered important to Steller sea lion survival and recovery.

In 1993, critical habitat was established to 20 nm seaward of haulouts and rookeries based on the best scientific information available at the time, such as Platform of Opportunity (POP) data (August 27, 1993, 58 FR 45269). In 1999 through 2001, protection measures included fishery restrictions out to 20 nm from Steller sea lion rookery and haulout sites. In most cases, the portion of critical habitat areas considered important for protection in 2002 and beyond is between 0 nm and 10 nm of haulout and rookery sites with areas closer to shore considered more important for animals with less foraging skills or for females with pups. POP data still provide the best information for adult male Steller sea lions because little telemetry data have been collected for these animals. Recent telemetry data have been collected and analyzed from primarily adult females and juveniles, which are the portion of the population that pose the most concern for localized depletion of prey. The new telemetry data indicate that waters beyond 10 nm are mainly used by adults and older juveniles, which are considered to have stronger foraging skills, and depletion of prey by groundfish harvesting in these waters is not as likely to adversely affect foraging by these individuals. Both telemetry data and POP data are known to have biased results, but NMFS recognizes that the telemetry data provide more recent information on the more sensitive components of population when considering potential localized depletion of prey by the groundfish fisheries. For these reasons, many of the protection zones or areas in this emergency interim rule extend to 10 nm from Steller sea lion rookeries and haulouts.

Steller sea lion count survey data also were used to determine the areas that needed more protection from potential fishery interaction. Some of the rookeries showed declines of more than 10 percent. In most cases, sites with higher rates of decline receive additional protection over areas with less decline under the measures in this emergency interim rule.

This emergency interim rule also includes provisions for control areas to aid in an experimental design to determine the effectiveness of management measures. The Bogoslof area and Seguam foraging area, and the Chignik critical habitat areas will be closed to pollock, Atka mackerel, and Pacific cod directed fishing, except to vessels using jig gear in the Chignik area and to small vessels fishing for Pacific cod using jig or hook-and-line gear in the Bogoslof area. The Chiniak Gully will be closed to trawling August 1 through September 20 to determine the impact of trawl fishing on localized depletion of pollock. A review of the 2001 BiOp by the National Academy of Science may provide further recommendations on an experimental design that would provide the information needed on the efficacy of management measures.

Summary of the 2002 Management Measures

The following is a summary of protection measures. More detailed descriptions by topic, fishery, and area follow in this preamble. The State of Alaska Board of Fisheries at its November 2001 meeting adopted the same protection measures for the State parallel fisheries with two exceptions in the Pacific cod pot fishery which are noted below. The State of Alaska Department of Fish and Game should be contacted for details on Steller sea lion protection measures inside State waters. The majority of the Steller sea lion protection measures contained in this emergency interim rule are effective January 1, 2002, through July 8, 2002. Protection measures include:

1. Area closures for federally permitted vessels to all groundfish fishing between 0 nm and 3 nm of 39 rookery sites. These sites are considered the most sensitive for females with pups and the near shore marine critical habitat the most important to protect from interactions between groundfish fisheries and Steller sea lions.

2. For the Atka mackerel, pollock, and Pacific cod directed fisheries in the waters off Alaska, protection measures include: (a) A modified harvest control rule (HCR) to prohibit directed fishing when the biomass reaches 20 percent of its unfished level, (b) closures within 10 or 20 nm of selected haulout and rookery sites to directed fishing for Atka mackerel, pollock, and Pacific cod in

the GOA and BSAI, (c) closure of Seguam foraging area and most of the Bogoslof area to all gear types, (d) a VMS requirement, (e) closure of the Chignik area to pot, trawl, and hook-and-line gears, (f) closure within 10–20 nm of 46 rookeries and haulouts to hook-and-line fishing for Pacific cod, and 44 rookeries and haulouts to pot fishing for Pacific cod, and (g) modifications to the CDQ groundfish program.

3. Aleutian Island area protection measures include: (a) Closure of the subarea to directed fishing for pollock, (b) Pacific cod total allowable catch (TAC) apportionment by season and gear, as well as gear specific area restrictions that alternate with the Atka mackerel fishery in critical habitat in areas 542 and 543, (c) closure of the Seguam foraging area to pollock, Atka mackerel, and Pacific cod directed fishing by all gear types, (d) critical habitat harvest limit of 60 percent for Atka mackerel in areas 542 and 543, (e) a platoon management system for Atka mackerel fishing in critical habitat in areas 542 and 543, (f) two observers required for critical habitat Atka mackerel directed fishing, (g) at least 0–3 nm closures around all haulouts for Atka mackerel and Pacific cod trawl fishing and (h) no Atka mackerel critical habitat fishing west of 178° W long.

4. Bering Sea protection measures include: (a) Two seasons (40:60 percent apportionment) for the pollock fishery with no more than 28 percent of the annual directed fishing allowance taken from the Steller sea lion conservation area (SCA) before April 1, (b) continuation of BS pollock fishery cooperatives established under the AFA, (c) establishment of the BS Pollock Restriction Area during the A season, (d) closure of the Catcher Vessel Operation Area (CVOA) to non-CDQ pollock trawl catcher/processors during the B season, (e) Pacific cod TAC apportionments by season and gear, as well as gear specific area restrictions, and (f) closure of all BS subarea critical habitat to Atka mackerel fishing.

5. Gulf of Alaska protection measures include: (a) Distribution of pollock harvest evenly over 4 seasons, (b) closure of directed fishing for pollock in areas that vary from 0–20 nm to 0–3 nm around rookeries and haulouts, (c) two seasons (60 percent:40 percent) for Pacific cod fishing and area restrictions that are dependent on gear type and vessel size, and (d) continuation of the NMFS Chiniak Gully research project to explore the effects of commercial fisheries on pollock abundance and distribution in the GOA.

2002 Protection Measures Details for Harvest Time, Limits, and Apportionments

Modification of the Existing Harvest Control Rule (HCR)

The protection measures include a modification of the existing HCR for pollock, Pacific cod, and Atka mackerel. NMFS currently uses an HCR established under Amendments 56/56 to the FMPs when determining the maximum allowable biological catch (ABC). Under the existing HCR, the ABC for a majority of stocks, including pollock, Pacific cod, and Atka mackerel, is based on a fishing mortality rate intended to reduce the spawning biomass per recruit to 40 percent of its theoretical unfished level ($F_{40\%}$). When the biomass is below the amount necessary to produce the maximum sustainable yield (MSY), the fishing mortality rate is reduced linearly. When the spawning biomass per recruit is reduced to 2 percent of its unfished level, the fishing mortality rate becomes 0 and all fishing for that target stock is prohibited (see Figure 1). A new HCR was used in 2001 which reduced directed fishing for pollock, Pacific cod, and Atka mackerel in a more aggressive linear fashion than the original HCR and included a directed fishing prohibition at the 20 percent unfished biomass level.

The new HCR will be almost identical except that directed fishing would be prohibited when the spawning biomass is below 20 percent of the unfished level (as opposed to 2 percent in the current HCR).

Figure 1 shows the reduction in fishing mortality under the three methods of harvest control: (1) Amendments 56/56 to the BSAI and GOA FMPs for most groundfish species, (the existing HCR for most groundfish species), (2) the 2001 HCR, and (3) the 2002 HCR. The harvest rate under the 2002 HCR and under Amendments 56/56 would decrease at the same rate until 20 percent of the unfished spawning biomass is reached.

In a model, NMFS analyzed the difference in recovery rates back up to the MSY under the 2001 and 2002 HCRs and found very little difference (3–4 percent) between them. The 2001 BiOp concluded that the 2002 HCR is adequate to avoid locally depleting Atka mackerel, pollock, and Pacific cod for Steller sea lions.

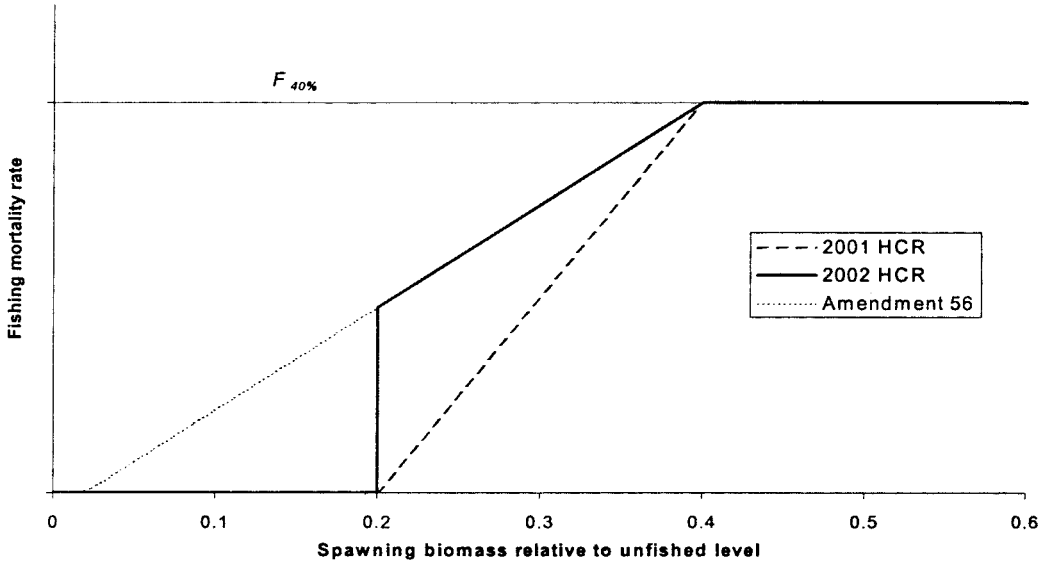

Figure 1. Relationship of fishing mortality rates under different control rules applied to pollock, Pacific cod, and Atka mackerel. FMP Amendments 56/56 harvest guidelines are used for groundfish species managed under the BSAI and GOA FMPs.

In 2002, the new HCR does not affect the harvest rates for any species. However, the GOA pollock biomass is estimated to be about 45 percent less than the 2000 estimate. Because of uncertainty in the point estimate and continued poor recruitment in the GOA pollock stock, the Plan Team recommended an ABC well below the maximum permissible using the HCR. Given the fact that in hindsight using the current model and known biomass amounts in 2001, the fishery would have overfished this stock if the total TAC would have been taken in areas 620 and 630. NMFS determines that this action is reasonable from a Steller sea lion and stock assessment perspective. See the SAFE reports for the GOA and BSAI and Part II of this preamble for more details. The SAFE reports are available from the Council (see **ADDRESSES**).

Steller Sea Lion Protection Measures for Pollock, Atka Mackerel, and Pacific Cod Fisheries

The 2002 Steller sea lion protection measures include fishing seasons and area restrictions for the pollock, Pacific cod, and Atka mackerel fisheries. The seasons will distribute these fisheries over time. Critical habitat harvest limits for pollock and Atka mackerel will be implemented by this emergency interim rule consistent with the Council recommendations. Critical habitat limits will distribute the Atka mackerel and pollock fisheries over area, reducing the potential for localized depletion of prey.

In order to manage fishing to protect Steller sea lions, this emergency interim rule includes changes to the permit information collected under § 679.4. Vessels owners will need to register with NMFS to participate in the pollock, Pacific cod, and Atka mackerel fisheries. These directed fisheries will appear as endorsements on the vessel's Federal fishery permit for the area that the vessel owner has chosen for fishing these species. Vessel owners wishing to fish for Atka mackerel in critical habitat will also need to indicate whether they want to fish in Federal regulatory areas 542, 543, or both. The Atka mackerel registration information will be used for platoon management, which is explained later in this section.

Several AFA provisions from 2001 are extended into 2002 under this emergency interim rule as well as inshore/offshore allocations of GOA pollock and Pacific cod. These provisions effectively slow the rate of fishing and distribute fishing effort in a manner expected to reduce competition with Steller sea lions. These provisions also were evaluated by the Council as part of the new Steller sea lion protection measures. More details are in Part II of this preamble under the BSAI harvest specifications. Separate rulemaking is being pursued by NMFS to permanently implement these provisions in the future.

This action suspends the definition of directed fishing for pollock and other groundfish harvested under the CDQ program. It also revises the way that groundfish CDQ species may be used to calculate retainable amounts of other species, modifies groundfish CDQ retention requirements, and requires that a vessel's intended target fishery be reported on CDQ catch reports. These changes are necessary to ensure that the Steller sea lion protection measures being implemented by this emergency interim rule are applicable to groundfish CDQ harvesting activities.

Under current regulations, the general groundfish fisheries and groundfish CDQ fisheries have different definitions of directed fishing. For recordkeeping and reporting requirements, as well as for License Limitation groundfish fishing, directed fishing is defined as any fishing activity that results in the retention of an amount of a species or species group on board a vessel that is greater than the current maximum retainable bycatch (MRB) amount, based on retained (or ''basis'') species on board a vessel at a given time. The pollock and groundfish CDQ directed fishing definitions differ from the MRB-based definition for two reasons. First, the AFA specifies that the only pollock that will accrue to the pollock CDQ reserve will be that amount caught by vessels directed fishing for pollock CDQ. Second, all other groundfish caught while groundfish CDQ fishing

must accrue towards one of the specified CDQ reserves, including economic discards or non-target species. In general, a vessel is considered groundfish CDQ fishing if it has been listed in a NMFS approved Community Development Plan and catches any amount of groundfish CDQ, including pollock. More specifically, the assessment of a vessel's particular target fishery is determined differently, depending on vessel type. For catcher/processors, the species composition of each haul is assessed to determine the directed fishery. For catcher vessels, the species composition on board the vessel at any time is used. Typically this information is used for pollock catch accounting purposes and the calculation of halibut bycatch mortality rather than at-sea enforcement of other management measures.

The definition of directed fishing for pollock CDQ uses a 60 percent threshold to determine whether a vessel using trawl gear is directed fishing for this species. If this criterion is met, then the pollock accrues toward the pollock CDQ reserve. If not, it accrues towards the pollock Incidental Catch Allowance (ICA). Pollock caught incidentally in groundfish CDQ fisheries by vessels using nontrawl gear also accrues towards the ICA. This definition of pollock CDQ fishing was established as part of a final rule implementing Amendment 66 to the BSAI FMP on March 7, 2001 (66 FR 13672), and was intended to meet the intent of the AFA. This definition was designed to facilitate pollock catch accounting, not to identify a vessel's overall target fishery. Defining CDQ directed fisheries via the use of MRB standards will offer a more accurate portrayal of a vessel's actual CDQ target fishery. For purposes of implementing the Steller sea lion protection measures, using the 60 percent definition of pollock CDQ fishing could conflict with the calculated target fishery derived by using MRB amount calculations. A vessel could, under current regulations, be considered directed fishing for pollock CDQ based on the species composition of a single haul, whereas under MRB calculations it would not.

The suspension of CDQ specific directed fishing definitions, modifications of the use of CDQ species as basis species, and suspension of the use of a 60 percent threshold to facilitate pollock CDQ catch accounting in this emergency interim rule are necessary to establish a means to readily enforce time and area closures to directed fishing for pollock, Pacific cod, and Atka mackerel. Applying the definition of directed fishing already used for the non-CDQ groundfish fisheries will enhance the monitoring and enforcement of Steller sea lion protection measures. This will give consistency to the at-sea determination of both a vessel's non-CDQ and CDQ target fisheries. Additionally, to lessen the potential for confusion by NMFS staff, U.S. Coast Guard boarding personnel, vessel operators, and CDQ groups, MRB amounts will be used to define directed fishing for all groundfish CDQ species.

These measures, along with a new requirement to report the intended target species on CDQ catch reports, will also assist NMFS management to determine when catch limits have been reached, when area closures should occur, and how to account for pollock caught in the groundfish CDQ fisheries. The target information that will be received on CDQ catch reports will be used by NMFS to determine whether to accrue pollock towards either the pollock CDQ allocation or the pollock ICA. Additionally, current regulations do not require regulatory discards in the groundfish CDQ fisheries. However, the use of MRB amounts may require that some Atka mackerel or Pacific cod be discarded at-sea if CDQ directed fishery closures are in effect for these two species. Such catch will still be required to be reported on CDQ catch reports and will be subtracted from their corresponding CDQ allocations.

The protection measures addressing temporal and spatial dispersion of the pollock, Atka mackerel, and Pacific cod directed fisheries are as follows:

1. Aleutian Island Subarea Pollock Fishery

In the AI subarea directed fishing for pollock is prohibited at all times.

2. Bering Sea Subarea Pollock Fishery

In the Bering Sea subarea, fishing seasons are continued for the four sectors of the Bering Sea pollock fishery that are defined in the AFA. These seasons are defined as the A season (January 20–June 10, 40 percent) and the B season (June 10–November 1, 60 percent).

Pollock fishing will be prohibited during the A season in the Bering Sea Pollock Restriction Area (BSPRA). This area is based on a series of straight lines tangential to haulouts, 10 nm from the shore between the eastern edge of the SCA and the western edge of Statistical Area 519. The BSPRA is intended to reduce the likelihood of localized depletion and competitive interactions during critical winter months when juvenile Steller sea lions are learning to forage.

This emergency interim rule extends the repeal of the ''fair start'' provisions at § 679.7(b) that required vessels fishing for pollock in the Bering Sea to cease fishing for groundfish during the week preceding each pollock season or face a mandatory stand-down period during the first week of the pollock season. The Council determined that these fair start requirements were no longer necessary given the changes to the pollock fishery that occurred under the AFA.

Catcher vessel exclusive fishing seasons at § 679.23(i) will be continued by this emergency interim rule. Vessels fishing in one season in the GOA or in the BSAI are restricted from fishing in the alternative management area until the following season. This restriction will limit the concentration of fishing effort in one area and reduce the potential for localized depletion of Steller sea lion prey. Catcher vessels less than 125 ft (38.1 m) LOA fishing east of 157° W long. are exempt from this restriction.

This emergency interim rule also will extend the use of the SCA established by the emergency interim rule published January 25, 2000 (65 FR 3892), at § 679.22(a)(11). The SCA includes the portion of Bering Sea critical habitat known as the Bogoslof Foraging area and the portion of the CVOA that extends eastward from the Bogoslof Foraging area. This eastern block of the CVOA overlaps with the pollock trawl exclusion zone for Sea Lion Rocks (Amak Island). Inclusion of this eastern block in the SCA is necessary to provide sufficient protection from concentrated fishing and resulting localized depletions of sea lion prey in (1) the narrow corridor between the Bogoslof Foraging Area and the Sea Lion Rocks (Amak Island) trawl exclusion zone and (2) the adjacent portions of critical habitat.

The SCA consists of the area of the Bering Sea between 170°00′ W long. and 163°00′ W long., south of straight lines connecting the following points in the order listed:

55°00′ N lat. 170°00′ W long.;
55°00′ N lat. 168°00′ W long.;
55°30′ N lat. 168°00′ W long.;
55°30′ N lat. 166°00′ W long.;
56°00′ N lat. 166°00′ W long.;
56°00′ N lat. 163°00′ W long.

This emergency interim rule specifies the amount of the annual pollock directed fishing allowance (PDFA) that can be taken from the SCA during the A season. The PDFA is equal to the sum of each sector's TAC minus the ICA and 10 percent CDQ reserve. Until April 1, the harvest within the SCA is limited to

28 percent of the annual PDFA which is equivalent to 70 percent of the A season apportionment. The remaining 12 percent of the annual PDFA allocated to the A season may be taken outside of SCA before April 1 or inside the SCA after April 1. If the 28 percent of the annual PDFA is not taken inside the SCA before April 1, the remainder may be taken inside the SCA after April 1. The A season pollock SCA harvest limit will be apportioned to each industry sector in proportion to each sector's allocated percentage of the PDFA as set forth in the AFA. This action is necessary to avoid high harvest rates within a relatively small area of the BS subarea which is Steller sea lion critical habitat.

NMFS will monitor catch by each industry sector and close the SCA to directed fishing for pollock by sector when NMFS determines that a sector's specified portion of the SCA limit has been reached. As in 2001, in accordance with the Council's intent to address small vessel safety concerns, inshore catcher vessels less than or equal to 99 ft (30.2 m) LOA will continue to be exempt from SCA closures unless the cap for the inshore sector has been reached, as specified in § 679.22(a)(11)(vii). Under the authority of the AFA, NMFS will separate the inshore fishery into cooperative and non-cooperative sector allocations. For each sector, NMFS will announce the closure of the SCA to catcher vessels over 99 ft (30.2 m) LOA before the inshore sector SCA limit is reached. NMFS will implement the closure in a manner intended to leave remaining quota within the SCA that is sufficient to support directed fishing for pollock by vessels less than or equal to 99 ft (30.2 m) LOA for the duration of the inshore sector opening.

The CVOA will continue to be closed to pollock trawl catcher/processors during the B season (June 10-November 1) to reduce the amount of pollock taken from this area and to reduce the potential for competition with Steller sea lions.

3. GOA Pollock Fishery Seasons and Apportionments

Fishing seasons and pollock TAC apportionments in the GOA are summarized in Table 1.

TABLE 1.—POLLOCK FISHING SEASONS AND TAC APPORTIONMENTS FOR THE WESTERN AND CENTRAL REGULATORY AREAS OF THE GULF OF ALASKA

Season	TAC apportionment (percent)	Season dates
A	25	January 20–February 25.
B	25	March 10–May 31.
C	25	August 25–September 15.
D	25	October 1–November 1.

Rollover of a seasonal TAC apportionment is permitted as long as it does not exceed 30 percent of the annual TAC.

The start date of the C season has been changed from August 20 in 2001 to August 25 in 2002. This change is intended to reduce salmon bycatch and to optimize the use of shoreside processing facilities and the harvest of the pollock allocation in the C season. This change is expected to have no appreciable effect on Steller sea lions.

The 300,000 lb (136 mt) trip limit for catcher vessels harvesting pollock in the directed pollock fisheries of the GOA at § 679.7 supports temporal distribution objectives and is maintained by this rule. A catcher vessel fishing for groundfish in the GOA will be prohibited from retaining on board more than 300,000 lb (136 mt) of pollock harvested in the GOA any time during a trip. This trip limit will not exempt vessels from existing regulations that require 100 percent retention of pollock when directed fishing for pollock is open. A vessel would have to stop fishing for pollock during a fishing trip before the 300,000 lb (136 mt) trip limit is reached to avoid a violation of either the 300,000 lb (136 mt) trip limit or the 100 percent retention requirement for pollock.

In addition, § 679.7 continues to prohibit vessels from operating as pollock tenders in the GOA east of 157°00′ W long. to prevent the large scale use of tender vessels to avoid the trip limit restriction. Vessels operating as tenders in the GOA west of 157°00′ W long. will be prohibited from retaining on board more than 600,000 lb (272 mt) of unprocessed pollock or the equivalent of two fishing trips. Tendering west of 157°00′ W long. is allowed because smaller vessels delivering to Sand Point and King Cove are more dependent on tenders than the larger vessels that operate east of 157°00′ W long. and deliver primarily to Kodiak.

4. BSAI Atka Mackerel Seasons, Apportionments, Critical Habitat Harvest Limits, and Platoons

In the BSAI at § 679.23(e)(7), the A season for Atka mackerel will begin January 20 and end April 15. The B season will begin September 1 and end November 1. The CDQ Atka mackerel fishery will have a single season from January 20 through November 1 because the vessels used in the non-CDQ Atka mackerel fishery are generally the same vessels used in the CDQ fishery, and the CDQ harvest historically takes place when the non-CDQ season is closed.

Fifty percent of the annual TACs for the western, central, and eastern Aleutian Islands districts is available during each season. No more than 60 percent of the seasonal TAC may be taken from within the harvest limit area (HLA) in statistical Areas 542 and 543 in the AI subarea. The HLA includes critical habitat and two additional Steller sea lion haulouts located west of 178° W long. and is further explained below. The apportionment is based on the assumed distribution of Atka mackerel based on depth contour of the continental shelf and on an objective to reduce the amount of rockfish bycatch that has occurred historically at relatively high levels outside of critical habitat in deeper waters in areas 542 and 543. Critical habitat limits in 2001 were between 48 and 46 percent. One of the objectives in setting harvest levels is to harvest at a level relative to the abundance of the fish in the area to avoid localized depletion. The biomass estimates in areas 542 and 543 indicated that up to 75 percent of the biomass occurs in critical habitat, but the Council recommended, and NMFS concurs, that a more conservative increase in the amount of harvest from critical habitat is appropriate because this fishery has caused measurable localized depletions in the past. Higher levels of harvest in critical habitat may be considered in the future after additional analysis. Analyzing the effectiveness of the platooning system for managing the fleet in the HLA will provide additional information to understand the potential impact of higher harvest limits in the future. The amount of harvest allocated to the HLA also needs to be enough to encourage the participation in platoons used to manage the critical habitat fisheries.

NMFS catch data indicate a higher catch rate of Atka mackerel in area 542 than in area 543 so that area 542 vessels will likely reach their HLA limit quicker than area 543 vessels. Thus, area 542

vessels could have an earlier opportunity to fish outside of critical habitat and encounter rockfish bycatch in amounts sufficient to pose overfishing concerns and close the Atka mackerel fishery without area 543 critical habitat limits being reached. With the 60 percent limit in the HLA, vessels will be able to spend more effort inside critical habitat and will be less likely to shut down the Atka mackerel fishery due to rockfish bycatch compared to a limit set at 50 percent or less.

To clearly identify the Steller sea lion protection areas for Atka mackerel directed fishing in areas 542 and 543, this emergency interim rule establishes a new definition at § 679.2. For purposes of Atka mackerel platooning and for restriction of Pacific cod trawling during the Atka mackerel HLA directed fishery, the definition of the HLA is waters within 20 nm seaward of Steller sea lion sites listed in Table 24 of 50 CFR part 679. This definition is needed to include Rat Island and Cape Ivakin haulouts because these are not listed under 50 CFR 226.202 as critical habitat but are identified by NMFS as needing protection as part of the measures implemented to avoid the likelihood of jeopardy.

Atka mackerel fishing is prohibited in critical habitat east of 178° W long. to provide maximum protection to Steller sea lions and because Atka mackerel is readily available in waters outside of critical habitat. Atka mackerel harvest is permitted in critical habitat west of 178° W long. under a system of platooning and with observers. All vessels fishing for Atka mackerel in HLA west of 178° W long. are required to have two observers so that NMFS can meet the requirements of the 2001 BiOp to adequately monitor fisheries to manage critical habitat limits.

To reduce the amount of daily catch in the HLA by about half and to disperse the fishery over two areas, the Atka mackerel fleet is divided into two platoons assigned to fish in the HLA in either areas 542 or 543. NMFS will assign vessels to a platoon for each area that a vessel registered to fish. Each platoon in an area will be assigned to fish during one of the two directed fisheries held in the area during a season. This division will be done through a lottery system that ensures random selection of vessels to a platoon. The random selection process will be used to ensure that each participant in a platoon is provided an equal opportunity to fish in a platoon of vessels in an HLA in area 542 or area 543 and that the combination of vessels fishing together is determined by chance.

With the random selection process, the potential exists that vessels of less fishing capability may be in a group of vessels with more fishing capability, affecting the smaller vessel's opportunity to harvest fish. By dividing the vessels registered for an area into platoons, all vessels will be competing with half of the vessels that they normally compete against, reducing competition on the fishing grounds and potentially enhancing the overall harvest for smaller vessels in the HLA. However, the potential for competitive advantage of larger vessels from the same company working together over the smaller vessels will be reduced with the random platoon assignments, making it more likely that dispersion of catch over time is achieved.

During a fishing season, the fishing limit inside the HLA will be split into two predetermined Atka mackerel directed fisheries with each platoon fishing under a harvest limit in proportion to the number of vessels in the platoon compared to the number of vessels registered for the area. The time period of the directed fishery is based on the combined harvest potential of the vessels in the platoon. The start date for the first directed fishery is 48 hours after the closure of the area 541 Atka mackerel directed fishery. Historically, area 541 is harvested first with vessels, which later move into areas 542 and 543. Starting the HLA directed fisheries 48 hours after closure of area 541 provides a fair start to the HLA fisheries by allowing for off loading of catch and travel to areas 542 and 543. When the HLA directed fishery is closed in either areas 542 or 543, vessels may fish outside of the HLA anywhere in the Aleutian Islands where directed fishing is open.

If a vessel has registered to fish in an HLA in both areas 542 and 543 during a season, it will be assigned to fish in directed fisheries in area 542 and in area 543 that begin on different dates. Regardless of the number of vessels in a platoon, an HLA directed fishery would last no longer than 14 days to allow each platoon ample opportunity to harvest in the HLA in areas 542 or 543 before the end of the season.

During each season, vessels registered to fish in the HLA in areas 542 or 543 may not fish for groundfish in any other location while the first directed fishery in an HLA which the vessel is assigned is open. This stand down provision may last up to 14 days, the maximum length of an HLA directed fishery for Atka mackerel.

Vessels not wishing to participate in the platoons may fish for Atka mackerel outside of the HLA and outside of critical habitat in the BSAI subareas.

5. BSAI and Western and Central Districts of the GOA Pacific Cod Seasons, Apportionments, and Closures

For the BSAI and Western and Central Districts of the GOA Pacific cod seasons, this emergency interim rule separates the TACs into separate seasonal apportionments depending on gear type (Table 2). For the nontrawl vessels in the BSAI and Western and Central Districts of the GOA, the A season begins on January 1, 2002, and ends June 10, 2002. Sixty percent of the annual TAC, after subtraction of any reserves and incidental catch, will be available for harvest during the A season and will be allocated among the various sectors as provided in § 679.20(a)(6)(iii) and (a)(7). The nontrawl B season in both the BSAI and Western and Central Districts of the GOA begins at 1200 hours, A.l.t., on June 10, 2002, and ends on December 31, 2002. Forty percent of the annual TAC, after subtraction of any reserves and incidental catch, will be available for harvest during the B season and will be allocated among the various sectors as provided in § 679.20(a)(6)(iii) and (a)(7). Pot and hook-and-line vessels less than 60 ft (18.3 m) LOA in the BSAI have no seasonal apportionment. For the trawl fisheries in the BSAI, the annual TAC is apportioned to three seasons. The A season starts January 20 and ends April 1 with 60 percent of the annual TAC allocated. The B season starts April 1 (1200 hours, A.l.t.) and ends June 10 with 20 percent of the annual TAC allocated and the C season starts June 10 (1200 hours, A.l.t.) and ends November 1 with 20 percent of the annual TAC allocated. In the Western and Central Districts of the GOA, trawl vessels are allocated 60 percent of the annual TAC in the A season and 40 percent in the B season.

TABLE 2.—BERING SEA AND ALEUTIAN ISLANDS SUBAREAS AND WESTERN AND CENTRAL DISTRICTS OF THE GULF OF ALASKA PACIFIC COD SEASONS AND TAC APPORTIONMENTS

Gear and area	A season and apportionment	B season and apportionment	C season and apportionment
Trawl in W/C GOA	January 20–June 10 (60%)	September 1–November 1 (40%).	
Trawl in BSAI	January 20–April 1 (60%)	April 1–June 10 (20%)	June 10–November 1 (20%)
Hook-and-line, pot, and jig in W/C GOA, and pot > 60 ft. LOA in BSAI.	January 1–June 10 (60%)	September 1–December 31 (40%).	
Hook-and-line > 60 ft. and jig in BSAI	January 1–June 10 (60%)	June 10– December 31 (40%).	
CDQ* pot, pot and hook-and-line < 60 ft in the BSAI	January 1–December 31		

*Community Development Quota program. CDQ vessels fishing with non-pot gear are governed by the gear specific seasonal restrictions listed in Table 2.

Unused Pacific cod allocations among sectors and unused apportionments for seasons in the BSAI and Western and Central GOA may be redistributed, considering bycatch and optimization of catch by gear groups and sectors.

Moving 20 percent of the BSAI Pacific cod TAC from the first season to the second season provides greater dispersion of the harvest and limits fishing in the most sensitive period for Steller sea lions. Apportioning the BSAI Pacific cod trawl TAC among three seasons shifts 20 percent of the harvest out of the June through October time period compared to 2001 apportionments. Moving 20 percent of the harvest from the second half of the year enhances the opportunity for the Pacific cod trawl fleet to harvest Pacific cod when it is aggregated, optimizing the potential to reach the annual harvest limit. The apportionment during the first half of the year is further divided into 60 percent and 20 percent of the annual TAC.

Apportioning Pacific cod between two or among three seasons may affect the ability of fishermen to fully utilize the TAC for Pacific cod. In previous years, a large portion of the Pacific cod TAC was taken during the early part of the calendar year. Pacific cod tends to aggregate during the early part of the calendar year when it is easier to locate and catch. Also, as Pacific cod becomes disaggregated, the increased fishing time and effort to catch the same amount of fish results in increases in bycatch, which also can affect the success of fully utilizing the TAC.

In the BSAI, the trawl allocations of Pacific cod TAC are further allocated to catcher vessels and catcher/processors. The seasonal allocation for the Pacific cod trawl catcher vessels is further split to 70 percent in the A season, 10 percent in the B season, and 20 percent in the C season. Pacific cod trawl catcher/processors' portion of the TAC is allocated 50 percent in the A season, 30 percent in the B season, and 20 percent in the C season. Many of these vessels participate in the AFA pollock fishery, which has resulted in the dispersion over time of not only pollock but also Pacific cod harvests in the BSAI. Rollovers between these sectors will continue to be allowed under § 679.20(a)(7)(ii). Regulatory provisions are added by this emergency interim rule to allow the rollover of BSAI Pacific cod trawl allocations between seasons. Trawl allocations to catcher vessels and catcher/processors may continue to be moved between vessel types within a season before reallocation to other gear types to allow for full optimization of an allocation by the trawl sector during a season. These gear allocations will help to further disperse the Pacific cod fishery over time and lessen the potential for depletion of prey.

In the GOA, bycatch of Pacific cod in other groundfish fisheries during the time period between the closure of the A season and the opening of the B season will be deducted from the B season apportionment. This recommendation by the Council is intended to optimize the harvest of Pacific cod when it is most vulnerable to fishing gear while fully providing for Pacific cod bycatch needs in other groundfish fisheries.

Under this emergency interim rule, Pacific cod harvest by trawl gear in the Aleutian Islands critical habitat in areas 542 and 543, west of 178° W long. is prohibited during the Atka mackerel HLA directed fisheries. (See above discussion of Atka mackerel for the definition of the HLA.) This provision reduces potential competition for prey posed by concurrent trawl fisheries in critical habitat. It also allows for easier management by NMFS of the Atka mackerel fishery during the short time period that HLA is open to directed fishing for Atka mackerel vessels. Vessels fishing in the HLA during the Atka mackerel directed fishing opening will be managed for Atka mackerel only, instead of managing directed fisheries for Atka mackerel and Pacific cod.

Closed Areas and Management Measures

The Steller sea lion protection measures include fishery closure areas designed to reduce competition with Steller sea lions, consistent with the concerns described in the 2001 BiOp. Scientific information suggests that the effects of the groundfish fisheries on Steller sea lions may be greatest around rookeries and haulouts. Fishing prohibitions around rookeries and haulouts is important to the most vulnerable Steller sea lions, lactating females, young-of-the-year, and juveniles.

Since publication of critical habitat definitions in 50 CFR 226.202, NMFS has identified 19 additional haulouts in the BSAI and the GOA as areas to be protected from fishery effects similarly to critical habitat. The Council recommended and NMFS agreed that the 19 additional haulouts should be treated in this manner to provide protection to Steller sea lions occurring in areas with the same features as areas listed as critical habitat. The majority of these sites had fishing prohibitions consistent with those for critical habitat closures sites in 2001. Cape Ivakin and Rat Island in the Aleutian Islands are two haulouts that are not listed as critical habitat and were not protected from fishing activities in 2001 in the same manner as critical habitat in the Aleutian Islands. More information and justification for including these haulouts is contained in the 2001 BiOp.

At its November 2001 meeting, the Alaska Board of Fish (BOF) accepted Steller sea lion protection measures for the State parallel fishery similar to Federal protection measures, with two exceptions. State parallel fisheries are open during the same time period as Federal directed fisheries in the EEZ.

NMFS deducts harvest amounts which occur during the State parallel fisheries from the Federal TACs. Other State-managed groundfish fisheries function exclusively under State regulations and management policies and are not accounted for by NMFS management. The single exception is the State-managed Pacific cod fishery in the Central, Western, and Prince William Sound State waters of the GOA. The Federal TACs for Pacific cod in the Western and Central districts are reduced from the ABCs by the amounts anticipated to be taken in the State-managed Pacific cod fishery. The State parallel groundfish fisheries management plan requires the Commissioner by emergency order to open and close parallel seasons and implement gear, time, and area restrictions at the same time and in the same manner as Federal managers do under the regulations implementing the FMPs. The State intends to implement Steller sea lion protection measures in the State parallel fisheries regulations that apply to State waters 0 nm to 3 nm and in Prince William Sound and Cook Inlet.

The BOF gave the Commissioner of the Alaska Department of Fish and Game emergency order authority to exempt pot fishing for Pacific cod within 0–3 nm of Caton Island and Cape Barnabus from the parallel fishery closures which are based on Federal rules. Because of the slow rate of extraction in the pot fishery and the small amount of Pacific cod harvest by this gear sector, NMFS determined through continued consultation under section 7 of the ESA that this change to the action would not result in any appreciable effects on Steller sea lions not previously considered in the 2001 BiOp.

Four haulout sites listed as critical habitat under 50 CFR 226.202 occur in the internal waters of Prince William Sound. These sites are Pt. Elrington, The Needle, Perry Island, and Pt. Eleanor. Glacier Island also occurs in Prince William Sound and is one of the 19 haulouts not listed as critical habitat. There is no Federal fishery or State parallel fishery in this area. The State-managed fisheries are closed to pollock trawling from June 1–November 1 from 0 nm to 10 nm around Pt. Elrington, The Needle, and Glacier Island. Harvest of pollock is also apportioned across three areas of Prince William Sound with no more than 40 percent of the total harvest coming from a single area. This emergency interim rule includes no protection measures for these sites inside State internal waters.

The protection measures make no changes to the existing 3 nm no-entry zones around rookeries listed in 50 CFR 223.202. Those sites that are subject to the no-entry zones under 50 CFR 223.202 are also listed in Table 21 to 50 CFR part 679 for fishing closures. However, persons should refer to 50 CFR 223.202 for the appropriate locations of the no-entry zones. In some cases those locations may be different than locations for the same sites that are also listed in Table 21 to 50 CFR part 679. NMFS will reconcile any differences between the two sets of regulations in the near future. However, until that occurs, persons are advised to refer to 50 CFR 223.202 for the proper location of no-entry zones and Table 21 to 50 CFR part 679 for proper location of sites for fishery closures. Two additional rookeries currently not designated as critical habitat are included in Table 21 for groundfish fishing closures within 3 nm of the rookeries. These sites are Wooded Island and Seal Rocks (Cordova). The 3 nm groundfish fishing closures apply to all groundfish fishing vessels and all gear types. The State-managed and parallel fisheries through emergency orders and regulations prohibit entry and/or groundfish fishing in waters within 3 nm of all of the rookeries listed on Table 21.

The RPA Committee made recommendations for closures around haulouts and rookeries dependent on the rate of decline seen at the site and historical fishing patterns. In some cases, sites with higher rates of decline received greater protection over areas with lower declines. Jig vessels are exempt from most of the closure zones beyond 3 nm of rookeries and beyond the shore around haulouts. This is due to their slow rate of extraction and small number of vessels which prosecute these fisheries. Site specific closures are detailed in Tables 21 through 24 of 50 CFR part 679 and in § 679.22. Closures apply only to federally permitted vessels. A summary of area and fishery specific closures are as follows:

Groundfish Fishery Closures

1. All rookeries listed in Table 21 of part 679 are closed to directed groundfish fishing with federally permitted vessels using any gear type from 0 nm to 3 nm.

2. Five haulout areas in the Northern Bering Sea are closed to directed fishing with federally permitted vessels for pollock, Pacific cod, and Atka mackerel with vessels using trawl, pot, or hook-and-line gear from 0 nm to 20 nm. These haulouts are Hall Island, Round (Walrus) Island, St. Lawrence Island/S. Punuk Island, St. Lawrence Island/SW Cape, and Cape Newenham. Historically, only limited fishing has occurred for the three prey species near these haulouts, and closures offer protection from developing fisheries in this area.

3. The Seguam foraging area, and the Bogoslof area are closed to pollock, Pacific cod, and Atka mackerel fishing by federally permitted vessels using any gear types. Catcher vessels less than 60 ft (18.3 m) LOA may fish for Pacific cod using hook-and-line or jig gear in the Bogoslof Pacific cod exemption area. In addition, critical habitat areas around two rookeries and four haulouts in the Chignik area are closed to pot, hook-and-line, and trawl fishing for the three species.

Aleutian Island Closures

1. The Aleutian Islands subarea is closed to pollock fishing by federally permitted vessels in 2002. Pollock fishing was prohibited in the Aleutian Islands subarea in 2000 and 2001 as part of Steller sea lion protection measures. The Council recommended and NMFS agrees with the subarea closure in 2002 to allow for additional analysis and consideration for opening the AI subarea to pollock fishing outside of critical habitat in 2003.

2. Atka mackerel fishing by federally permitted vessels is prohibited in critical habitat east of 178° W long. in the Aleutian Islands and Bering Sea subareas. Historically, Atka mackerel has been harvested outside of critical habitat east of 178° W long. Because of this, the fishery is expected to be able to harvest their allocation while providing substantial protection to Steller sea lions. West of 178° W long., Atka mackerel directed fishing by federally permitted vessels is prohibited between 0 nm and 15 nm of Buldir rookery, and prohibited between 0 nm and 10 nm of the remaining rookeries. Due to a continued steep decline in the population at Buldir greater than 10 percent, an additional 5 nm protection zone was added. Additionally, Buldir is isolated from other near shore foraging locations making it more susceptible to local depletions. Atka mackerel directed fishing by federally permitted vessesls is also prohibited between 0 nm and 3 nm of haulouts west of 178° W long. to protect near shore foraging areas.

3. Pacific cod fishing closure areas for federally permitted vessels are dependent on the gear used and location. Hook-and-line and pot vessels are prohibited from fishing (1) in critical habitat east of 173° W long. to the western boundary of the Bogoslof area to reduce gear conflicts with trawl

vessels, (2) 0 nm to 10 nm of Buldir rookery, and (3) 0 nm to 20 nm of Agligadak rookery. Increased protection around Agligadak is established because this site has a high rate of Steller sea lion count declines. Due to limited extraction rates by hook-and-line and pot vessels, closures are limited to 0 nm to 3 nm around rookeries.

Pacific cod trawl closures for federally permitted vessels in the Aleutian Islands include (1) east of 178° W long. between 0 nm and 10 nm of rookeries, except Agligadak rookery which is closed 0 nm to 20 nm, and between 0 nm and 3 nm of haulouts, and (2) west of 178° W long., between 0 nm and 20 nm around haulouts and rookeries until the Atka mackerel HLA fishery is completed. After the HLA fishery for Atka mackerel is closed for the season, Pacific cod trawling is prohibited 0 nm to 3 nm of haulouts and 0 nm to 10 nm of rookeries. Trawl closures are more extensive around haulouts and rookeries due to higher removal rates and large extractions by trawl gear. Increased protection around Agligadak rookery is established because this site has a high rate of Steller sea lion decline.

Bering Sea Closures

1. Atka mackerel directed fishing by federally permitted vessels is prohibited in critical habitat in the Bering Sea subarea. This will provide protection to Steller sea lions by reducing the potential for competition for Atka mackerel prey.

2. Pollock directed fishing by federally permitted vessels is prohibited (a) between 0 nm and 10 nm of all rookeries and haulouts, except four Pribilof haulouts which are closed between 0 nm and 3 nm, (b) in the Bering Sea Pollock Restriction area during the A season, and (c) non-CDQ trawl catcher/processors are prohibited from fishing in the CVOA during the B season (June 10–November 1) to reduce the rate and amount of harvest in critical habitat. No Steller sea lions were observed during the last NMFS survey of the Pribilof haulouts in 1991; therefore, the Council recommended and NMFS concurs that these haulouts do not require 10 nm protection zones. The Pribilof Islands Conservation Zone described at § 679.22(a)(6) is a trawl closure area, which encompasses some of the Steller sea lion critical habitat areas. Five haulouts and one rookery are located in the Bering Sea Pollock Restriction Area. This area is closed to pollock fishing in the A season to provide protection to Steller sea lions in the near shore foraging areas during the most critical time of the year.

3. Pacific cod closures for federally permitted vessels are dependent on the type of gear used. Fishing for Pacific cod with vessels using trawl gear is prohibited between 0 nm and 10 nm around all rookeries and haulouts, except for the four Pribilof haulouts that are closed between 0 nm and 3 nm. All hook-and-line and pot gear vessels are prohibited from fishing between 0 nm and 3 nm of rookeries and haulouts, except the Amak rookery which is closed to hook-and-line and pot gear from 0 nm to 7 nm.

In 2001, the closures around rookeries in the Bering Sea subarea were 10 nm for vessels greater than 60 ft (18.3 m) LOA using nontrawl gear to harvest Pacific cod. For 2002, closure areas are 3 nm, a reduction from the 10 nm based on the lower rate of extraction by vessels using nontrawl gear. As stated earlier in the preamble, the Bogoslof area is closed to pollock, Pacific cod, and Atka mackerel directed fishing. The rest of the Bering Sea subarea, except within 3 nm of rookeries, has been open to Pacific cod nontrawl fisheries during the same time period that the non-pup counts have been increasing. Regardless, for the Bering Sea subarea, an amount of critical habitat closure was the target for designing the protection measures that apply to the Pacific cod nontrawl fisheries. Large amounts of this target were accounted for in the closures of the northern haulouts and the Bogoslof area. Amak rookery is closed out to 7 nm. The extension beyond 3 nm was important to reach an annual BS subarea critical habitat closure amount based on the total area.

A small exemption area was established in the southern portion of the Bogoslof area for catcher vessels less than 60 ft (18.3 m) LOA using hook-and-line or jig gear for directed fishing for Pacific cod. This area includes all water of the Bering Sea south of a line connecting a point 3 nm north of Bishop Pt. to Cape Tanak. The Bishop Pt. 10 nm closure area remains in effect for these vessels in the Bogoslof area. The amount of Pacific cod harvested from the exemption area is limited to 113 mt to minimize the possibility of localized depletion of Pacific cod. This exemption will allow a small number of vessels from the Dutch Harbor area a relatively safe location to harvest Pacific cod and will reduce the potential for gear conflicts east of Bishop Pt. These vessels have limited opportunities because there is no Pacific cod State-managed fishery in the Dutch Harbor area, and some vessels are constrained by their license limitation permit from fishing in Gulf of Alaska waters.

A 0–10 nm closure is also established around Bishop Pt. and Reef/Lava haulouts for vessels greater than or equal to 60 ft (18.3 m) LOA using hook-and-line gear. This restriction was added to reduce the possibility of gear conflicts between hook-and-line and pot vessels in the Pacific cod fishery and to provide added protection to Steller sea lions by reducing fishing effort near these haulouts.

Gulf of Alaska Closures

1. Atka mackerel directed fishing by federally permitted vessels is prohibited in the GOA subarea. Biomass has been insufficient to support a directed fishery for the past several years.

2. Pollock and Pacific cod directed fishing by federally permitted vessels using trawl gear is closed between 0 nm and 10 nm or 20 nm around most haulouts and rookeries year round. Exceptions include: (a) Marmot Island rookery is closed between 0 nm and 15 nm during the first half of the year and between 0 nm and 20 nm during the second half of the year, (b) Gull Point and Ugak Island are closed between 0 nm and 3 nm in the second half of the year, (c) Cape Barnabus, Cape Ikolik, Mitrofania, Spitz, Whaleback, Sea Lion Rocks, Mountain Point, Castle Rock, and Canton haulouts are closed between 0 nm and 3 nm, and (d) Pinnacle Rocks rookery is closed between 0 nm and 3 nm.

Marmot Island is closed between 0 nm and 15 nm in the first half of the year to allow the pollock fishing fleet access to pollock that are likely to have roe and are more valuable. Marmot Island is closed between 0 nm and 20 nm in the second half of the year. Closures are reduced to 3 nm around a number of sites in the GOA year round or for the B season to provide opportunities for fishing by small, local trawl fleets that have historically fished near these sites in consideration of national standard 8 of the Magnuson-Stevens Act. These sites are located in areas that have lower rates of decline for non-pups since 1991 than other areas of the GOA. The rate of extraction by the small vessel trawl fleet is expected to be small enough to avoid any localized depletion of prey for Steller sea lions.

3. Directed fishing for Pacific cod with federally permitted vessels using hook-and-line or pot gear is prohibited: (a) 0 nm to 10 nm or 20 nm of all rookeries except for Seal Rocks, Wooded Island, Atkins, Chernabura, Clubbing Rocks, and Pinnacle Rock which are closed 0 nm to 3 nm; (b) 0 nm to 20 nm around Sutwik, Nagai Rocks, Lighthouse Rocks, and Kak haulouts; (c) 0 nm to 3 nm around Cape Barnabus, Cape Ikolik,

Mitrofania, Spitz, Whaleback, Sea Lion Rocks, Mountain Point, Castle Rock, and Canton haulouts; (d) 0 nm to 10 nm around haulouts between 170° W and 164°30′00″ W long. for hook-and-line; and (e) 0 nm to 20 nm around haulouts between 170° W and 164°30′00″ W long. for pot gear.

Closures around sites in the area of Chignik are to 20 nm to increase the overall closure area for the GOA. This area also has one of the higher rates of Steller sea lion non-pup count declines in the GOA since 1991, making it an area of greater potential sensitivity to fishing activities. In accordance with national standard 8 of the Magnuson-Stevens Act, sustained participation of the communities in the Pacific cod fishery in this area was considered by the RPA Committee and Council. Historically, Pacific cod available in the State-managed fishery has not been fully harvested. Even with the Federal fishery closure, opportunity still exists for Pacific cod fishing with vessels using pot or jig gear under the State-managed fishery. With these gear type fisheries available under the State of Alaska managed fishery and jig fishing available under the Federal fishery, the closure of this area should not pose excessive economic hardship on the residents of the small communities which use these fishing grounds.

Vessel Monitoring Systems

To ensure vessels are complying with area restrictions, § 679.7 prohibits all vessels permitted to directed fish for Pacific cod, pollock, or Atka mackerel with trawl, hook-and-line, or pot gear from directed groundfish fishing or fishing for halibut IFQ unless they have an operable VMS at all times that the Atka mackerel, Pacific cod, or pollock directed fisheries they have permits for are open. This is necessary to meet one of the reasonable and prudent measures detailed in the 2001 BiOp requiring that NMFS have the capability to detect illegal fishing activity inside closed areas. Halibut IFQ is included in the prohibition because many Pacific cod vessels may also be used for halibut IFQ fishing and not just groundfish harvest. This emergency interim rule makes this requirement effective 1200 hours, A.l.t., June 10, 2002, to allow the vessel owners time to purchase and install VMS equipment. The Atka mackerel fishing fleet is currently equipped with VMS, as required by § 679.7(c)(3). Jig vessels are exempt from this requirement due to the fact they generally are not restricted except within 3 nm of rookeries (no fishing zones in Table 21 to 50 CFR part 679) and in the Seguam foraging and Bogoslof areas. Before groundfish fishing, vessel owners will also be required to inform NMFS of the VMS transponder ID number and the vessel on which the transponder will be used so that equipment operation can be confirmed.

The Chiniak Gully Pollock Research Program

The Council endorsed a research project proposed by NMFS in the Chiniak Gully off Kodiak Island to determine the effect of pollock fisheries on pollock school dynamics and the likelihood of localized depletions. The experiment includes the closure of Chiniak Gully to trawl fishing from August 1 to no later than September 20. A more detailed description of the experiment is provided in the draft environmental assessment/regulatory impact review/final regulatory flexibility analysis for the proposed rule to implement a seasonal closure of a portion of the Central Regulatory Area, GOA, to vessels using trawl gear (65 FR 41044, July 3, 2000). For copies of these documents, please contact NMFS (see **ADDRESSES**). This experiment was implemented by emergency interim rule in 2001 (66 FR 37167, July 17, 2001). This emergency interim rule continues the implementation of this experiment including trawl closures necessary to conduct the experiment.

National Standards

A summary of how this action addresses relevant national standards under the Magnuson-Stevens Act follows. The Assistant Administrator for Fisheries finds that the Steller sea lion protection measures recommended by the Council meet the applicable national standards.

National Standard 1. Achieving optimum yield while preventing overfishing. The harvesting of pollock, Atka mackerel, and Pacific cod will be controlled so that directed fishing will stop if the biomass falls to below 20 percent of the unfished projected biomass. This will ensure that prey is available to Steller sea lions and that fish stocks may be maintained for optimal yield without the likelihood of overfishing. NMFS determined in the 2001 BiOp that the harvest control in this emergency interim rule is protective of Steller sea lions and their designated critical habitat and is consistent with this national standard.

National Standard 2. Use of best scientific information available. NEPA and ESA analyses of this action were based on the latest reliable information available regarding Steller sea lion mortality, diet, foraging behavior, count data, and recent scientific review of the Comprehensive BiOp and the draft 2001 BiOp. The RPA Committee and Council carefully considered these analyses during the development of their recommendations for Steller sea lion protection measures. The standard has been met because NMFS used the best available scientific information, meeting this national standard.

National Standard 3. Manage an individual stock of fish or interrelated stocks of fish as a unit throughout its range. Groundfish stocks are continuing to be managed under the Steller sea lion protection measures as units based on species and occurrence, and stock assessment information continues to be used in these management decisions. NMFS also works closely with the State of Alaska in managing fish stocks that occur across Federal and State waters as individual units. As an example, GOA Pacific cod acceptable biological catch (ABC) accommodates both a Federal fishery and a State-managed cod fishery. Further, the State opens and closes State waters consistent with the management of the groundfish fisheries in Federal waters.

National Standard 4. Fair and equitable allocation to individuals, corporations, or other entities. The RPA Committee was comprised of representatives from different regions and types of fisheries so that differential effects of changes to pollock, Pacific cod, and Atka mackerel were considered as the Steller sea lion protection measures were developed. The draft SEIS and public comments from fishing industry representatives and communities also were considered by the RPA Committee and Council before finalizing recommended protection measures. This allowed the RPA committee and Council to consider the impacts of the protection measures on different sectors of the fishing industry and on different communities and to take steps to fairly distribute the impacts so that no one sector or community suffered an excessive adverse economic impact. NMFS determined through SEIS analysis that the process described above provided recommendations that led to fair and equitable allocation of the impacts of the protection measures.

National Standard 5. Efficiency of using fishery resources. The RPA Committee and Council considered the efficiency of using the fishing resources when developing the Atka mackerel platooning management, and for setting closure areas and seasons for the pollock, Atka mackerel, and Pacific cod fisheries. Within the limitations of protection measures, the fisheries

management measures were developed to ensure that as much of the available TAC as possible could be harvested with the least amount of effort. NMFS has determined that fishing will take place in a manner that protects Steller sea lions and their critical habitat and minimizes disruption to fisheries and allows for efficient use of resources.

National Standard 6. Consideration of variations among and contingencies in fisheries, fishery resources, and catches. The RPA Committee process ensured that the Steller sea lion protection measures were developed with understanding of the variations in fishing activities in the different areas and for different species and variations in the abundance of different fish stocks in different areas. NMFS determined that the protection measures were developed taking variations into consideration, consistent with this national standard.

National Standard 7. Minimize cost and avoid unnecessary duplication. The economic analysis in the SEIS for the Steller sea lion protection measures shows that the protection measures in this emergency interim rule minimized the cost to the industry while protecting Steller sea lions and their critical habitat. Based on the SEIS analysis, NMFS determined that the protection measures are consistent with this national standard.

National Standard 8. Consider the importance of fishing resources to fishing communities. Part of the SEIS analysis included socioeconomic impacts of the action and alternatives on small communities. Several provisions in the protection measures allow small vessels and vessels with nontrawl gear to fish near their home ports to ensure small community access to the fishing resources. Provisions in the protection measures also allow for fishing opportunities for small coastal communities in Alaska by providing for year long Atka mackerel fishing seasons and by allowing access to fishing areas used by these communities.

At its October 2001 meeting, the Council did recognize that its preferred alternative would impose costs and burdens, particularly on some small coastal communities and associated fishing fleets. The Council expressed its intent to explore management measures intended to provide further relief to these sectors, yet meet the requirements of applicable law. Council consideration of these measures is scheduled for its April 2002 meeting. NMFS determined that the impact of the protection measures in this emergency interim rule on fishing communities was considered in developing the Council's recommendation, consistent with this national standard.

National Standard 9. Reduce bycatch. In designing the protection measures, the RPA Committee considered areas and timing of fishing to address concerns about potential increases in bycatch in the Atka mackerel, pollock, and Pacific cod fisheries. The Atka mackerel additional harvest in the harvest limit area in 2002 is expected to reduce the amount of rockfish bycatch, normally encountered outside of critical habitat. Salmon bycatch will be evaluated in 2002 as the SCA is opened where salmon bycatch is known to occur, but the pollock fishing industry is implementing incentive measures to reduce bycatch. The regulations will continue to have bycatch closure areas for crab, herring, and salmon and prohibited species catch limits as detailed in Part II of this preamble. NMFS has determined through SEIS analysis that the protection measures minimize bycatch to the extent possible while providing protection to Steller sea lions and minimizing adverse economic impacts on the fisheries.

National Standard 10. Safety. Several provisions in the protection measures allow small vessels to fish near their home ports or in near shore waters that are more protected from bad weather than off shore waters. Some examples include the Bogoslof Pacific cod exemption area and Pacific cod nontrawl fishery in the Sand Point and King Cove area near haulouts.

Part II. Specifications

The FMP and its implementing regulations require NMFS, after consultation with the Council, to specify annually the TAC for each target species and for the ''other species'' category, the sum of which must be within the optimum yield range of 1.4 million to 2.0 million metric tons (mt) for the BSAI and within the optimum yield range of 116,000 mt to 800,000 mt for the GOA (§ 679.20(a)(1)).

NMFS is establishing the 2002 TAC specifications for the BSAI and GOA by this emergency interim rule. The normal procedure of publishing proposed, interim, and final TAC specifications was not followed in 2002 because the information needed to establish the harvest specifications did not become available until mid-November and the Council recommendations were not received by NMFS until December 11, 2001. Analysis of the action and the preparation of the **Federal Register** notification could not be completed until the Council recommendations were received for the final specifications as well as the Steller sea lion protection measures, of which the specifications are an integral part and must be in place by January 1, 2002, to allow the orderly commencement of the 2002 groundfish fisheries. Accordingly, it is impracticable to provide prior notice and an opportunity for public comment, or to delay for 30 days the effective date of this rule. Further, it would be contrary to the public interest to delay the start of the season to allow for prior notice, an opportunity for public comment, and for a 30-day delay in the effective date.

This emergency interim rule includes the following provisions for the BSAI and GOA: (1) AFA measures; (2) specifications of overfishing level (OFL), ABC, and TAC for each groundfish species category; (3) apportionments of reserves; (4) allocations of the sablefish TAC to vessels using hook-and-line and trawl gear; (5) apportionments of pollock TAC among regulatory areas, seasons, and allocations among different industry sectors including Bering Sea fishery cooperatives; (6) apportionments of Pacific cod TAC among regulatory areas, seasons, and allocations among different industry sectors; (7) apportionment of Atka mackerel in the BSAI among seasons, gear, and regulatory areas; (8) PSC limits; (9) fishery and seasonal apportionments of the Pacific halibut PSC limits; (10) fishery apportionments of other PSC limits in the BSAI; (11) Pacific halibut assumed discard mortality rates; (12) groundfish harvest and PSC limitations for AFA vessels; (13) closures to directed fishing for specified groundfish targets; (14) AFA measures for inshore and offshore component participation, crab harvesting, and observer requirements; and (15) an increase in the contribution of arrowtooth flounder to the CDQ non-specific reserve. A discussion of these measures follows.

AFA Measures

AFA prohibitions on crab harvesting and processing are continued with this emergency interim rule. In § 679.7, catcher vessels must have a sideboard endorsement for BSAI crab to retain crab and can not exceed the processing limits. These prohibitions are necessary to limit the advantage of AFA pollock fishery participants over open access crab fishery participants.

Another AFA measure maintained with this emergency interim rule under § 679.7 is prohibiting the participation in both the inshore and offshore component during a fishing year. This is necessary to maintain the Council's inshore and offshore policy of harvest allocation in the GOA.

Observer coverage requirements for AFA vessels in § 679.50(c)(4)(vi) are continued with this emergency interim rule to maintain consistency between observer requirements in the CDQ fishery and the AFA fishery where the same vessels are used and the same level of observer coverage is needed. This will allow for smoother transitions between the two types of fisheries.

Acceptable Biological Catch (ABC) and TAC Specifications

The final ABC levels are based on the best available scientific information, including projected biomass trends, information on assumed distribution of stock biomass, and revised technical methods used to calculate stock biomass. The FMPs specify the formulas, or tiers, to be used in computing ABCs and overfishing levels. The formulas applicable to a particular stock or stock complex are determined by the level of reliable information available to fishery scientists. This information is categorized into a successive series of six tiers.

In December 2001, the Scientific and Statistical Committee (SSC), Advisory Panel (AP), and Council reviewed current biological information about the condition of groundfish stocks in the BSAI and GOA. This information was compiled by the Council's Plan Teams and is presented in the final 2002 SAFE reports for the BSAI and GOA groundfish fisheries, dated November 2001 (See **ADDRESSES**). The SAFE reports contain a review of the latest scientific analyses and estimates of each species' biomass and other biological parameters, as well as summaries of the available information on the BSAI and GOA ecosystem and the economic condition of groundfish fisheries off Alaska. From these data and analyses, the Plan Teams estimate an ABC for each species or species category.

The Council considered the ecological, socioeconomic, and ecosystem information in the SAFE reports, recommendations from its SSC and AP, as well as public testimony when recommending ABCs and TACs at its December 2001 meeting.

The final specifications are set forth in Tables 3 through 29 of this action. For 2002, the sum of TACs is 2 million mt in the BSAI and 237,890 mt in the GOA.

Bering Sea and Aleutian Islands Management Area

In December 2001, the SSC, AP, and Council reviewed the BSAI Plan Team's recommendations for OFL and ABC levels. Except for Bogoslof pollock, and the ''other species'' category, the SSC, AP, and Council endorsed the Plan Team's ABC recommendations. Based on the best available information, the SSC recommended a lower ABC for Bogoslof pollock and a slightly higher ABC for the ''other species'' category than the Plan Team recommended. For Bogoslof pollock, the SSC agrees with the Plan Team recommended ABC. The Plan Team recommended splitting the ''other species'' category into sculpins, skates, sharks and octopus with individual group ABCs based on mean catch since 1977. The SSC disagreed with this approach and recommended calculating the individual group ABCs, summing these ABCs to form an aggregate maximum allowable ABC and scaling the ABC down to be closer to recent TACs for the complex. For all species, the AP endorsed the ABCs recommended by the SSC, and the Council adopted the AP's recommendations.

The Council's TAC recommendations were based on the ABCs as adjusted for other biological and socioeconomic considerations, including maintaining the total TAC within the required OY range of 1.4 million to 2.0 million mt. The Council adopted the AP's TAC recommendations.

Through 2000, the ''other red rockfish'' complex was comprised of northern, sharpchin, rougheye, and shortraker rockfish in the Bering Sea subarea. In the Aleutian Islands subarea, this complex was split out into two groups comprised of northern/sharpchin and rougheye/shortraker rockfish. For 2002, the Council recommended species-specific BSAI OFLs and ABCs for each species in the ''other red rockfish'' complex to reduce the potential for one species to be fished disproportionately to its abundance and resulting in overfishing concerns. The Council also recommended that sharpchin rockfish, which were previously included in the ''other red rockfish'' complex, be moved into the ''other rockfish'' complex.

NMFS agrees with these recommendations, but will not be able to implement all of them in 2002 due to monitoring constraints in the hook-and-line gear fisheries. Shortraker and rougheye rockfish are reported by observers using a group species code, which, under current observer procedures, cannot be separated into specific species and incorporated into routine observer reports prior to the 2002 fishing year. Thus NMFS is modifying the Council's recommendation and is establishing BSAI wide OFL and ABC amounts for northern and rougheye/shortraker rockfish. The Bering Sea subarea and Aleutian Islands subarea now will be managed for CDQ and non-CDQ with one TAC group for shortraker/rougheye rockfish, a separate TAC for northern rockfish, and sharpchin rockfish will join the ''other rockfish'' category. Changing the Bering Sea and Aleutian Islands subareas ''other red rockfish'' complex in this manner addresses overfishing concern by decreasing the TAC amounts. The final ABCs as recommended by the Council and modified and approved by NMFS are listed in Table 3.

As in 2001, for the CDQ fisheries, NMFS is combining the northern and shortraker/rougheye rockfish in the Bering Sea into the ''other red rockfish'' species category. The CDQ reserves for rockfish are 7.5 percent of the TAC. If CDQ reserves were specified for the two rockfish TAC categories, they would be 1.4 mt for Bering Sea northern rockfish and 8.7 mt for Bering Sea shortraker/rougheye rockfish. If these CDQ reserves were further divided among the six CDQ groups, the northern rockfish CDQ amounts available to each group would be between 100 kg and 325 kg. NMFS recommends not splitting out the CDQ reserves to the individual species group because these small quotas could prevent the CDQ groups from harvesting much of their other groundfish CDQs. Therefore, to avoid premature closure of the CDQ fisheries, NMFS will continue to specify the CDQ reserve for the Bering Sea ''other red rockfish'' complex. The CDQ reserve for this complex will be calculated as the sum of an amount equal to 7.5 percent of the TAC for Bering Sea shortraker/rougheye plus 7.5 percent of the TAC for northern rockfish, for a total of 10 mt to the CDQ reserve for the ''other red rockfish'' complex.

None of the Council's recommended TACs for 2002 exceeds the final ABC for any species category. NMFS finds that the Council's recommended TACs are consistent with the biological condition of groundfish stocks as described in the 2002 SAFE document and approves them with the exception of the ''other red rockfish'' complex. NMFS has modified the Council's TAC recommendations for this complex as described above to accommodate monitoring and reporting constraints.

For 2002, the Plan Team recommended and the AP, SSC, and NMFS agreed to separate Alaska plaice from the ''other flatfish'' category. Because 85 percent of the ''other flatfish'' category is Alaska plaice and the ABC and OFL are calculated separately for Alaska plaice and the remaining ''other flatfish'' species, the Plan Team recommended setting the

ABC and OFL for Alaska plaice separately from the ''other flatfish'' species.

Table 3 lists the 2002 OFL, ABC, TAC, initial TAC (ITAC) which is the TAC minus the reserves, and CDQ reserve amounts, overfishing levels, and initial apportionments of groundfish in the BSAI. The apportionment of TAC amounts among fisheries and seasons is discussed below.

TABLE 3.—2002 ACCEPTABLE BIOLOGICAL CATCH (ABC), TOTAL ALLOWABLE CATCH (TAC), INITIAL TAC (ITAC), CDQ RESERVE ALLOCATION, AND OVERFISHING LEVELS OF GROUNDFISH IN THE BERING SEA AND ALEUTIAN ISLANDS AREA (BSAI) [1]

[All amounts are in metric tons]

Species	Area	Overfishing level	ABC	TAC	ITAC [2]	CDQ reserve [3]
Pollock [4]	Bering Sea (BS)	3,530,000	2,110,000	1,485,000	1,283,040	148,500
	Aleutian Islands (AI)	31,700	23,800	1,000	900	100
	Bogoslof District	46,400	4,310	100	90	10
Pacific cod	BSAI	294,000	223,000	200,000	170,000	15,000
Sablefish [5]	BS	2,900	1,930	1,930	821	265
	AI	3,850	2,550	2,550	541	431
Atka mackerel	BSAI	82,300	49,000	49,000	41,650	3,675
	Western AI		19,700	19,700	16,745	1,478
	Central AI		23,800	23,800	20,230	1,785
	Eastern AI/BS		5,500	5,500	4,675	413
Yellowfin sole	BSAI	136,000	115,000	86,000	73,100	6,450
Rock sole	BSAI	268,000	225,000	54,000	45,900	4,050
Greenland turbot	BSAI	36,500	8,100	8,000	6,800	600
	BS		5,427	5,360	4,556	402
	AI		2,673	2,640	2,244	198
Arrowtooth flounder	BSAI	137,000	113,000	16,000	13,600	1,200
Flathead sole	BSAI	101,000	82,600	25,000	21,250	1,875
Other flatfish [6]	BSAI	21,800	18,100	3,000	2,550	225
Alaska plaice	BSAI	172,000	143,000	12,000	10,200	900
Pacific ocean perch	BSAI	17,500	14,800	14,800	12,580	1,111
	BS		2,620	2,620	2,227	197
	AI Total		12,180	12,180	10,353	914
	Western AI		5,660	5,660	4,811	425
	Central AI		3,060	3,060	2,601	230
	Eastern AI		3,460	3,460	2,941	260
Northern rockfish [7]	BSAI	9,020	6,760	6,760	5,746	
	BS			19	16	([7])
	AI			6,741	5,730	506
Shortraker/Rougheye [7]	BSAI	1,369	1,028	1,028	874	
	BS			116	99	([7])
	AI			912	775	68
Other rockfish [8]	BS	482	361	361	307	27
	AI	901	676	676	575	51
Squid	BSAI	2,620	1,970	1,970	1,675	
Other species [9]	BSAI	78,900	39,100	30,825	26,201	2,312
Total		4,974,242	3,184,085	2,000,000	1,717,399	187,504

[1] Amounts are in metric tons. These amounts apply to the entire Bering Sea (BS) and Aleutian Islands (AI) management area unless otherwise specified. With the exception of pollock, and for the purpose of these specifications, the Bering Sea subarea includes the Bogoslof District.

[2] Except for pollock, squid, and the portion of the sablefish TAC allocated to hook-and-line or pot gear, 15 percent of each TAC is put into a reserve. The ITAC for each species is the remainder of the TAC after the subtraction of the reserve.

[3] Except for pollock and the hook-and-line or pot gear allocation of sablefish, one half of the amount of the TACs placed in reserve, or 7.5 percent of the TACs, is designated as a CDQ reserve for use by CDQ participants (see § 679.31).

[4] The American Fisheries Act (AFA) requires that 10 percent of the annual pollock TAC be allocated as a directed fishing allowance for the CDQ sector. NMFS then subtracts 4 percent of the remainder as an incidental catch allowance of pollock, which is not apportioned by season or area. The remainder is further allocated by sector as follows: inshore, 50 percent; catcher/processor, 40 percent; and motherships, 10 percent. NMFS, under regulations at § 679.24(b)(4), prohibits nonpelagic trawl gear to engage in directed fishing for non-CDQ pollock in the BSAI.

[5] The ITAC for sablefish reflected in Table 3 is for trawl gear only. Regulations at § 679.20(b)(1) do not provide for the establishment of an ITAC for the hook-and-line or pot gear allocation for sablefish. Twenty percent of the sablefish TAC allocated to hook-and-line gear or pot gear and 7.5 percent of the sablefish TAC allocated to trawl gear is reserved for use by CDQ participants (see § 679.31(c)).

[6] ''Other flatfish'' includes all flatfish species, except for Pacific halibut (a prohibited species), flathead sole, Greenland turbot, rock sole, yellowfin sole, arrowtooth flounder, and Alaska Plaice.

[7] The CDQ reserves for shortraker, rougheye, and northern rockfish will continue to be managed as the ''other red rockfish'' complex for the BS. For 2002 the CDQ reserve for the ''other red rockfish'' complex is 10 mt.

[8] ''Other rockfish'' includes all *Sebastes* and *Sebastolobus* species except for Pacific ocean perch, northern, shortraker, and rougheye rockfish.

[9] ''Other species'' includes sculpins, sharks, skates and octopus. Forage fish, as defined at § 679.2, are not included in the ''other species'' category.

Reserves and the Pollock Incidental Catch Allowance (ICA)

Regulations at § 679.20(b)(1)(i) require that 15 percent of the TAC for each target species or species group, except for the hook-and-line and pot gear allocation of sablefish, be placed in a non-specified reserve. The AFA supersedes this provision for pollock by requiring that the 2002 TAC for this species be fully allocated among the CDQ program, the ICA, inshore, catcher/processor, and mothership directed fishery allowances.

Regulations at § 679.20(b)(1)(iii) require that one-half of each TAC amount placed in the non-specified reserve, with the exception of squid, be allocated to the groundfish CDQ reserve and that 20 percent of the hook-and-line and pot gear allocation of sablefish be allocated to the fixed gear sablefish CDQ reserve. Section 206(a) of the AFA requires that 10 percent of the pollock TAC be allocated to the pollock CDQ reserve. With the exception of the hook-and-line and pot gear sablefish CDQ reserve, the regulations do not further apportion the CDQ reserves by gear. Regulations at § 679.21(e)(1)(i) also require that 7.5 percent of each PSC limit, with the exception of herring, be withheld as a prohibited species quota (PSQ) reserve for the CDQ fisheries. Regulations governing the management of the CDQ and PSQ reserves are set forth at §§ 679.30 and 679.31.

Under section 206(b) of the AFA, NMFS allocates a pollock ICA of 4 percent of the pollock TAC after subtraction of the 10 percent CDQ reserve. This is unchanged from the 4 percent ICA specified for 2001. The 2002 allowance is based on an examination of the incidental catch of pollock in non-pollock target fisheries from 1997 through 2001. During this 4-year period, the incidental catch of pollock ranged from a low of 3 percent in 1998 to a high of about 6 percent in 1997, with a 4-year average of 4 percent. In 2001, the actual incidental catch was only 3 percent of the TAC which resulted in 12,000 mt of pollock reallocated to the directed fishing allowance for non-CDQ fisheries in the fall (66 FR 49146, September 26, 2001). Based on this experience, NMFS believes that a 2002 ICA of 4 percent is appropriate, because the biomass has increased for 2002 to 2.1 million tons and there is the potential for increased bycatch of pollock in other groundfish fisheries.

The regulations do not designate the remainder of the non-specified reserve by species or species group, and any amount of the reserve may be reapportioned to a target species or to the ''other species'' category during the year, providing that such reapportionments do not result in overfishing. The Regional Administrator has determined that the ITACs specified for the species listed in Table 4 need to be supplemented from the non-specified reserve because U.S. fishing vessels have demonstrated the capacity to harvest the full TAC allocations. Therefore, in accordance with § 679.20(b)(3), NMFS is apportioning the amounts shown in Table 4 from the non-specified reserve to increase the ITAC to an amount that is equal to TAC minus the CDQ reserve.

TABLE 4.—APPORTIONMENT OF RESERVES TO ITAC CATEGORIES

[All amounts are in metric tons]

Species—area or subarea	Reserve amount	Final ITAC
Atka mackerel—Western Aleutian District	1,478	18,223
Atka mackerel—Central Aleutian District	1,785	22,015
Atka mackerel—Eastern Aleutian District and Bering Sea subarea	413	5,088
Pacific ocean perch—Western Aleutian District	425	5,236
Pacific ocean perch—Central Aleutian District	230	2,831
Pacific ocean perch—Eastern Aleutian District	260	3,201
Pacific cod—BSAI	15,000	185,000
Northern rockfish—Aleutian Islands subarea	506	6,236
Shortraker/Rougheye rockfish—Aleutian Islands subarea	68	843
Greenland turbot—Bering Sea subarea	402	4,958
Greenland turbot—Aleutian Islands subarea	198	2,442
Total	20,765	256,076

Pollock Allocations Under the AFA

Section 206(a) of the AFA requires the allocation of 10 percent of the BSAI pollock TAC as a directed fishing allowance to the CDQ program. The remainder of the BSAI pollock TAC, after the subtraction of an allowance for the incidental catch of pollock by vessels, including CDQ vessels, harvesting other groundfish species, must be allocated as follows: 50 percent to catcher vessels harvesting pollock for processing by the inshore component, 40 percent to catcher/processors and catcher vessels harvesting pollock for processing by catcher/processors in the offshore component, and 10 percent to catcher vessels harvesting pollock for processing by motherships in the offshore component. These amounts are listed in Table 5.

The AFA also contains several specific requirements concerning pollock and pollock allocations. First, paragraph 210(c) of the AFA requires that not less than 8.5 percent of the pollock allocated to vessels for processing by offshore catcher/processors be available for harvest by offshore catcher vessels listed in section 208(b) harvesting pollock for processing by offshore catcher/processors listed in paragraph 208(e). Second, paragraph 208(e)(21) of the AFA specifies that catcher/processors eligible to fish for pollock under such paragraph are prohibited from harvesting in the aggregate a total of more than one-half of a percent (0.5 percent) of the pollock allocated to vessels for processing by offshore catcher/processors. Third, paragraph 210(e)(1) of the AFA specifies that no particular individual, corporation, or other entity may harvest, through a fishery cooperative or otherwise, a total of more than 17.5 percent of the pollock available to be harvested in the directed pollock fishery. Other provisions of the AFA, including inshore pollock cooperative allocations and AFA harvest limitations are discussed later in this section. Table 5 lists the 2001 allocations of pollock TAC as described by the AFA.

SCA Harvest Limits

The harvest within the SCA, as defined at § 679.22(a)(11), is limited to 28 percent of the annual directed fishing allowance (DFA) until April 1. The remaining 12 percent of the annual DFA allocated to the A season may be taken outside of the SCA before April 1 or inside the SCA after April 1. If the 28 percent of the annual DFA is not taken inside the SCA before April 1, the remainder is available to be taken inside the SCA after April 1. The A season pollock SCA harvest limit will be apportioned to each industry sector in proportion to each sector's allocated percentage of the DFA as set forth in the AFA. These amounts, by sector, are listed in Table 5.

TABLE 5.—ALLOCATIONS OF THE POLLOCK TAC AND DIRECTED FISHING ALLOWANCE (DFA) TO THE INSHORE, CATCHER/PROCESSOR, MOTHERSHIP, AND CDQ COMPONENTS [1]

[All amounts are in metric tons]

Area and sector	2002 DFA	A Season [1]	B Season [1,2]	
		A DFA (40% of annual DFA)	SCA limit [3]	B DFA (60% of annual DFA)
Bering Sea subarea	1,485,000	594,000	.....	891,000
CDQ	148,500	59,400	41,580	89,100
ICA [4]	53,460	.....	.....	.....
AFA Inshore	641,520	256,608	179,626	384,912
AFA C/Ps [5]	513,216	205,286	143,700	307,930
Catch by C/Ps	469,593	187,837	.....	281,756
Catch by CVs [5]	43,623	17,449	.....	26,174
Restricted C/P cap [6]	2,566	1,026	.....	1,540
AFA Motherships	128,304	51,322	35,925	76,982
Excessive shares cap [7]	224,532	.....	.....	.....
Aleutian Islands:				
ICA [8]	900			
Bogoslof District:				
ICA [8]	90			

[1] After subtraction for the CDQ reserve and the incidental catch allowance, the pollock TAC is allocated as a DFA as follows: inshore component—50 percent, catcher/processor component—40 percent, and mothership component—10 percent. Under paragraph 206(a) of the AFA, the CDQ reserve for pollock is 10 percent. NMFS, under regulations at § 679.24(b)(4), prohibits nonpelagic trawl gear to engage in directed fishing for non-CDQ pollock in the BSAI. The A season, January 20—June 10, is allocated 40 percent of the DFA and the B season, June 10—November 1 is allocated 60 percent of the DFA.

[2] This emergency interim rule expires on July 8, 2002, before the B season will conclude. Therefore, the B season is not fully authorized unless the emergency interim rule is extended.

[3] The SCA limits harvest to 28 percent of each sectors annual DFA until April 1. The remaining 12 percent of the annual DFA allocated to the A season may be taken outside of the SCA before April 1 or inside the SCA after April 1. If the 28 percent of the annual DFA is not taken inside the SCA before April 1, the remainder is available to be taken inside the SCA after April 1.

[4] The pollock incidental catch allowance for the BS subarea is 4 percent of the TAC after subtraction of the CDQ reserve.

[5] Subsection 210(c) of the AFA requires that not less than 8.5 percent of the directed fishing allowance allocated to listed catcher/processors (C/Ps) shall be available for harvest only by eligible catcher vessels (CVs) delivering to listed catcher/processors.

[6] The AFA requires that vessels described in section 208(e)(21) be prohibited from exceeding a harvest amount of one-half of one percent of the directed fishing allowance allocated to vessels for processing by AFA catcher/processors.

[7] Paragraph 210(e)(1) of the AFA specifies that ''No particular individual, corporation, or other entity may harvest, through a fishery cooperative or otherwise, a total of more than 17.5 percent of the pollock available to be harvested in the directed pollock fishery.''

[8] Consistent with the Steller sea lion protection measures, the Aleutian Islands subarea and the Bogoslof District are closed to directed fishing for pollock. The amounts specified are for incidental catch amounts only, and are not apportioned by season or sector.

Allocation of the Atka Mackerel TAC

Regulations implementing Steller sea lion protection measures at § 679.20(a)(8)(ii) apportion the Atka mackerel ITAC into two equal seasonal allowances. After subtraction of the jig gear allocation, the first allowance is made available for directed fishing from January 1 to April 15 (A season), and the second seasonal allowance is made available from September 1 to November 1 (B season) (Table 6). Under § 679.20(a)(8)(ii)(C)(1), the Regional Administrator will establish a harvest limit area (HLA) limit of no more than 60 percent of the seasonal TAC for the Western and Central Aleutian Districts. Pacific cod harvest by trawl gear in the Aleutian Islands HLA in 542 and 543, west of 178° W long. is prohibited during the Atka mackerel HLA directed fisheries. Atka mackerel fishing is prohibited in critical habitat east of 178° W long. to provide maximum protection to Steller sea lions and because Atka mackerel is readily available in waters outside of critical habitat.

Under § 679.20(a)(8)(i), up to 2 percent of the Eastern Aleutian District and the Bering Sea subarea Atka mackerel ITAC may be allocated to the jig gear fleet. The Council determines the amount of this allocation annually, based on several criteria including the anticipated harvest capacity of the jig gear fleet. In December 2001, the Council recommended that 1 percent of the Atka mackerel TAC in the Eastern Aleutian District and Bering Sea subarea be allocated to the jig gear fleet based on historic harvest capacity of the fleet. NMFS finds that this is consistent with the status of the stock and with the regulatory framework stated above. Based on an ITAC of 5,088 mt, the jig gear allocation is 51 mt.

A platoon system to reduce the amount of daily catch in critical habitat by about half and to disperse the fishery over two areas is discussed in the Steller sea lion protection measures part of this emergency interim rule and found in the regulations at § 679.20(a)(8)(iii).

TABLE 6.—SEASONAL AND SPATIAL APPORTIONMENTS, GEAR SHARES, AND CDQ RESERVE OF THE BSAI ATKA MACKEREL TAC

(All amounts are in metric tons)

Subarea and component	TAC	CDQ reserve	ITAC [1]	Seasonal appointment [2]			
				A Season [3]		B Season [4]	
				Total	HLA Limit [5]	Total	HLA Limit [5]
Western Aleutian District (543)	19,700	1,478	18,223	9,111	5,467	9,111	5,467
Central Aleutian District (542)	23,800	1,785	22,015	11,008	6,605	11,008	6,605
Eastern AI/BS subarea [6]	5,500	413	5,088				
Jig (1%) [7]			51				
Other gear (99%)			5,037	2,518		2,518	
Total	49,000	3,676	45,326	22,637		22,637	

[1] The reserves have been released for Atka mackerel (See Table 4).
[2] The seasonal apportionment of Atka mackerel is 50 percent in the A season and 50 percent in the B season.
[3] The A season is January 1 through noon April 15.
[4] The B season is September 1 through noon November 1.
[5] HLA limit refers to the amount of each seasonal allowance that is available for fishing inside the HLA (§ 679.2). In 2002, 60 percent of each seasonal allowance is available for fishing inside the HLA in the Western and Central AI. Pacific cod harvest by trawl gear in the Aleutian Islands HLA in 542 and 543, west of 178°W long. is prohibited during the Atka mackerel HLA directed fisheries.
[6] Eastern Aleutian Islands District and Bering Sea subarea.
[7] Regulations at § 679.20(a)(8) require that up to 2 percent of the Eastern AI/BS area ITAC be allocated to the jig gear fleet. The amount of this allocation is 1 percent and was determined by the Council based on anticipated harvest capacity of the jig gear fleet. The jig gear allocation is not apportioned by season.

Allocation of the Pacific Cod TAC

Under § 679.20(a)(7), 2 percent of the Pacific cod ITAC is allocated to vessels using jig gear, 51 percent to vessels using hook-and-line or pot gear, and 47 percent to vessels using trawl gear. Under § 679.20(a)(7)(i)(B), the portion of the Pacific cod TAC allocated to trawl gear is further allocated 50 percent to catcher vessels and 50 percent to catcher/processors. Under regulations at § 679.20(a)(7)(i)(C)(*1*), a portion of the Pacific cod allocated to hook-and-line or pot gear is set aside as an ICA of Pacific cod in directed fisheries for groundfish other than Pacific cod by vessels using these gear types. Based on anticipated bycatch in these fisheries, the Council proposed an ICA of 500 mt. The remainder of Pacific cod is further allocated to vessels using hook-and-line or pot gear as the following directed fishing allowances: 80 percent to hook-and-line catcher/processor vessels, 0.3 percent to hook-and-line catcher vessels, 18.3 percent to pot gear vessels, and 1.4 percent to catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear.

Due to concerns about the potential impact of the Pacific cod fishery on Steller sea lions and their critical habitat, NMFS is implementing under this emergency interim rule temporal dispersion of fishing effort in the Pacific cod fisheries by apportioning the Pacific cod ITAC into two seasonal allowances. For most non-trawl gear the first allowance, 60 percent of the ITAC, is made available for directed fishing from January 1 to June 10, and the second seasonal allowance, 40 percent of the ITAC, is made available from June 10 to December 31. No seasonal harvest constraints are imposed for the Pacific cod fishery by catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear. For trawl gear the first season is January 20 to April 1, and 60 percent of the TAC is allocated to the first season. The second season, April 1 to June 10, and third season, June 10 to November 1, are each allocated 20 percent of the TAC. The trawl catcher vessels' allocation is further allocated as 70 percent in the first season, 10 percent in the second season and 20 percent in the third season. The trawl catcher/processors' allocation is allocated 50 percent in the first season, 30 percent in the second season, and 20 percent in the third season. Table 7 lists the 2002 allocations and seasonal apportionments of the Pacific cod ITAC.

TABLE 7.—2001 GEAR SHARES AND SEASONAL APPORTIONMENTS OF THE BSAI PACIFIC COD TAC

Gear sector	Percent	Share of gear sector total (mt)	Subtotal percentages for gear sectors	Share of gear sector total (mt)	Seasonal apportionment [2]	
					Date	Amount (mt)
Total hook-and-line and pot gear allocation of Pacific cod TAC.	51	94,350				
Incidental Catch Allowance				500		
Processor and Vessel subtotal		93,850				
Hook-and-line Catcher Processors			80	75,080	Jan 1–Jun 10	45,048
					Jun 10–Dec 31	30,032
Hook-and-line Catcher Vessels			0.3	282	Jan 1–Jun 10	169
					Jun 10–Dec 31	113
Pot Gear Vessels			18.3	17,175	Jan 1–Jun 10	10,305
					Sep 1–Dec 31	6,870
Catcher Vessels <60 feet LOA using Hook-and-line or Pot gear.			1.4	1,314	Jan 1–Dec 31	1,314
Trawl gear Total	47	86,950				

TABLE 7.—2001 GEAR SHARES AND SEASONAL APPORTIONMENTS OF THE BSAI PACIFIC COD TAC—Continued

Gear sector	Percent	Share of gear sector total (mt)	Subtotal percentages for gear sectors	Share of gear sector total (mt)	Seasonal apportionment [2]	
					Date	Amount (mt)
Trawl Catcher Vessel			50	43,475	Jan 1–Apr 1	30,433
					Apr 1–Jun 10	4,348
					Jun 10–Nov 1	8,695
Trawl Catcher Processor			50	43,475	Jan 1–Apr 1	21,738
					Apr 1–Jun 10	13,043
					Jun 10–Nov 1	8,695
Jig	2	3,700			Jan 1–Jun 10	2,220
					Jun 10–Dec 31	1,480
Total	100	185,000				

[1] The reserve has been released for Pacific cod (See Table 4).
[2] For non-trawl gear the first season is allocated 60 percent of the TAC and the second season is allocated 40 percent of the TAC. No seasonal harvest constraints are imposed for the Pacific cod fishery by catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear. For trawl gear, the first season is allocated 60 percent of the TAC and the second and third seasons are each allocated 20 percent of the TAC. The trawl catcher vessels' allocation is further allocated as 70 percent in the first season, 10 percent in the second season and 20 percent in the third season. The trawl catcher/processors' allocation is allocated 50 percent in the first season, 30 percent in the second season and 20 percent in the third season. Any unused portion a seasonal Pacific cod allowance will be reapportioned to the next seasonal allowance.

Allocation of the Shortraker and Rougheye Rockfish TAC

Under § 679.20(a)(9), the ITAC of shortraker rockfish and rougheye rockfish specified for the Aleutian Islands subarea is allocated 30 percent to vessels using non-trawl gear and 70 percent to vessels using trawl gear. Based on a 2002 ITAC of 844 mt, the trawl allocation is 591 mt and the non-trawl allocation is 253 mt.

Sablefish Gear Allocation

Regulations at § 679.20(a)(4)(iii) and (iv) require that sablefish TACs for the BS and AI subareas be allocated between trawl and hook-and-line or pot gear. Gear allocations of TACs for the Bering Sea subarea are 50 percent for trawl gear and 50 percent for hook-and-line or pot gear and for the Aleutian Islands subarea are 25 percent for trawl gear and 75 percent for hook-and-line or pot gear. Regulations at § 679.20(b)(1)(iii)(B) require that 20 percent of the hook-and-line and pot gear allocation of sablefish be reserved as sablefish CDQ. Additionally, regulations at § 679.20(b)(1)(iii)(A) require that 7.5 percent of the trawl gear allocation of sablefish (one half of the reserve) be reserved as groundfish CDQ. Gear allocations of the sablefish TAC and CDQ reserve amounts are specified in Table 8.

TABLE 8.—GEAR SHARES AND CDQ RESERVE OF BSAI SABLEFISH TAC

[All amounts are in metric tons]

Subarea and Gear	Percent of TAC	Share of TAC	ITAC [1]	CDQ Reserve
Bering Sea				
Trawl [2]	50	965	821	72
Hook-&-line/pot gear [3]	50	965	N/A	193
Total	100	1,930	821	265
Aleutian Islands:				
Trawl [2]	25	637	541	48
Hook-&-line/pot gear [3]	75	1,913	N/A	383
Total	100	2,550	541	431

[1] Except for the sablefish hook-and-line and pot gear allocation, 15 percent of TAC is apportioned to the reserve. The ITAC is the remainder of the TAC after the subtraction of these reserves.
[2] For the portion of the sablefish TAC allocated to vessels using trawl gear, one half of the reserve (7.5 percent of the specified TAC) is reserved for the multi-species CDQ program.
[3] For the portion of the sablefish TAC allocated to vessels using hook-and-line or pot gear, 20 percent of the allocated TAC is reserved for use by CDQ participants. Regulations in § 679.20(b)(1) do not provide for the establishment of an ITAC for sablefish allocated to hook-and-line or pot gear.

Allocation of Prohibited Species Catch (PSC) Limits for Halibut, Crab, Salmon, and Herring

PSC limits for halibut are set in regulations at § 679.21(e). For the BSAI trawl fisheries, the limit is 3,675 mt mortality of Pacific halibut. For non-trawl fisheries, the limit is 900 mt mortality. PSC limits for crab and herring are specified annually based on abundance and spawning biomass. Regulations at § 679.21(e)(1)(vii) specify a scheduled reduction of Chinook salmon PSC limits until the final limit is reached in 2004. In 2002, the chinook salmon PSC limit for the pollock fishery is 37,000 fish.

The criteria for determining the PSC limits for red king crab in Zone 1 are set forth at § 679.21(e)(1)(ii). For 2002, the PSC limit of red king crab in Zone 1 for trawl vessels is 97,000 animals. The number of mature female red king crab

is estimated in 2002 to be above the threshold of 8.4 million animals, and the effective spawning biomass is greater than 14.5 million lb (6,577 mt) but less than 55 million lb (24,948 mt). Based on the criteria set out at § 679.21(e)(1)(ii)(B), the limit is 97,000 animals.

The criteria for determining the PSC limits for *C. bairdi* crabs are set forth in § 679.21(e)(1)(iii). The 2002 *C. bairdi* PSC limit for trawl gear is 980,000 animals in Zone 1 and 2,970,000 animals in Zone 2. These limits are based on the *C. bairdi* abundance of 624 million crab from 2001 survey data because the abundance is over 400 million crabs.

Under § 679.21(e)(1)(iv), the PSC limit for *C. opilio* is based on total abundance as indicated by the NMFS annual bottom trawl survey. The *C. opilio* PSC limit is set at 0.1133 percent of the Bering Sea abundance index. Based on the 2001 survey estimate of 3.86 billion animals, the calculated limit would be 4,373,380 animals. Because this limit is less than 4.5 million, under § 679.21(e)(1)(iv)(B), the 2002 *C. opilio* PSC limit is 4,350,000 animals.

Under § 679.21(e)(1)(vi), the PSC limit of Pacific herring caught while conducting any trawl operation for groundfish in the BSAI is 1 percent of the annual eastern Bering Sea herring biomass. NMFS' estimate of 2002 herring biomass is 152,574 mt. This amount was derived using 2001 survey data and an age-structured biomass projection model developed by the Alaska Department of Fish and Game (ADF&G). Therefore, the herring PSC limit for 2002 is 1,526 mt.

Under § 679.21(e)(1)(i), 7.5 percent of each PSC limit specified for crab and halibut is reserved as a PSQ reserve for use by the groundfish CDQ program. Regulations at § 679.21(e)(3) require the apportionment of each trawl PSC limit into PSC bycatch allowances for seven specified fishery categories. Regulations at § 679.21(e)(4)(ii) authorize the apportionment of the non-trawl halibut PSC limit among five fishery categories. The fishery bycatch allowances for the trawl and non-trawl fisheries are listed in Table 9. These amounts are unchanged from those recommended by the Council at its December 2001 meeting.

Regulations at § 679.21(e)(3)(ii)(B) establish criteria under which NMFS must specify an annual red king crab bycatch limit for the Red King Crab Savings Subarea (RKCSS). The regulations limit the RKCSS to 35 percent of the trawl bycatch allowance specified for the rock sole/flathead sole/ ''other flatfish'' fishery category and must be based on the need to optimize the groundfish harvest relative to red king crab bycatch. The Council recommended and NMFS approves a red king crab bycatch limit equal to 35 percent of the trawl bycatch allowance specified for the flatfish fishery within the RKCSS in order to maximize harvest of groundfish relative to red king crab bycatch.

Regulations at § 679.21(e)(4)(ii) authorize exemption of specified non-trawl fisheries from the halibut PSC limit. As in past years, NMFS, after consultation with the Council, is exempting pot gear, jig gear, and the sablefish IFQ hook-and-line gear fishery categories from halibut bycatch restrictions because these fisheries use selective gear types that take few halibut compared to other gear types such as nonpelagic trawl. In 2001, total groundfish catch for the pot gear fishery in the BSAI was approximately 16,655 mt with an associated halibut bycatch mortality of about 5 mt. The 2001 groundfish jig gear fishery harvested about 74 mt of groundfish. Most vessels in the jig gear fleet are less than 60 ft (18.3 m) LOA and are exempt from observer coverage requirements. As a result, observer data are not available on halibut bycatch in the jig gear fishery. However, NMFS assumes a negligible amount of halibut bycatch mortality because of the selective nature of this gear type and the likelihood that halibut caught with jig gear have a high survival rate when released.

As in past years, the Council recommended that the sablefish IFQ fishery be exempt from halibut bycatch restrictions because of the sablefish and halibut IFQ program (subpart D of 50 CFR part 679). The sablefish IFQ program requires legal-sized halibut to be retained by vessels using hook-and-line gear if a halibut IFQ permit holder is aboard and is holding unused halibut IFQ. This action results in less halibut discard in the sablefish fishery. In 1995, about 36 mt of halibut discard mortality was estimated for the sablefish IFQ fishery. A similar estimate for 1996 through 2001 has not been calculated, but NMFS has no information indicating that it would be significantly different. NMFS approves the Council's recommendation to exempt the hook-and-line sablefish from halibut bycatch restrictions.

Regulations at § 679.21(e)(5) authorize NMFS, after consultation with the Council, to establish seasonal apportionments of PSC amounts in order to maximize the ability of the fleet to harvest the available groundfish TAC and to minimize bycatch. The factors to be considered are: (1) Seasonal distribution of prohibited species, (2) seasonal distribution of target groundfish species, (3) PSC bycatch needs on a seasonal basis relevant to prohibited species biomass, (4) expected variations in bycatch rates throughout the year, (5) expected start of fishing effort, and (6) economic effects of seasonal PSC apportionments on industry sectors. In December 2001, the Council's AP recommended seasonal PSC apportionments in order to maximize harvest among gear types, fisheries, and seasons while minimizing PSC based on the criteria above.

NMFS approves the PSC apportionments specified in Table 9 below with one change. The AP recommended and the Council accepted a July 4 seasonal allocation of PSC to the yellowfin sole, rock sole/flathead sole/ ''other flatfish'' and rockfish fishery categories. Under § 679.21(e)(5), factor (5) expected start of fishing effort, NMFS is changing the July 4 seasonal allocation to a June 30 seasonal allocation to facilitate the inseason management of these fishery categories. The June 30 opening will allow the collection of the data NMFS requires to close a fishery before the interruption of the July 4 holiday when Federal offices are closed.

TABLE 9.—PROHIBITED SPECIES BYCATCH ALLOWANCES FOR THE BSAI TRAWL AND NON-TRAWL FISHERIES [1]

[All amounts are in metric tons]

	Prohibited Species and Zone					
	Halibut mortality (mt) BSAI [7]	Herring (mt) BSAI	Red King Crab (animals) Zone 1	C. opilio (animals) COBLZ [2]	C. bairdi (animals)	
					Zone 1	Zone 2
Trawl Fisheries						
Yellowfin sole	886	139	16,664	2,776,981	340,844	1,788,459

TABLE 9.—PROHIBITED SPECIES BYCATCH ALLOWANCES FOR THE BSAI TRAWL AND NON-TRAWL FISHERIES [1]—Continued

[All amounts are in metric tons]

	Prohibited Species and Zone					
	Halibut mortality (mt) BSAI [7]	Herring (mt) BSAI	Red King Crab (animals) Zone 1	C. opilio (animals) COBLZ [2]	C. bairdi (animals)	
					Zone 1	Zone 2
January 20–April 1	262					
April 1–May 21	195					
May 21–June 30	49					
June 30–December 31	380					
Rock sole/flat. sole/other flatfish [3]	779	20	59,782	969,130	365,320	596,154
January 20–April 1	448					
April 1–June 30	164					
June 30–December 31	167					
RKC savings subarea [3]			20,924			
Turbot/sablefish/arrowtooth [4]		9		40,238		
Rockfish (June 30–Dec. 31) [5]	69	7		40,237		10,988
Pacific cod	1,434	20	11,664	124,736	183,112	324,176
Pollock/Atka/other [6]	232	146	1,615	72,428	17,224	27,473
Midwater trawl pollock		1,184				
Total Trawl PSC	3,400	1,526	89,725	4,023,750	906,500	2,747,250
Non-Trawl Fisheries						
Pacific cod—Total	775					
January 1–June 10	320					
June 10–August 15	0					
August 15–December 31	455					
Other non-trawl—Total	58					
May 1–December 31	58					
Groundfish pot & jig	Exempt					
Sablefish hook-&-line	Exempt					
Total Non-Trawl	833					
PSQ Reserve [8]	342		7,275	326,250	73,500	222,750
Grand Total	4,575	1,526	97,000	4,350,000	980,000	2,970,000

[1] Refer to § 679.2 for definitions of areas.
[2] *C. opilio* Bycatch Limitation Zone. Boundaries are defined at 50 CFR part 679, fig. 13.
[3] The Council at its December 2001 meeting limited red king crab for trawl fisheries within the RKCSS to 35 percent of the total allocation to the rock sole/flathead sole/ ''other flatfish'' fishery category (§ 679.21(e)(3)(ii)(B)). ''Other flatfish'' for PSC monitoring includes all flatfish species, except for Pacific halibut (a prohibited species), Greenland turbot, rock sole, yellowfin sole, arrowtooth flounder.
[4] Greenland turbot, arrowtooth flounder, and sablefish fishery category.
[5] The Council at its December 2001 meeting apportioned the rockfish PSC amounts from June 30–December 31.
[6] Pollock other than pelagic trawl pollock, Atka mackerel, and ''other species'' fishery category.
[7] Any unused halibut PSC apportionment may be rolled into the following seasonal apportionment.
[8] With the exception of herring, 7.5 percent of each PSC limit is allocated to the multi-species CDQ program as PSQ reserve. The PSQ reserve is not allocated by fishery, gear or season.

To monitor halibut bycatch mortality allowances and apportionments, the Administrator, Alaska Region, NMFS (Regional Administrator), will use observed halibut bycatch rates, assumed mortality rates, and estimates of groundfish catch to project when a fishery's halibut bycatch mortality allowance or seasonal apportionment is reached. The Regional Administrator monitors a fishery's halibut bycatch mortality allowances using assumed mortality rates that are based on the best information available, including information contained in the annual SAFE reports.

The Council recommended, and NMFS concurs, that the assumed halibut discard mortality rates (DMRs) developed by staff of the International Pacific Halibut Commission (IPHC) for the 2001 BSAI groundfish fisheries be adopted for purposes of monitoring halibut bycatch allowances established for 2002 (Table 10). Results from analysis of halibut release condition data for 2000 showed continued stability in halibut DMRs for many fisheries. Plots of annual DMRs against the 10-year mean indicated little change since 1990 for some fisheries, particularly the major trawl fisheries. DMRs were more variable for the smaller fisheries which typically take minor amounts of halibut bycatch. For 2002, the Council adopted Preseason Assumed DMRs, which included use of the long-term mean DMR for a 3-year period before revisions are proposed except for the BSAI hook-and-line Pacific cod fishery and CDQ fisheries, for which the Council recommended setting annual DMRs. The IPHC will also continue to conduct annual analyses of observer data and recommend changes to the Preseason Assumed DMR where a fishery DMR shows large variation from the mean and for the CDQ fisheries. For 2002, the BSAI hook-and-line Pacific cod fishery DMR did not change; but the CDQ fishery DMRs were adjusted. The justification for these mortality rates is discussed in the final SAFE report dated November 2001.

TABLE 10.—ASSUMED PACIFIC HALIBUT DISCARD MORTALITY RATES FOR THE BSAI FISHERIES

Fishery	Preseason Assumed discard mortality (percent)
Hook-and-line gear fisheries:	
Rockfish	25
Pacific cod	12
Greenland turbot	18
Sablefish	22
Other Species	12
Trawl gear fisheries:	
Midwater pollock	84
Nonpelagic pollock	76
Yellowfin sole	81
Rock sole	76
Flathead sole	67
Other flatfish	71
Rockfish	69
Pacific cod	67
Atka mackerel	75
Greenland turbot	70
Sablefish	50
Other species	67
Pot gear fisheries:	
Pacific cod	8
Other species	8
CDQ Trawl fisheries:	
Atka mackerel	89
Flathead sole	83
Midwater pollock	88
Nonpelagic pollock	90
Rockfish	89
Yellowfin sole	77
CDQ Hook-and-line fisheries:	
Pacific cod	13
Greenland turbot	14
CDQ Pot fisheries:	
Pacific cod	7
Sablefish	38

Directed Fishing Closures

In accordance with § 679.20(d)(1)(i), if the Regional Administrator determines that any allocation or apportionment of a target species or ''other species'' category has been or will be reached, the Regional Administrator may establish a directed fishing allowance for that species or species group. If the Regional Administrator establishes a directed fishing allowance, and that allowance is or will be reached before the end of the fishing year, NMFS will prohibit directed fishing for that species or species group in the specified subarea or district (§ 697.20(d)(1)(iii)). Similarly, under § 679.21(e), if the Regional Administrator determines that a fishery category's bycatch allowance of halibut, red king crab, or *C. bairdi* Tanner crab for a specified area has been reached, the Regional Administrator will prohibit directed fishing for each species in that category in the specified area.

The Regional Administrator has determined that the following remaining allocation amounts will be necessary as incidental catch to support other anticipated groundfish fisheries for the 2002 fishing year:

Bogoslof District:
Pollock—90 mt
Aleutian Islands subarea:
Pollock—900 mt
Northern rockfish—6,236 mt
Shortraker/rougheye rockfish—844 mt
''Other rockfish''—575 mt
Bering Sea subarea:
Pacific ocean perch—2,227 mt
''Other rockfish''—307 mt
Northern rockfish—16 mt
Shortraker/rougheye rockfish—99 mt

Consequently, in accordance with § 679.20(d)(1)(i), the Regional Administrator establishes the directed fishing allowances for the above species or species groups as zero.

Therefore, in accordance with § 679.20(d)(1)(iii), NMFS immediately is prohibiting directed fishing for these species in the specified areas and these closures will remain in effect through 2400 hrs, Alaska local time (A.l.t.), December 31, 2002, effective January 1, 2002, through July 8, 2002.

In addition, the BSAI Zone 1 annual red king crab bycatch allowance specified for the trawl rockfish fishery (§ 679.21(e)(3)(iv)(D)) is 0 mt and the BSAI first seasonal halibut bycatch allowance specified for the trawl rockfish fishery is 0 mt. The BSAI annual halibut bycatch allowance specified for the trawl Greenland turbot/arrowtooth flounder/sablefish fishery categories, (§ 679.21(e)(3)(iv)(C)) is 0 mt. Therefore, in accordance with § 1(e)(7)(ii) and (v), NMFS is prohibiting directed fishing for rockfish by vessels using trawl gear in Zone 1 of the BSAI and directed fishing for Greenland turbot/arrowtooth flounder/sablefish by vessels using trawl gear in the BSAI for the entire 2002 fishing year. NMFS also is prohibiting directed fishing for rockfish outside Zone 1 in the BSAI until 1200 hrs, A.l.t, June 30, 2002, due to 0 amounts of halibut bycatch allowance apportioned to this fishery prior to that date.

While these closures are in effect, the maximum retainable bycatch amounts at § 679.20(e) and (f) apply at any time during a fishing trip. These closures to directed fishing are in addition to closures and prohibitions found in regulations at 50 CFR part 679. Refer to § 679.2 for definitions of areas. In the BSAI, ''other rockfish'' includes *Sebastes* and *Sebastolobus* species except for Pacific ocean perch, shortraker, rougheye, and northern rockfish.

BS Subarea Inshore Pollock Allocations

Under § 679.4, NMFS set out procedures for AFA inshore catcher vessel pollock cooperatives to apply for and receive cooperative fishing permits and inshore pollock allocations. NMFS received applications from seven inshore catcher vessel cooperatives. Table 11 lists the pollock allocations to the seven inshore catcher vessel pollock cooperatives that have been approved and permitted by NMFS for the 2002 fishing year. Allocations for cooperatives and vessels not participating in cooperatives are not made for the AI subarea because the AI subarea has been closed to directed fishing for pollock. These allocations may be revised based on any corrections to AFA vessels' catch history.

TABLE 11.—BERING SEA SUBAREA INSHORE COOPERATIVE ALLOCATIONS

Cooperative name and member vessels	Sum of member vessel's official catch histories [1]	Percentage of inshore sector allocation (percent)	Annual co-op allocation
Akutan Catcher Vessel Association: ALDEBARAN, ARCTIC EXPLORER, ARCTURUS, BLUE FOX, CAPE KIWANDA, COLUMBIA, DOMINATOR, EXODUS, FLYING CLOUD, GOLDEN DAWN, GOLDEN PISCES, HAZEL LORRAINE, INTREPID EXPLORER, LESLIE LEE, LISA MELINDA, MAJESTY, MARCY J, MARGARET LYN, NORDIC EXPLORER, NORTHERN PATRIOT, NORTHWEST EXPLORER, PACIFIC RAM, PACIFIC VIKING, PEGASUS, PEGGY JO, PERSEVERANCE, PREDATOR, RAVEN, ROYAL AMERICAN, SEEKER, SOVEREIGNTY, TRAVELER, VIKING EXPLORER	245,527	28.085	180,169
Arctic Enterprise Association: BRISTOL EXPLORER, OCEAN EXPLORER, PACIFIC EXPLORER	36,807	4.210	27,009

TABLE 11.—BERING SEA SUBAREA INSHORE COOPERATIVE ALLOCATIONS—Continued

Cooperative name and member vessels	Sum of member vessel's official catch histories [1]	Percentage of inshore sector allocation (percent)	Annual co-op allocation
Northern Victor Fleet Cooperative: ANITA J, COLLIER BROTHERS, COMMODORE, EXCALIBUR II, GOLDRUSH, HALF MOON BAY, MISS BERDIE, NORDIC FURY, PACIFIC FURY, POSEIDON, ROYAL ATLANTIC, SUNSET BAY, STORM PETREL	73,656	8.425	54,049
Peter Pan Fleet Cooperative: AMBER DAWN, AMERICAN BEAUTY, ELIZABETH F, MORNING STAR, OCEAN LEADER, OCEANIC, PROVIDIAN, TOPAZ, WALTER N	18,693	2.138	13,717
Unalaska Cooperative: ALASKA ROSE, BERING ROSE, DESTINATION, GREAT PACIFIC, MESSIAH, MORNING STAR, MS AMY, PROGRESS, SEA WOLF, VANGUARD, WESTERN DAWN	106,737	12.209	78,324
UniSea Fleet Cooperative: ALSEA, AMERICAN EAGLE, ARGOSY, AURIGA, AURORA, DEFENDER, GUN-MAR, NORDIC STAR, PACIFIC MONARCH, SEADAWN, STARFISH, STARLITE	201,566	23.056	147,910
Westward Fleet Cooperative: A.J., ALASKAN COMMAND, ALYESKA, ARCTIC WIND, CAITLIN ANN, CHELSEA K, DONA MARTITA, FIERCE ALLEGIANCE, HICKORY WIND, OCEAN HOPE 3, PACIFIC KNIGHT, PACIFIC PRINCE, STARWARD, VIKING, WESTWARD I	189,544	21.681	139,089
Open access AFA vessels	1,707	0.195	1,252
Total inshore allocation	874,238	100	641,520

[1] Under 679.62(e)(1) the individual catch history for each vessel is equal to the vessel's best 2 of 3 years inshore pollock landings from 1995 through 1997 and includes landings to catcher/processors for vessels that made 500 or more mt of landings to catcher/processors from 1995 through 1997.

Under § 679.20(a)(5)(i)(C), NMFS must subdivide the inshore pollock allocation into allocations for cooperatives and vessels not fishing in a cooperative (i.e., the open access sector). In addition, under § 679.22(a)(11)(vii), NMFS must establish harvest limits inside the Steller sea lion conservation area (SCA) and provide a set-aside so that catcher vessels less than or equal to 99 ft (30.2 m) LOA have the opportunity to operate entirely within the SCA during the A season. Accordingly, Table 12 lists the apportionment of the BS subarea inshore pollock allocation into allocations for vessels fishing in a cooperative and for vessels not participating in a cooperative and establishes a cooperative-sector SCA set-aside for AFA catcher vessels less than or equal to 99 ft (30.2 m) LOA. The SCA set-aside for sector catcher vessels less than or equal to 99 ft (30.2 m) LOA that are not participating in a cooperative will be established inseason based on actual participation levels and is not included in Table 12. These allocations may be revised based on any corrections to AFA vessels' catch history.

TABLE 12.—BERING SEA SUBAREA POLLOCK ALLOCATIONS TO THE COOPERATIVE AND OPEN ACCESS SECTORS OF THE INSHORE POLLOCK FISHERY. AMOUNTS ARE EXPRESSED IN METRIC TONS

	A season TAC	A season inside SCA [1]	B season TAC
Cooperative sector:			
Vessels > 99 ft	n/a	161,601	n/a
Vessels ≤ 99 ft	n/a	17,675	n/a
Total	256,107	179,275	384,161
Open access sector	501	[2] 351	751
Total inshore	256,608	179,626	384,912

[1] Steller sea lion conservation area established at § 679.22(a)(11)(vii). The harvest limit for the SCA applies until April 1.

[2] SCA limitations for vessels less than or equal to 99 ft LOA that are not participating in a cooperative will be established on an inseason basis in accordance with § 679.22(a)(11)iiiv)(C)(*2*) which specifies that "the Regional Administrator will prohibit directed fishing for pollock by vessels catching pollock for processing by the inshore component greater than 99 ft (30.2 m) LOA before reaching the inshore SCA harvest limit during the A season to accommodate fishing by vessels less than or equal to 99 ft (30.2 m) inside the SCA for the duration of the inshore seasonal opening."

2002 Unrestricted AFA Catcher/Processor Sideboards

Regulations at § 679.63(a) establish a formula for setting AFA catcher/processor sideboard limits for non-pollock groundfish and PSC in the BSAI. The basis for these sideboard amounts was recommended by the Council and is described in detail in the Emergency Interim Rule to Implement Major Provisions of the AFA (64 FR 4520, January 28, 2000). The 2002 catcher/processor sideboards are set out in Table 13 below.

All non-pollock groundfish that is harvested by unrestricted AFA catcher/processors, whether as targeted catch or bycatch, will be deducted from the harvest limits in Table 13. However, non-pollock groundfish that is delivered to listed catcher/processors by catcher vessels will not be deducted from the 2002 harvest limits for the listed catcher/processors.

TABLE 13.—2002 UNRESTRICTED BSAI AFA CATCHER/PROCESSOR GROUNDFISH SIDEBOARDS

(Amounts are Expressed in Metric Tons)

Target species	Area	1995–1997			2002 ITAC available to trawl C/Ps	2002 C/P sideboard amount
		Total catch	Available TAC	Ratio		
Pacific cod trawl	BSAI	13,547	51,450	0.263	43,475	11,434
Sablefish trawl	BS	8	1,736	0.005	820	4
	AI	1	1,135	0.001	542	1
Atka mackerel	Western AI			0.200		
	A season [1]	n/a	n/a	0.100	9,111	911
	CH limit [2]					547
	B season	n/a	n/a	0.100	9,111	911
	CH limit					547
	Central AI			0.115		
	A season [1]	n/a	n/a	0.058	11,008	633
	CH limit					380
	B season	n/a	n/a	0.058	11,008	633
	CH limit					380
Yellowfin sole	BSAI	123,003	527,000	0.233	73,100	17,032
Rock sole	BSAI	14,753	202,107	0.073	45,900	3,351
Greenland turbot	BS	168	16,911	0.010	4,958	50
	AI	31	6,839	0.005	2,442	12
Arrowtooth flounder	BSAI	788	36,873	0.021	13,600	286
Flathead sole	BSAI	3,030	87,975	0.034	34,000	1,156
Alaska Plaice	BSAI			0.034	10,200	347
Other flatfish	BSAI	12,145	92,428	0.131	2,550	1,336
Pacific ocean perch	BS	58	5,760	0.010	2,620	26
	Western AI	356	12,440	0.029	5,236	152
	Central AI	95	6,195	0.015	2,831	42
	Eastern AI	112	6,265	0.018	3,201	58
Northern rockfish	BS			0.078	16	1
	AI	1,034	13,254	0.078	6,236	486
Shortraker/rougheye	BS			0.024	99	24
	AI	68	2,827	0.024	843	20
Other rockfish	BS	39	1,026	0.038	307	12
	AI	95	1,924	0.049	575	28
Squid	BSAI	7	3,670	0.002	1,675	3
Other species	BSAI	3,551	65,925	0.054	26,201	1,415

[1] The seasonal apportionment of Atka mackerel in the open access fishery is 50 percent in the A season and 50 percent in the B season. Unrestricted AFA catcher/processors are limited to harvesting no more than 20 and 11.5 percent of the available TAC in the Western and Central AI subareas respectively. Unrestricted AFA catcher/processors are prohibited from harvesting Atka mackerel in the Eastern Aleutian Islands District and Bering Sea subarea (paragraph 211(b)(2)(C)).

[2] Critical habitat (CH) allowance refers to the amount of each seasonal allowance that is available for fishing inside critical habitat (50 CFR part 679 Table 21). In 2002, the percentage of TAC available for fishing inside critical habitat area is 60 percent in the Western and Central AI.

Regulations at § 679.63(a)(2) establish a formula for PSC sideboards for unrestricted AFA catcher/processors. These amounts are equivalent to the percentage of prohibited species bycatch limits harvested in the non-pollock groundfish fisheries by the AFA catcher/processors listed in subsection 208(e) and section 209 of the AFA from 1995 through 1997. Prohibited species amounts harvested by these catcher/processors in BSAI non-pollock groundfish fisheries from 1995 through 1997 are shown in Table 14. These data were used to calculate the relative amount of prohibited species catch limits harvested by pollock catcher/processors, which were then used to determine the prohibited species harvest limits for unrestricted AFA catcher/processors in the 2002 non-pollock groundfish fisheries.

PSC that is caught by unrestricted AFA catcher/processors participating in any non-pollock groundfish fishery listed in Table 13 shall accrue against the 2002 PSC limits for the listed catcher/processors. Regulations at § 679.21(e)(3)(v) provide authority to close directed fishing for non-pollock groundfish for unrestricted AFA catcher/processors once a 2002 PSC limitation listed in Table 14 is reached.

Crab or halibut PSC that is caught by unrestricted AFA catcher/processors while fishing for pollock will accrue against the bycatch allowances annually specified for either the midwater pollock or the pollock/Atka mackerel/other species fishery categories under § 679.21(e).

TABLE 14.—2002 UNRESTRICTED BSAI AFA CATCHER/PROCESSOR PROHIBITED SPECIES SIDEBOARD AMOUNTS

PSC species	1995–1997			2002 PSC available to trawl vessels	2002 C/P limit
	PSC catch	Total PSC	Ratio		
Halibut mortality	955	11,325	0.084	3,400	286 mt.
Red king crab	3,098	473,750	0.007	89,725	628 crab.
C. opilio	2,323,731	15,139,178	0.153	4,023,750	615,634 crab.
C. bairdi					
Zone 1	385,978	2,750,000	0.140	906,500	126,910 crab.

TABLE 14.—2002 UNRESTRICTED BSAI AFA CATCHER/PROCESSOR PROHIBITED SPECIES SIDEBOARD AMOUNTS—Continued

PSC species	1995–1997			2002 PSC available to trawl vessels	2002 C/P limit
	PSC catch	Total PSC	Ratio		
Zone 2	406,860	8,100,000	0.050	2,747,250	137,363 crab.

2002 AFA Catcher Vessel Sideboards

Regulations at § 679.63(b) establish a formula for setting AFA catcher vessel groundfish and PSC sideboard amounts for the BSAI. The basis for these sideboard amounts was recommended by the Council and is described in detail in the Emergency Interim Rule to Implement Major Provisions of the AFA (64 FR 4520, January 28, 2000). For 2002, the ratio of 1995 to 1997 AFA catcher vessel retained catch to the 1995 to 1997 TAC has been revised from 2001 by NMFS. These revisions are based on ADF&G editing of fish tickets and NMFS editing of observer catch data and weekly production reports. The 2002 AFA catcher vessel sideboards amounts are shown in Tables 15 and 16.

All harvests of groundfish sideboard species made by non-exempt AFA catcher vessels, whether as targeted catch or bycatch, will be deducted from the sideboard limits listed in Table 15.

TABLE 15.—2002 BSAI AFA CATCHER VESSEL (CV) SIDEBOARDS

[Amounts are Expressed in Metric Tons]

Species	Fishery by Area/Season/Processor/Gear	Ratio of 1995–1997 AFA CV catch to 1995–1997 TAC	2002 Initial TAC	2002 catcher vessel sideboard
Pacific cod	BSAI.			
	jig gear	0.0000	3,700	0
	hook-and-line CV			
	Jan 1—Jun 10	0.0006	169	0
	Jun 10—Dec 31	0.0006	113	0
	Pot gear			
	Jan 1—Jun 10	0.0006	10,305	6
	Sept 1—Dec 31	0.0006	6,870	4
	CV < 60 feet LOA using hook-and-line or pot gear.	0.0006	1,314	0
	trawl gear			
	catcher vessel			
	Jan 20—Apr 1	0.8609	30,433	26,200
	Apr 1—Jun 10	0.8609	4,348	3,743
	Jun 10—Nov 1	0.8609	8,695	7,486
Sablefish	BS trawl gear	0.0906	820	74
	AI trawl gear	0.0645	542	35
Atka mackerel	Eastern AI/BS			
	jig gear	0.0031	51	0
	other gear			
	Jan 1—Apr 15	0.0032	2,518	8
	Sept 1—Nov 1	0.0032	2,518	8
	Central AI			
	Jan—Apr 15	0.0001	11,008	1
	inside CH	0.0001	6,605	1
	Sept 1—Nov 1	0.0001	11,008	1
	inside CH	0.0001	6,605	1
	Western AI			
	Jan—Apr 15	0.0000	9,111	0
	inside CH	0.0000	5,467	0
	Sept 1—Nov 1	0.0000	9,111	0
	inside CH	0.0000	5,467	0
Yellowfin sole	BSAI	0.0647	73,100	4,730
Rock sole	BSAI	0.0341	45,900	1,565
Greenland Turbot	BS	0.0645	4,958	320
	AI	0.0205	2,442	50
Arrowtooth flounder	BSAI	0.0690	13,600	938
Alaska Plaice	BSAI	0.0441	10,200	450
Other flatfish	BSAI	0.0441	2,550	112
POP	BS	0.1000	2,620	262
	Eastern AI	0.0077	3,201	25
	Central AI	0.0025	2,831	7
	Western AI	0.0000	5,236	0
Northern rockfish	BS	0.0048	16	0
	AI	0.0089	6,239	56
Shortraker/Rougheye	BS	0.0048	99	0
	AI	0.0035	843	3

TABLE 15.—2002 BSAI AFA CATCHER VESSEL (CV) SIDEBOARDS—Continued

[Amounts are Expressed in Metric Tons]

Species	Fishery by Area/Season/Processor/Gear	Ratio of 1995–1997 AFA CV catch to 1995–1997 TAC	2002 Initial TAC	2002 catcher vessel sideboard
Other rockfish	BS	0.0327	307	10
	AI	0.0095	575	5
Squid	BSAI	0.3827	1,675	641
Other species	BSAI	0.0541	26,201	1,417
Flathead Sole	BS trawl gear	0.0505	21,250	1,073

Regulations at § 679.63(b) establish a formula for PSC sideboards for AFA catcher vessels. The AFA catcher vessel PSC bycatch limit for halibut in the BSAI, and each crab species in the BSAI for which a trawl bycatch limit has been established as a percentage of the PSC limit equal to the ratio of aggregate retained groundfish catch by AFA catcher vessels in each PSC target category from 1995 through 1997 relative to the retained catch of all vessels in that fishery from 1995 through 1997. These amounts are listed in Table 16.

Halibut and crab PSC that is caught by AFA catcher vessels participating in any non-pollock groundfish fishery listed in Table 15 will accrue against the 2002 PSC limits for the AFA catcher vessels. Regulations at § 679.21(d)(8) and (e)(3)(v) provide authority to close directed fishing for non-pollock groundfish for AFA catcher vessels once a 2002 PSC limitation listed in Table 16 for the BSAI is reached. PSC that is caught by AFA catcher vessels while fishing for pollock in the BSAI will accrue against either the midwater pollock or the pollock/Atka mackerel/other species fishery categories.

TABLE 16.—2002 AFA CATCHER VESSEL (CV) PROHIBITED SPECIES CATCH (PSC) SIDEBOARD AMOUNTS [1] FOR THE BSAI

PSC species	Target fishery category [2] and season	Ratio of 1995–1997 AFA CV retained catch to total retained catch	2002 PSC Limit	2002 AFA catcher vessel PSC sideboard
Halibut	Pacific cod trawl	0.6183	1,434	887
	Pacific cod hook-and-line or pot	0.0022	775	2
	Yellowfin sole.			
	Jan. 20—Apr. 1	0.1144	262	30
	Apr. 1—May 21	0.1144	195	22
	May 21—June 30	0.1144	49	6
	June 30—Dec. 31	0.1144	380	43
	Rock sole/flat. sole/other flatfish.			
	Jan. 20—Apr. 1	0.2841	448	127
	Apr. 1—June 30	0.2841	164	47
	June 30—Dec. 31	0.2841	167	47
	Turbot/Arrowtooth/Sablefish	0.2327	0	0
	Rockfish	0.0245	69	2
	Pollock/Atka mackerel/Other sp	0.0227	232	5
Red King Crab	Pacific cod	0.6183	11,664	7,212
Zone 1	Yellowfin sole	0.1144	16,664	1,906
	Rock sole/flat. sole/other flatfish	0.2841	59,782	16,984
	Pollock/Atka mackerel/Other sp	0.0227	1,615	37
C. opilio	Pacific cod	0.6183	124,736	77,124
COBLZ [3,4]	Yellowfin sole	0.1144	2,776,981	317,687
	Rock sole/flat. sole/other flatfish	0.2841	969,130	275,330
	Pollock/Atka mackerel/Other sp	0.0227	72,428	1,644
	Rockfish [5]	0.0245	40,237	986
	Turbot/Arrowtooth/Sablefish	0.2327	40,238	9,363
C. bairdi	Pacific cod	0.6183	183,112	113,218
Zone 1	Yellowfin sole	0.1144	340,844	38,993
	Rock sole/flat. sole/other flatfish	0.2841	365,320	103,787
	Pollock/Atka mackerel/Other sp	0.0227	17,224	391
C. bairdi	Pacific cod	0.6183	324,176	200,438
Zone 2	Yellowfin sole	0.1144	1,788,459	204,600
	Rock sole/flat. sole/other flatfish	0.2841	596,154	169,367
	Pollock/Atka mackerel/Other sp	0.0227	27,473	624
	Rockfish	0.0245	10,988	269

[1] Halibut amounts are in metric tons of halibut mortality. Crab amounts are in numbers of animals.
[2] Target fishery categories are defined in regulation at § 679.21(e)(3)(iv).
[3] *C. opilio* Bycatch Limitation Zone. Boundaries are defined at Figure 13 of 50 CFR part 679.

[4] The Council at its December 2001 meeting limited red king crab for trawl fisheries within the RKCSS to 35 percent of the total allocation to the rock sole/flathead sole/'other flatfish'' fishery category (§ 679.21(e)(3)(ii)(B)). ''Other flatfish'' for PSC monitoring includes all flatfish species, except for Pacific halibut (a prohibited species), Greenland turbot, rock sole, yellowfin sole, arrowtooth flounder.

[5] The Council at its December 2001 meeting apportioned the rockfish PSC amounts from June 30—December 31.

2002 Sideboard Directed Fishing Closures

Catcher/Processor Sideboard Closures

The Regional Administrator has determined that many of the AFA catcher/processor sideboard amounts listed in Table 13 are necessary as incidental catch to support other anticipated groundfish fisheries for the 2002 fishing year. In accordance with § 679.20(d)(1)(iv), the Regional Administrator establishes these following amounts as directed fishing allowances. The Regional Administrator finds that many of these directed fishing allowances will be reached before the end of the year. Therefore, in accordance with § 679.20(d)(1)(iii), NMFS is prohibiting directed fishing by unrestricted AFA catcher/processors for the species in the specified areas set out in Table 17.

TABLE 17.—AFA UNRESTRICTED CATCHER/PROCESSOR SIDEBOARD DIRECTED FISHING CLOSURES.[1]

[These closures take effect 1200 HRS A.L.T., January 20, 2002 and remain in effect through 2400 HRS, A.L.T., December 31, 2002]

Species	Area	Gear types
Sablefish trawl	BSAI	all.
Greenland turbot	BSAI	all.
Arrowtooth flounder	BSAI	all.
Pacific ocean perch	BSAI	all.
Northern rockfish	BSAI	all.
Shortraker/Rougheye rockfish.	BSAI	all.
Other rockfish	BSAI	all.
Squid	BSAI	all.
Other species	BSAI	all.

[1] Maximum retainable percentages may be found in Table 11 to 50 CFR part 679.

AFA Catcher Vessel Sideboard Closures

The Regional Administrator has determined that many of the AFA catcher vessel sideboard amounts listed in Table 15 are necessary as incidental catch to support other anticipated groundfish fisheries for the 2002 fishing year. In accordance with § 679.20(d)(1)(iv), the Regional Administrator establishes these amounts as directed fishing allowances. The Regional Administrator finds that many of these directed fishing allowances will be reached before the end of the year. Therefore, in accordance with § 679.20(d)(1)(iii), NMFS is prohibiting directed fishing by non-exempt AFA catcher vessels for the species in the specified areas set out in Table 18.

TABLE 18.—AFA CATCHER VESSEL SIDEBOARD DIRECTED FISHING CLOSURES [1]

[These closures take effect 12 Noon A.L.T., January 20, 2002. These closures will remain in effect through 2400 hrs, A.L.T., December 31, 2002]

Species	Area	Gear
Pacific cod	BSAI	hook-and-line, pot, jig.
Sablefish	BSAI	trawl.
Atka mackerel	BSAI	all.
Greenland Turbot	BSAI	all.
Arrowtooth flounder	BSAI	all.
Pacific ocean perch	BSAI	all.
Northern rockfish	BSAI	all.
Shortraker/rougheye rockfish.	BSAI	all.
Other rockfish	BSAI	all.
Squid	BSAI	all.
Other species	BSAI	all.

[1] Maximum retainable percentages may be found in Table 11 to 50 CFR part 679.

Increase in the Contribution of Arrowtooth Flounder CDQ to the CDQ Non-specific Reserve

Regulations at § 679.31(f) establish the CDQ non-specific reserve, comprised of 15 percent of the CDQ reserves of arrowtooth flounder and ''other species'' (skates, sharks, sculpin, and octopus). These species are taken incidentally in the CDQ fisheries. A CDQ group may request that NMFS transfer amounts in its CDQ non-specific reserve back into either its arrowtooth flounder or ''other species'' CDQ categories to reduce the possibility that the catch of these species would limit overall CDQ catch. Species or species groups that contribute to the CDQ non-specific reserve are low-valued species for which no target fishery currently exists. These species have an adequate buffer between the TAC and the overfishing limit (OFL).

During the 2002 harvest specification process for the BSAI fisheries, the Bering Sea pollock TAC was set at 1,485,000 mt, based on increases to the 2002 pollock ABC and OFL. This is a 6 percent increase over the 2001 pollock TAC of 1,400,000 mt. The total BSAI TAC for all groundfish must be maintained within a required optimum yield range of 1.4 million to 2.0 million mt. In order to stay within the 2.0 million mt limit, the Council often sets the TAC for a particular groundfish species below its designated ABC. It selected an arrowtooth flounder TAC of approximately 14 percent of the arrowtooth flounder 2002 ABC of 113,000 mt. This means that the amount of the arrowtooth flounder CDQ reserve and the subsequent contribution of this amount to the CDQ non-specified reserve is proportionately decreased for 2002.

During the first 3 years of the groundfish CDQ fisheries, the CDQ non-specific reserve contained sufficient amounts of quota to support the bycatch needs in the ''other species'' CDQ category. Arrowtooth flounder was the largest contributor to the non-specific reserve in 1999 and 2000, the first complete years of groundfish CDQ fishing. For these years, the arrowtooth flounder TAC was set at or close to the acceptable biological catch (ABC) level. However, in 2001, the arrowtooth flounder TAC was set significantly less than the arrowtooth flounder ABC. This initiated concern among CDQ program participants that vessels fishing for groundfish CDQ would catch the ''other species'' CDQ allocation before they fully harvested target species such as pollock, Pacific cod, sablefish, and Greenland turbot. One of the primary reasons they cited for the shortfall in ''other species'' CDQ was the reduction in the 2001 arrowtooth flounder TAC. NMFS regulations limit the amount of ''other species'' CDQ available to each CDQ group and prohibit the groups from exceeding their allocations.

At its April 2001 meeting, the Council stated that the CDQ non-specific reserve was ''intended, in part, to provide adequate 'other species' quota to allow reasonable CDQ fisheries.'' At its June 2001 meeting, the Council requested that NMFS adjust the contribution of arrowtooth flounder CDQ to the CDQ non-specific reserve from 15 percent to 50 percent via emergency rulemaking. This was done in the SSL/Harvest Specifications interim emergency rule extension on July 17, 2001 (66 FR 37167). During the 2002 BSAI groundfish specification setting process, the Council again requested that NMFS amend the CDQ non-specific reserve to increase the contribution of arrowtooth flounder to the CDQ non-specific reserve from 15 percent of the arrowtooth flounder CDQ reserve to 50 percent of the arrowtooth flounder CDQ reserve for 2002.

In response to the Council's request, NMFS is amending the CDQ non-specific reserve to increase the contribution of arrowtooth flounder to the CDQ non-specific reserve from 15 percent of the arrowtooth flounder CDQ reserve to 50 percent of this reserve for 2002. This increase will allow CDQ groups to transfer additional quota from the CDQ non-specific reserve to the ''other species'' CDQ account to reduce the possibility that the incidental catch of ''other species'' would prevent the CDQ groups from fully harvesting their target species allocations.

The maximum amount of ''other species'' available for harvest in the combined CDQ and non-CDQ fisheries is the aggregate amount of the following components: The open access ITAC (26,201 mt), the CDQ reserve (2,312 mt), and the current amount of arrowtooth flounder in the CDQ non-specific reserve that could be released to the ''other species'' category (180 mt). The sum of these components is 28,693 mt. If 50 percent (600 mt) of the arrowtooth flounder CDQ reserve is moved to the non-specific CDQ reserve and subsequently released to the ''other species'' CDQ category, the revised total amount of ''other species'' available for harvest in the combined open access and CDQ fisheries would increase to 29,113 mt. This is 420 mt more than the currently available total ''other species'' amount of 28,693 mt. However, the increase in the overall amount of ''other species'' available for harvest via transfers from the CDQ non-specific reserve is still less than the combined CDQ and non-CDQ fisheries 2002 ''other species'' TAC of 30,825 mt and will not likely result in the total catch of ''other species'' exceeding the 2002 ''other species'' TAC. NMFS has determined that the TAC, ABC, and OFL controls associated with both the ''other species'' and arrowtooth flounder species categories are not compromised by this action. Even after adjusting the contribution of arrowtooth flounder to the CDQ non-specific reserve, the total permissible catch of ''other species'' and arrowtooth flounder in both the CDQ and non-CDQ groundfish fisheries remains below the initially recommended TAC for each species. The 2002 ABC and OFL thresholds are not impacted, since this action does not adjust permissible overall catch levels to the extent that they approach the ABC or OFL for either species. The aggregate amount of groundfish allocated to the CDQ sector will remain the same even with this increased contribution of arrowtooth flounder to the CDQ non-specific reserve, and the CDQ sector will still be constrained by existing prohibitions against exceeding specific CDQ amounts.

Gulf of Alaska

The SSC adopted the OFL recommendations from the Plan Team, which were provided in the November 2001 GOA SAFE report (See **ADDRESSES**) for all groundfish species categories. The SSC also adopted the ABC and area apportionment recommendations from the Plan Team, which were provided in the GOA SAFE report, for all of the groundfish species categories.

The AP adopted the SSC's OFL and ABC recommendations and developed TAC recommendations for all species. The Council adopted the AP's OFL, ABC, and TAC recommendations for all species.

The SSC's, AP's and Council's recommendation for the method of apportioning the sablefish ABC among management areas includes commercial fishery as well as survey data, as in 2001. NMFS stock assessment scientists believe that the use of unbiased commercial fishery data reflecting catch-per-unit effort provides a desirable input for stock distribution assessments. The use of commercial fishery data is evaluated annually to assure that unbiased information is included in stock distribution models. The Council's recommendation for sablefish area apportionments also takes into account the prohibition on the use of trawl gear in the Southeast Outside (SEO) District of the Eastern GOA and makes available 5 percent of the combined Eastern GOA sablefish ABCs to trawl gear for use as incidental catch in other directed groundfish fisheries in the West Yakutat (WYK) District.

The AP and Council recommended that the ABC for Pacific cod in the GOA be apportioned among regulatory areas based on the three most recent NMFS summer trawl surveys conducted in 1996, 1999, and 2001. As in previous years, the Plan Team, SSC, and Council recommended that total removals of Pacific cod from the GOA not exceed ABC recommendations. Accordingly, the Council recommended that the TACs be adjusted downward from the ABCs by amounts equal to the 2002 guideline harvest levels (GHL) established for Pacific cod by the State of Alaska for the State-managed fishery. The effect of the State's GHL on the Pacific cod TAC is discussed in greater detail below.

The Council's recommended ABCs are listed in Table 19. These amounts reflect harvest amounts that are less than the specified overfishing amounts. The sum of 2002 ABCs for all assessed groundfish is 394,780 mt, which is lower than the 2001 ABC total of 447,710 mt.

2002 GOA Harvest Specifications

Specifications of TAC and Reserves

The Council recommended that TACs be set equal to ABCs for pollock, deep-water flatfish, rex sole, sablefish, shortraker and rougheye rockfish, northern rockfish, Pacific Ocean perch, pelagic shelf rockfish, thornyhead rockfish, demersal shelf rockfish, and Atka mackerel. The Council recommended TACs be set less than the ABCs for Pacific cod, flathead sole, shallow-water flatfish, arrowtooth flounder, and other rockfish.

The TAC for pollock in the combined W/C/WYK area of the GOA has decreased from 89,415 mt in 2001 to 51,790 mt in 2002. The 2002 TAC in the SEO District of the Eastern GOA is unchanged from 2001 at 6,460 mt. The apportionment of annual pollock TAC among the Western and Central Regulatory Areas of the GOA reflects the seasonal biomass distribution and is discussed in greater detail below.

Under this emergency interim rule, the annual pollock TAC in the Western and Central Regulatory Areas of the GOA is divided into four equal seasonal apportionments. Twenty-five percent of the annual TAC in the Western and Central Regulatory Areas of the GOA is apportioned to the A season (January 20 through February 25), the B season (March 10 through May 31), the C season (August 25 through September 15), and the D season (October 1 through November 1) in Statistical Areas 610, 620, and 630 of the GOA (§ 679.23(d)(3)(i) through (iv)). The derivation of the seasonal apportionment amounts in these areas is discussed below.

The 2002 Pacific cod TAC is affected by the State's developing fishery for Pacific cod in State waters in the Central and Western GOA, as well as Prince William Sound (PWS). The SSC, AP, and Council recommended that the sum of all State and Federal water Pacific cod removals should not exceed the ABC. Accordingly, the Council recommended that the Pacific cod TAC be reduced from ABC levels to account for State GHLs in each regulatory area of the GOA so that the TAC for (1) The Eastern GOA is lower than the ABC by 864 mt, (2) the Central GOA is lower than the ABC by 6,890 mt, and (3) the Western GOA is lower than the ABC by 5,616 mt. These amounts reflect the sum of State's 2002 GHLs in these areas which are 25 percent, 21.75 percent, and 25 percent of the Eastern, Central,

and Western GOA ABCs, respectively. These percentages are unchanged from 2001.

NMFS is also establishing seasonal apportionments of the annual Pacific cod TAC in the Western and Central Regulatory Areas at 60 percent of the annual TAC for the January 1 through June 10 A season for nontrawl gear and January 20 through June 10 A season for trawl gear. 40 percent of the annual TAC is allocated to the B season. For nontrawl gear, the B season extends from September 1 through December 31 and for trawl gear the B seasons extends from September 1 through November 1. These seasonal apportionments of the annual Pacific cod TAC are discussed in greater detail below.

The FMP specifies that the amount for the ''other species'' category is calculated as 5 percent of the combined TAC amounts for target species. The 2002 GOA-wide ''other species'' TAC is 11,330 mt, which is 5 percent of the sum of the combined TAC amounts (226,560 mt) for the assessed target species. The sum of the TACs for all GOA groundfish is 237,890 mt, which is within the OY range specified by the FMP. The sum of the 2002 TACs is lower than the 2001 TAC sum of 285,994 mt. NMFS has reviewed the Council's recommended TAC specifications and apportionments and hereby approves these specifications under § 679.20(c)(3)(ii). The 2002 ABCs, TACs, and OFLs are shown in Table 19.

TABLE 19.—2002 ABCS, TACS, AND OVERFISHING LEVELS OF GROUNDFISH FOR THE WESTERN/CENTRAL/WEST YAKUTAT (W/C/WYK), WESTERN (W), CENTRAL (C), EASTERN (E) REGULATORY AREAS, AND IN THE WEST YAKUTAT (WYK), SOUTHEAST OUTSIDE (SEO), AND GULF-WIDE (GW) DISTRICTS OF THE GULF OF ALASKA

[Values are in metric tons]

Species	Area [1]	ABC	TAC	Overfishing
Pollock [2].				
Shumagin	(610)	17,730	17,730	
Chirikof	(620)	23,045	23,045	
Kodiak	(630)	9,850	9,850	
WYK	(640)	1,165	1,165	
Subtotal	W/C/WYK	51,790	51,790	75,480
SEO	(650)	6,460	6,460	8,610
Total		58,250	58,250	84,090
Pacific cod [3].				
	W	22,465	16,849	
	C	31,680	24,790	
	E	3,455	2,591	
Total		57,600	44,230	77,100
Flatfish (deep-water) [4]	W	180	180	
	C	2,220	2,220	
	WYK	1,330	1,330	
	SEO	1,150	1,150	
Total		4,880	4,880	6,430
Rex sole [4]	W	1,280	1,280	
	C	5,540	5,540	
	WYK	1,600	1,600	
	SEO	1,050	1,050	
Total		9,470	9,470	12,320
Flathead sole	W	9,000	2,000	
	C	11,410	5,000	
	WYK	1,590	1,590	
	SEO	690	690	
Total		22,690	9,280	29,530
Flatfish (shallow-water) [5]	W	23,550	4,500	
	C	23,080	13,000	
	WYK	1,180	1,180	
	SEO	1,740	1,740	
Total		49,550	20,420	61,810
Arrowtooth flounder	W	16,960	8,000	
	C	106,580	25,000	
	WYK	17,150	2,500	
	SEO	5,570	2,500	
Total		146,260	38,000	171,060
Sablefish [6]	W	2,240	2,240	
	C	5,430	5,430	
	WYK	1,940	1,940	
	SEO	3,210	3,210	
Subtotal	E	5,150	5,150	
Total		12,820	12,820	19,350
Pacific ocean perch [7]	W	2,610	2,610	3,110
	C	8,220	8,220	9,760

TABLE 19.—2002 ABCS, TACS, AND OVERFISHING LEVELS OF GROUNDFISH FOR THE WESTERN/CENTRAL/WEST YAKUTAT (W/C/WYK), WESTERN (W), CENTRAL (C), EASTERN (E) REGULATORY AREAS, AND IN THE WEST YAKUTAT (WYK), SOUTHEAST OUTSIDE (SEO), AND GULF-WIDE (GW) DISTRICTS OF THE GULF OF ALASKA—Continued

[Values are in metric tons]

Species	Area [1]	ABC	TAC	Overfishing
	WYK	780	780	
	SEO	1,580	1,580	
Subtotal	E			2,800
Total		13,190	13,190	15,670
Short raker/rougheye [8]	W	220	220	
	C	840	840	
	E	560	560	
Total		1,620	1,620	2,340
Other rockfish [9,10]	W	90	90	
	C	550	550	
	WYK	260	150	
	SEO	4,140	200	
Total		5,040	990	6,610
Northern Rockfish [10,12]	W	810	600	
	C	4,170	4,170	
	E	N/A	N/A	
Total		4,980	4,980	5,910
Pelagic shelf rockfish [13]	W	510	510	
	C	3,480	3,480	
	WYK	640	640	
	SEO	860	860	
Total		5,490	5,490	8,220
Thornyhead rockfish	W	360	360	
	C	840	840	
	E	790	790	
Total		1,990	1,990	2,330
Demersal shelf rockfish [11]	SEO	350	350	480
Atka mackerel	GW	600	600	6,200
Other species [14]	GW	[15] N/A	11,330	N/A
Total [16]		394,780	237,890	509,450

[1] Regulatory areas and districts are defined at § 679.2.

[2] Pollock is apportioned in the Western/Central Regulatory areas among three statistical areas. During the A and B seasons the apportionment is based on the relative distribution of pollock biomass at 23 percent, 68 percent, and 9 percent in Statistical Areas 610, 620, and 630 respectively. During the C and D seasons pollock is apportioned based on the relative distribution of pollock biomass at 47 percent, 23 percent, and 30 percent in Statistical Areas 610, 620, and 630 respectively. These seasonal apportionments are shown in Table 21. In the West Yakutat and the Southeast Outside Districts of the Eastern Regulatory Area the annual pollock TAC is not divided into seasonal allowances.

[3] The annual Pacific cod TAC is apportioned 60 percent to an A season and 40 percent to a B season in the Western and Central Regulatory Areas of the GOA. Pacific cod is allocated 90 percent for processing by the inshore component and 10 percent for processing by the offshore component. Seasonal apportionments and component allocations of TAC are shown in Table 22.

[4] ''Deep water flatfish'' means Dover sole, Greenland turbot, and deepsea sole.

[5] ''Shallow water flatfish'' means flatfish not including ''deep water flatfish,'' flathead sole, rex sole, or arrowtooth flounder.

[6] Sablefish is allocated to trawl and hook-and-line gears (Table 20).

[7] ''Pacific ocean perch'' means *Sebastes alutus.*

[8] ''Shortraker/rougheye rockfish'' means *Sebastes borealis* (shortraker) and *S. aleutianus* (rougheye).

[9] ''Other rockfish'' in the Western and Central Regulatory Areas and in the West Yakutat District means slope rockfish and demersal shelf rockfish. The category ''other rockfish'' in the Southeast Outside District means Slope rockfish.

[10] ''Slope rockfish'' means *Sebastes aurora* (aurora), *S. melanostomus* (blackgill), *S. paucispinis* (bocaccio), S. *goodei* (chilipepper), *S. crameri* (darkblotch), *S. elongatus* (greenstriped), *S. variegatus* (harlequin), *S. wilsoni* (pygmy), *S. babcocki* (redbanded), S. *proriger* (redstripe), *S. zacentrus* (sharpchin), *S. jordani* (shortbelly), *S. brevispinis* (silvergrey), S. *diploproa* (splitnose), *S. saxicola* (stripetail), *S. miniatus* (vermilion), and S. *reedi* (yellowmouth). In the Eastern GOA only, ''slope rockfish'' also includes northern rockfish, *S. polyspinous.*

[11] ''Demersal shelf rockfish'' means *Sebastes pinniger* (canary), *S. nebulosus* (china), *S. caurinus* (copper), *S. maliger* (quillback), *S. helvomaculatus* (rosethorn), *S. nigrocinctus* (tiger), and *S. ruberrimus* (yelloweye).

[12] ''Northern rockfish'' means *Sebastes polyspinis.*

[13] ''Pelagic shelf rockfish'' means *Sebastes ciliatus* (dusky), *S. entomelas* (widow), and *S. flavidus* (yellowtail).

[14] ''Other species'' means sculpins, sharks, skates, squid, and octopus. The TAC for ''other species'' equals 5 percent of the TACs of assessed target species.

[15] N/A means not applicable.

[16] The total ABC is the sum of the ABCs for assessed target species.

Apportionment of Reserves

Regulations implementing the FMP require 20 percent of each TAC for pollock, Pacific cod, flatfish, and the ''other species'' category be set aside in reserves for possible apportionment at a later date (§ 679.20(b)(2)). In 2001, NMFS reapportioned all of the reserves in the final harvest specifications. Between 1997 and 2000, NMFS retained the Pacific cod reserve to provide for a management buffer to account for excessive fishing effort and incomplete or late catch reporting. NMFS believes this is no longer necessary as estimates of catch and incidental catch needs in other directed fisheries have improved in recent years. For 2002, NMFS has reapportioned all of the reserve for pollock, Pacific cod, flatfish, and ''other species''. Specifications of TAC shown in Table 19 reflect apportionment of reserve amounts for these species and species groups.

Allocations of the Sablefish TACs to Vessels Using Hook-and-Line and Trawl Gear

Under § 679.20(a)(4)(i) and (ii), sablefish TACs for each of the regulatory areas and districts are allocated to hook-and-line and trawl gear. In the Western and Central Regulatory Areas, 80 percent of each TAC is allocated to hook-and-line gear and 20 percent of each TAC is allocated to trawl gear. In the Eastern Regulatory Area, 95 percent of the TAC is allocated to hook-and-line gear and 5 percent is allocated to trawl gear. The trawl gear allocation in the Eastern Regulatory Area may only be used to support incidental catch of sablefish in directed fisheries for other target species. In recognition of the trawl ban in the SEO District of the Eastern Regulatory Area, the Council recommended that 5 percent of the combined Eastern GOA sablefish be allocated to trawl gear in the WYK District and the remainder to vessels using hook-and-line gear. In the SEO District, 100 percent of the sablefish TAC is allocated to vessels using hook-and-line gear. This recommendation results in an allocation of 258 mt to trawl gear and 1,682 mt to hook-and-line gear in the WYK District and 3,210 mt to hook-and-line gear in the SEO District. Table 20 shows the allocations of the 2002 sablefish TACs between hook-and-line gear and trawl gear.

TABLE 20.—2002 SABLEFISH TAC SPECIFICATIONS IN THE GULF OF ALASKA AND ALLOCATIONS THEREOF TO HOOK-AND-LINE AND TRAWL GEAR

[Values are in metric tons]

Area/District	TAC	Hook-and-line apportionment	Trawl apportionment
Western	2,240	1,792	448
Central	5,430	4,344	1,086
West Yakutat	1,940	1,682	258
Southeast Outside	3,210	3,210	0
Total	12,820	11,028	1,792

Apportionments of Pollock TAC Among Seasons and Regulatory Areas, and Allocations for Processing by Inshore and Offshore Components

In the GOA, pollock is apportioned by season and area, and is further allocated for processing by inshore and offshore components. Under this emergency interim rule implementing Steller sea lion protection measures for 2002, the annual pollock TAC specified for the Western and Central Regulatory Areas of the GOA is apportioned into four equal seasonal allowances of 25 percent (§ 679.20(a)(5)(ii)(C)). As established by § 679.23(d)(3), the A, B, C, and D season allowances are available from January 20 through February 25, from March 10 through May 31, from August 25 through September 15, and from October 1 through November 1, respectively.

Pollock TACs in the Western and Central Regulatory Areas of the GOA in the A and B seasons are apportioned among Statistical Areas 610, 620, and 630 in proportion to the distribution of pollock biomass as determined by a composite of NMFS winter surveys and in the C and D seasons in proportion to the distribution of pollock biomass as determined by the four most recent NMFS summer surveys. Within any fishing year, underage or overage of a seasonal allowance may be added to or subtracted from subsequent seasonal allowances in a manner to be determined by the Regional Administrator, Alaska Region, NMFS, provided that the sum of the revised seasonal allowances does not exceed 30 percent of the annual TAC apportionment for the Central and Western Regulatory Areas in the GOA (§ 679.20(a)(5)(ii)(C)). For 2002, 30 percent of the annual TAC for the Central and Western Regulatory Areas is 15,187 mt. For 2002, the Regional Administrator has determined that within each area for which a seasonal allowance is established, any overage or underage of harvest at the beginning of the next season(s) shall be subtracted from or added to the following season provided that the resulting sum of seasonal allowances in the Central and Western Regulatory Areas does exceed 15,187 mt in any single season. The WYK and SEO District pollock TACs of 1,165 mt and 6,460 mt, respectively, are not allocated seasonally.

Regulations at § 679.20(a)(6)(ii) require that 100 percent of the pollock TAC in all regulatory areas and all seasonal allowances thereof be allocated to vessels catching pollock for processing by the inshore component after subtraction of amounts that are projected by the Regional Administrator to be caught by, or delivered to, the offshore component incidental to directed fishing for other groundfish species. The amount of pollock available for harvest by vessels harvesting pollock for processing by the offshore component is that amount actually taken as bycatch during directed fishing for groundfish species other than pollock, up to the maximum retainable bycatch amounts allowed under regulations at § 679.20(e) and (f). At this time, these bycatch amounts are unknown and will be determined during the fishing year.

The seasonal biomass distribution of pollock in the Western and Central GOA, area apportionments, and seasonal apportionments for the A, B, C, and D seasons are summarized in Table 21, except that amounts of pollock for processing by the inshore and offshore component are not shown.

TABLE 21.—DISTRIBUTION OF POLLOCK IN THE CENTRAL AND WESTERN REGULATORY AREAS OF THE GULF OF ALASKA; SEASONAL BIOMASS DISTRIBUTION, AREA APPORTIONMENTS; AND SEASONAL ALLOWANCES OF ANNUAL TAC IN 2002

[Values are in mt]

Area				
Season [1]	Shumagin (Area 610) (biomass distribution [2])	Chirikof (Area 620) (biomass distribution)	Kodiak (Area 630) (biomass distribution)	Total (biomass distribution)
A	2,916 (23%)	8,618 (68%)	1,122 (9%)	12,656 (100%)
B	2,916 (23%)	8,618 (68%)	1,122 (9%)	12,656 (100%)
C	5,949 (47%)	2,905 (23%)	3,803 (30%)	12,657 (100%)
D	5,949 (47%)	2,904 (23%)	3,803 (30%)	12,656 (100%)
Annual Total	17,730	23,045	9,850	50,625

[1] These emergency interim regulations for pollock in the GOA which specify A and B season dates and harvest limitations, expires July 8, 2002, before the C and D seasons are scheduled to begin. Therefore, the C and D seasons are not authorized unless either this emergency rule is extended, or proposed and final rulemaking is completed.

[2] Biomass distribution is rounded to the nearest 1%.

Seasonal Apportionments of Pacific Cod TAC and Allocations for Processing of Pacific Cod TAC Between Inshore and Offshore Components

As described in Part I above, Pacific cod fishing is divided into two seasons in the Western and Central Regulatory Areas of the GOA. The A season begins on January 1, 2002, and ends on June 10, 2002, for nontrawl gear and begins on January 20, 2002, and ends on June 10, 2002, for trawl gear. The B season begins on September 1, 2002, for all gear types and ends on December 31, 2002, for nontrawl gear and November 1, 2002, for trawl gear. After subtraction of incidental catch, 60 percent and 40 percent of the annual TAC will be available for harvest during the A and B seasons, respectively, and will be apportioned between the inshore and offshore processing components as provided in § 679.20(a)(6)(iii). Directed fishing for Pacific cod between the A and the B seasons is closed and fishermen participating in other directed fisheries may retain Pacific cod up to the maximum retainable bycatch amounts allowed under regulations at § 679.20(e) and (f). The time of day of all openings and closures of fishing seasons, other than the beginning and ending of the calender fishing year, is 1200 hours, A.l.t. For purposes of clarification, NMFS points out that the A season and the B season Pacific cod fishery dates differ from those of the A, B, C, and D seasons for the pollock fisheries. Any overage or underage of Pacific cod harvest from the A season shall be subtracted from or added to the subsequent B season. Any incidental catch of Pacific cod after the A season closes will be subtracted from the B season.

Regulations at § 679.20(a)(6)(iii) require that the TAC apportionment of Pacific cod in all regulatory areas be allocated to vessels catching Pacific cod for processing by the inshore and offshore components. Ninety percent of the Pacific cod TAC in each regulatory area is allocated to vessels catching Pacific cod for processing by the inshore component. The remaining 10 percent of the TAC is allocated to vessels catching Pacific cod for processing by the offshore component. These seasonal apportionments and allocations of the Pacific cod TAC for 2002 are shown in Table 22.

TABLE 22.—2002 SEASONAL APPORTIONMENTS AND ALLOCATION OF PACIFIC COD TAC AMOUNTS IN THE GULF OF ALASKA; ALLOCATIONS FOR PROCESSING BY THE INSHORE AND OFFSHORE COMPONENTS

[Values are in mt]

Regulatory area	TAC	Component Allocation	
		Inshore (90%)	Offshore (10%)
Western	16,849	15,164	1,685
A Season (60%)	10,109	9,098	1,011
B Season (40%)	6,740	6,066	674
Central	24,790	22,311	2,479
A Season (60%)	14,874	13,387	1,487
B Season (40%)	9,916	8,924	992
Eastern	2,591	2,332	259
Total	44,230	39,807	4,423

Pacific Halibut PSC Mortality Limits

Under § 679.21(d), annual Pacific halibut PSC limits are established and apportioned to trawl and hook-and-line gear and may be established for pot gear.

As in 2001, the Council recommended that pot gear, jig gear, and the hook-and-line sablefish fishery be exempted from the non-trawl halibut limit for 2002. The Council recommended these exemptions because of the low halibut bycatch mortality experienced in the pot gear fisheries (4 mt in 2001) and because of the 1995 implementation of the sablefish and halibut Individual Fishing Quota program, which allows legal-sized halibut to be retained in the

sablefish fishery. Halibut mortality for the jig gear fleet cannot be estimated because these vessels do not carry observers. However, halibut mortality is assumed to be very low given the small amount of groundfish harvested by this gear type (336 mt in 2001) and the assumed high survival rate of any halibut that are incidentally taken and released.

As in 2001, the Council recommended a hook-and-line halibut PSC mortality limit of 300 mt. Ten mt of this limit are apportioned to the demersal shelf rockfish fishery in the Southeast Outside District. The fishery is defined at § 679.21(d)(4)(iii)(A) and historically has been apportioned this amount in recognition of its small scale harvests. Observer data are not available to verify actual bycatch amounts given that most vessels are less than 60 ft (13.5 m) LOA and are exempt from observer coverage. The remainder of the PSC limit is seasonally apportioned among the non-sablefish hook-and-line gear fisheries as shown in Table 23.

The Council continued to recommend a trawl halibut PSC mortality limit of 2,000 mt for 2002. The PSC limit has remained unchanged since 1989. Regulations at § 679.21(d)(3)(iii) authorize separate apportionments of the trawl halibut PSC limit between trawl fisheries for deep-water and shallow-water species. Regulations at § 679.21(d)(5) authorize seasonal apportionments of halibut PSC limits.

NMFS concurs in the Council's recommendations described above and listed in Table 23. The following types of information as presented in, and summarized from, the current SAFE report, or as otherwise available from NMFS, ADF&G, the International Pacific Halibut Commission (IPHC), or public testimony were considered:

(A) Estimated Halibut Bycatch in Prior Years

The best available information on estimated halibut bycatch is data collected by observers during 2001. The calculated halibut bycatch mortality by trawl, hook-and-line, and pot gear through December 7, 2001, is 2,205 mt, 286 mt, and 4 mt, respectively, for a total halibut mortality of 2,495 mt.

Halibut bycatch restrictions seasonally constrained trawl gear fisheries during the 2001 fishing year. Trawling for the deep-water fishery complex was closed for the second season on May 25 (66 FR 29511, May 31, 2001) and for the third season on July 23 (66 FR 39119, July 27, 2001). The shallow-water fishery complex was closed for the second season on April 27 (66 FR 21886, May 2, 2001), the fishery was reopened from May 21 to May 26 (66 FR 28679, May 24, 2001, and 66 FR 29512, May 31, 2001), for the third season on June 27 (66 FR 34852, July 2, 2001), and for the fourth season on August 4 (66 FR 41455, August 8, 2001). The fishery was reopened from September 1 to September 4 (66 FR 34852, July 2, 2001, and 66 CF 46967, September 10, 2001). All trawling in the GOA closed (with the exception of pelagic trawl gear targeting pollock) for the remainder of the year on October 21 (66 FR 53736, October 24, 2001).

The three seasonal apportionments of the hook-and-line halibut bycatch mortality limit resulted in closures of hook-and-line gear fisheries for groundfish other than sablefish and demersal shelf rockfish on February 26 (66 FR 12912, March 1, 2001), May 17 (66 FR 27043, May 16, 2000), and on September 4 (66 FR 46404, September 5, 2001).

(B) Expected Changes in Groundfish Stocks

In December 2001, the Council adopted higher 2002 ABCs for rex sole, shallow water flatfish, flathead sole, other rockfish, northern rockfish, and demersal shelf rockfish than those established for 2001. The Council adopted lower 2002 ABCs for pollock, Pacific cod, deep water flatfish, arrowtooth flounder, sablefish, Pacific Ocean perch, shortraker and rougheye rockfish, pelagic shelf rockfish, and thornyhead rockfish than those established for 2001. More information on these changes is included in the final SAFE report (November 2001) and in the Council and SSC December 2001 meeting minutes.

(C) Expected Changes in Groundfish Catch

The total of the 2002 TACs for the GOA is 237,888 mt, a decrease of 17 percent from the 2001 TAC total of 285,994 mt. Those fisheries for which the 2002 TACs are lower than in 2001 are pollock (decreased to 58,250 mt from 95,875 mt), Pacific cod (decreased to 44,230 mt from 52,110 mt), deep water flatfish (decreased to 4,880 mt from 5,300 mt), sablefish (decreased to 12,820 mt from 12,840 mt), Pacific Ocean perch (decreased to 13,190 mt from 13,510 mt), shortraker and rougheye rockfish (decreased to 1,620 mt from 1,730 mt), other rockfish (decreased to 990 mt from 1,010 mt), pelagic shelf rockfish (decreased to 5,490 mt from 5,980 mt), thornyhead rockfish (decreased to 1,990 mt from 2,310 mt), and ''other species'' (decreased to 11,330 mt from 13,619 mt). Those species for which the 2002 TACs are higher than in 2001 are rex sole (increased to 9,470 mt from 9,440 mt), flathead sole (increased to 9,280 mt from 9,060 mt), shallow water flatfish (increased to 20,420 mt from 19,400 mt), northern rockfish (increased to 4,980 mt from 4,880 mt), and demersal shelf rockfish (increased to 350 mt from 330 mt).

(D) Current Estimates of Halibut Biomass and Stock Condition

The most recent halibut stock assessment was conducted by the International Pacific Halibut Commission (IPHC) in December 2000. The halibut resource is considered to be healthy, with total catch near record levels. The current exploitable halibut biomass for 2001 is estimated to be 249,007 mt, using an age-specific estimate for 2001. In the age-specific estimate, the assumption is that the selection of fish by the survey is based primarily on the age of the fish and reflects the availability of fish of different ages on the grounds. This is an increase from the estimate of 135,172 mt in 2000. The difference is in large part due to omitting a precautionary downward correction used in the 1999 assessment which was based on presumed increased fishing power of baits recently used in the surveys. The 2000 estimate for exploitable biomass in 2001 of 249,007 mt is now similar to the 1998 estimate for exploitable biomass in 1999 of 227,366 mt before the fishing power correction was made. The IHPC believes that exploitable biomass of the Pacific halibut stock peaked at 326,520 mt in 1988. According to the IHPA, the long-term average reproductive biomass for the Pacific halibut resource is estimated at 118,000 mt. Long-term average yield is estimated at 26,980 mt, round weight. The species is fully utilized. Average catches (1994–96) are 33,580 mt for the U.S. and 6,410 mt for Canada, for a combined total of 39,990 mt for the entire Pacific halibut resource. This catch is 48 percent higher than the long-term potential yield, which reflects the good condition of the Pacific halibut resource. In January 2001, the IPHC recommended commercial catch limits totaling 37,120 mt (round weight equivalents) for Alaska in 2001, up from 33,910 mt in 2000. Through November 23, 2001, commercial hook-and-line harvests of halibut in Alaska totaled 35,293 mt (round weight equivalents).

The major change in the assessment results for 2000 came from the elimination of the downward correction in recent survey catch rates that was applied in 1999, to account for a suspected increase in the fishing power

of the surveys due to a bait change in 1993. Experiments conducted in 2000 have shown that the precautionary adjustment is not required. The stock assessment shows only minor changes for the southern portion of the range (Areas 2A, 2B, and 2C). Improvements in the estimated biomass of the stock in Area 3A are accounted for largely by the change in the treatment of historical survey data. Weight at age for halibut in the central portion of the range increased slightly in 2000 over the very low values of recent years. However, recruitment of year classes born between 1989 and 1993 appears to be poor. The outlook for the stock biomass over the near future is for a decline from the record high levels of recent years until increased recruitment to the stock occurs.

Additional information on the Pacific halibut stock assessment may be found in the final SAFE report (November 2001) and in the IPHC's 2000 Pacific halibut stock assessment (December 2000). The 2001 Pacific halibut stock assessment for 2002 will be considered by the IPHC at its January 2002 annual meeting in setting the 2002 commercial halibut fishery quotas. IPHC staff have made a preliminary catch recommendation of 36,812 mt (round weight equivalents) for Alaska waters in 2002, a decrease of 308 mt from 2001.

(E) Other Factors

The allowable commercial catch of halibut will be adjusted to account for the overall halibut PSC mortality limit established for groundfish fisheries. The 2002 GOA groundfish fisheries are expected to use the entire proposed halibut PSC limit of 2,300 mt. The allowable directed commercial catch is determined by accounting for the recreational and subsistence catch, waste, and bycatch mortality and then providing the remainder to the directed fishery. Groundfish fishing is not expected to adversely affect the halibut stocks.

Methods available for reducing halibut bycatch include: (1) Reducing halibut bycatch rates through the Vessel Incentive Program; (2) modifications to gear; (3) changes in groundfish fishing seasons; (4) individual transferable quota programs; and (5) time/area closures.

Reductions in groundfish TAC amounts provide no incentive for fishermen to reduce bycatch rates. Costs that would be imposed on fishermen as a result of reducing TAC amounts depend on the species and amounts of groundfish foregone.

Trawl vessels carrying observers for purposes of complying with observer coverage requirements (§ 679.50) are subject to the Vessel Incentive Program. This program encourages trawl fishermen to avoid high halibut bycatch rates while conducting groundfish fisheries by specifying bycatch rate standards for various target fisheries.

Current regulations (§ 679.2 Authorized fishing gear (12)) specify requirements for biodegradable panels and tunnel openings for groundfish pots to reduce halibut bycatch. As a result, low bycatch and mortality rates of halibut in pot fisheries have justified exempting pot gear from PSC limits.

The regulations also define pelagic trawl gear in a manner intended to reduce bycatch of halibut by displacing fishing effort off the bottom of the sea floor when certain halibut bycatch levels are reached during the fishing year. The definition provides standards for physical conformation (§ 679.2, see Authorized fishing gear) and performance of the trawl gear in terms of crab bycatch (§ 679.7(a)(14)). Furthermore, all hook-and-line vessel operators are required to employ careful release measures when handling halibut bycatch (§ 679.7(a)(13)). These measures are intended to reduce handling mortality, to increase the amount of groundfish harvested under the available halibut mortality bycatch limits, and to possibly lower overall halibut bycatch mortality in groundfish fisheries.

The sablefish/halibut IFQ program (implemented in 1995) was intended, in part, to reduce the halibut discard mortality in the sablefish fishery.

Consistent with the goals and objectives of the FMP to reduce halibut bycatch while providing an opportunity to harvest the groundfish OY, NMFS approves the assignments of 2,000 mt and 300 mt of halibut PSC limits to trawl and hook-and-line gear, respectively. While these limits will reduce the harvest quota for commercial halibut fishermen, NMFS has determined that they will not result in unfair allocation to any particular user group as these PSCs establish an upper limit on the impact of the groundfish fisheries on the commercial halibut fishery in the GOA. NMFS recognizes that some halibut bycatch will occur in the groundfish fishery, but the Vessel Incentive Program, required modifications to gear, and implementation of the halibut/sablefish IFQ program are intended to reduce adverse impacts on halibut fishermen while promoting the opportunity to achieve the OY from the groundfish fishery. NMFS and the Council will review the methods available for reducing halibut bycatch listed here to determine their effectiveness, and will initiate changes, as necessary, in response to this review or to public testimony and comment.

Fishery and Seasonal Apportionments of the Halibut PSC Limits

Under § 679.21(d)(5), NMFS seasonally apportions the halibut PSC limits based on recommendations from the Council. The FMP requires that the following information be considered by the Council in recommending seasonal apportionments of halibut PSC limits: (a) Seasonal distribution of halibut, (b) seasonal distribution of target groundfish species relative to halibut distribution, (c) expected halibut bycatch needs on a seasonal basis relative to changes in halibut biomass and expected catches of target groundfish species, (d) expected bycatch rates on a seasonal basis, (e) expected changes in directed groundfish fishing seasons, (f) expected actual start of fishing effort, and (g) economic effects of establishing seasonal halibut allocations on segments of the target groundfish industry.

In December 2001, the Council and its AP recommended seasonal PSC apportionments in order to maximize harvest among gear types, fisheries, and seasons while minimizing bycatch of PSC based upon the criteria above. NMFS adjusts the Council's recommended start date for the third seasonal allowance of trawl halibut PSC from July 1 to June 30 to coincide with the trawl rockfish opening in the BSAI on June 30 and to facilitate inseason management of rockfish harvest over the July 4 holiday. NMFS approves the PSC apportionments specified in Tables 23 and 24, below. Regulations at § 679.21(d)(5)(iii) and (iv) specify that any overages or shortfalls in a seasonal apportionment of a PSC limit will be deducted from or added to the next respective seasonal apportionment within the 2002 season.

TABLE 23.—FINAL 2002 PACIFIC HALIBUT PSC LIMITS, ALLOWANCES, AND APPORTIONMENTS. THE PACIFIC HALIBUT PSC LIMIT FOR HOOK-AND-LINE GEAR IS ALLOCATED TO THE DEMERSAL SHELF ROCKFISH (DSR) FISHERY AND FISHERIES OTHER THAN DSR. THE HOOK-AND-LINE SABLEFISH FISHERY IS EXEMPT FROM HALIBUT PSC LIMITS. (VALUES ARE IN MT)

Trawl gear		Hook-and-line gear			
		Other than DSR		DSR	
Dates	Amount	Dates	Amount	Dates	Amount
Jan 1– Apr 1	550 (27.5%)	Jan 1–June 10	250 (86.2%)	Jan 1–Dec 31	10 (100%)
Apr 1–June 30	400 (20%)	June 10–Sept 1	5 (1.7%)		
June 30–Sept 1	600 (30%)	Sept 1–Dec 31	35 (12.1%)		
Sept 1–Oct 1	150 (7.5%)				
Oct 1–Dec 31	300 (15%)				
Total	2,000 (100%)		290 (100%)		10 (100%)

Regulations at § 679.21(d)(3)(iii) authorize apportionments of the trawl halibut PSC limit to a deep-water species complex, comprised of sablefish, rockfish, deep-water flatfish, rex sole and arrowtooth flounder; and a shallow-water species complex, comprised of pollock, Pacific cod, shallow-water flatfish, flathead sole, Atka mackerel, and ''other species''. The apportionment for these two trawl fishery complexes is presented in Table 24.

TABLE 24.—FINAL 2002 APPORTIONMENT OF PACIFIC HALIBUT PSC TRAWL LIMITS BETWEEN THE TRAWL GEAR DEEP-WATER SPECIES COMPLEX AND THE SHALLOW-WATER SPECIES COMPLEX (VALUES ARE IN METRIC TONS)

Season	Shallow-water	Deep-water	Total
Jan 20–Apr 1	450	100	550
Apr 1–June 30	100	300	400
June 30–Sept 1	200	400	600
Sept 1–Oct 1	150	Any Remainder	150
Subtotal: Jan 20–Oct 1	900	800	1,700
Oct 1–Dec 31			300
Total			2,000

No apportionment between shallow-water and deep-water fishery complexes during the 4th quarter of the calendar year.

Halibut Discard Mortality Rates

The Council recommended that the revised halibut discard mortality rates (DMRs) recommended by the IPHC be adopted for purposes of monitoring halibut bycatch mortality limits established for the 2002 groundfish fisheries. NMFS concurs in the Council's recommendation. The IPHC recommended use of a long-term average as preseason assumed DMRs for the 2001–2003 groundfish fisheries. The IPHC recommendation also includes a provision that revised DMRs would be proposed should analysis indicate that a fishery's annual DMR diverges substantially (up or down) from the long-term average. Most of the IPHC's assumed DMRs were based on an average of mortality rates determined from NMFS observer data collected between 1990 and 1999. Rates were lacking for some fisheries, so rates from the most recent years were used. For the ''other species'' fishery, where insufficient mortality data are available, the mortality rate of halibut caught in the Pacific cod fishery for that gear type was recommended as a default rate. The assumed mortality rates recommended for 2002 are unchanged from those used in 2001 in the GOA. The recommended rates for hook-and-line targeted fisheries range from 8 to 24 percent. The recommended rates for trawl targeted fisheries range from 58 to 72 percent. The recommended rate for all pot targeted fisheries is 14 percent. The 2002 assumed DMRs are listed in Table 25.

TABLE 25.—2002 ASSUMED PACIFIC HALIBUT MORTALITY RATES FOR VESSELS FISHING IN THE GULF OF ALASKA (LISTED VALUES ARE PERCENT OF HALIBUT BYCATCH ASSUMED TO BE DEAD)

Gear and target	Mortality rate
Hook-and-Line:	
Pacific cod	14
Rockfish	8
Other species	14
Sablefish	24
Trawl:	
Midwater pollock	72
Rockfish	69
Shallow-water flatfish	69
Pacific cod	61

TABLE 25.—2002 ASSUMED PACIFIC HALIBUT MORTALITY RATES FOR VESSELS FISHING IN THE GULF OF ALASKA (LISTED VALUES ARE PERCENT OF HALIBUT BYCATCH ASSUMED TO BE DEAD)—Continued

Gear and target	Mortality rate
Deep-water flatfish	60
Flathead sole	58
Rex sole	61
Bottom pollock	61
Arrowtooth Flounder	62
Atka mackerel	70
Sablefish	66
Other species	61
POT:	
Pacific cod Other species	14

Non-Exempt American Fisheries Act (AFA) Catcher Vessel Groundfish Harvest and PSC Limitations

One of the provisions implemented under the AFA was to specify groundfish harvesting and processing limitations, also called sideboards, on AFA catcher/processors and catcher vessels in the GOA. These limitations are considered necessary for fishermen

and processors who have received exclusive harvesting and processing privilege under the AFA to protect the interests of fishermen and processors who have not directly benefitted from the AFA. In the GOA, unrestricted AFA catcher/processors are prohibited from fishing for any species of fish and from processing any groundfish harvested in Statistical Area 630 of the GOA. The Council recommended that certain AFA catcher vessels in the GOA be exempt from groundfish harvest limitations. Exempted AFA catcher vessels in the GOA are those less than 125 ft (38.1 m) length overall whose annual BSAI pollock landings totaled less than 5,100 mt and that made 40 or more GOA groundfish landings from 1995 through 1997 (§ 679.63(b)(1)(i)(B)).

For non-exempt AFA catcher vessels in the GOA, harvest limitations are based upon their traditional harvest levels of TAC in groundfish fisheries covered by the GOA FMP. The amounts of the groundfish harvest limits in the GOA are based on the retained catch of non-exempt AFA catcher vessels of each sideboard species from 1995 through 1997 divided by the TAC for that species over the same period (§ 679.63(b)(1)(ii)(C)). For 2002, the ratio of 1995 to 1997 non-exempt AFA catcher vessel retained catch to the 1995 to 1997 TAC has been revised from 2001 by NMFS. These revisions are based upon ADF&G editing of fish tickets and NMFS editing of observer catch data and weekly production reports. These amounts are listed in Table 26. All harvests of sideboard species made by non-exempt AFA catcher vessels, whether as targeted catch or bycatch, will be deducted from the sideboard limits in Table 26.

TABLE 26.—FINAL 2002 GOA NON-EXEMPT AFA CATCHER VESSEL (CV) GROUNDFISH HARVEST LIMITATIONS (SIDEBOARDS) (VALUES ARE IN MT)

Species	Apportionments and Allocations by Area/Season/processor/Gear	Ratio of 1995–1997 Non-Exempt AFA CV Catch to 1995–1997 TAC	2002 TAC	2002 Non-Exempt AFA Catcher Vessel Sideboard
Pollock	*A Season (W/C areas only)*.			
	January 20—February 25.			
	Shumagin (610)	0.6112	2,916	1,782
	Chirikof (620)	0.1427	8,618	1,230
	Kodiak (630)	0.2438	1,122	274
	B Season (W/C areas only).			
	March 10—May 31.			
	Shumagin (610)	0.6112	2,916	1,782
	Chirikof (620)	0.1427	8,618	1,230
	Kodiak (630)	0.2438	1,122	274
	C Season (W/C areas only).			
	August 25—September 15.			
	Shumagin (610)	0.6112	5,949	3,636
	Chirikof (620)	0.1427	2,905	414
	Kodiak (630)	0.2438	3,803	927
	D Season (W/C areas only).			
	October 1—November 1.			
	Shumagin (610)	0.6112	5,949	3,636
	Chirikof (620)	0.1427	2,904	414
	Kodiak (630)	0.2438	3,803	927
	Annual.			
	WYK (640)	0.3499	1,165	408
	SEO (650)	0.3499	6,460	2,260
Pacific cod	A Season [1].			
	January 1—June 10.			
	W inshore	0.1423	9,098	1,295
	offshore	0.1026	1,011	104
	C inshore	0.0722	13,387	966
	offshore	0.0721	1,487	107
	B Season [2].			
	September 1—December 31.			
	W inshore	0.1423	6,066	863
	offshore	0.1026	674	69
	C inshore	0.0722	8,924	644
	offshore	0.0721	992	72
	Annual.			
	January 1—December 31.			
	E inshore	0.0079	2,332	18
	Offshore	0.0078	259	2
Flatfish deep-water	W	0.0000	180	0
	C	0.0670	2,220	149
	E	0.0171	2,480	42
Rex sole	W	0.0010	1,280	1
	C	0.0402	5,540	223
	E	0.0153	2,650	41
Flathead sole	W	0.0036	2,000	7
	C	0.0261	5,000	130
	E	0.0048	2,280	11
Flatfish shallow-water	W	0.0156	4,500	70

TABLE 26.—FINAL 2002 GOA NON-EXEMPT AFA CATCHER VESSEL (CV) GROUNDFISH HARVEST LIMITATIONS (SIDEBOARDS) (VALUES ARE IN MT)—Continued

Species	Apportionments and Allocations by Area/Season/processor/Gear	Ratio of 1995–1997 Non-Exempt AFA CV Catch to 1995–1997 TAC	2002 TAC	2002 Non-Exempt AFA Catcher Vessel Sideboard
	C	0.0598	13,000	777
	E	0.0126	2,920	37
Arrowtooth flounder	W	0.0021	8,000	17
	C	0.0309	25,000	772
	E	0.0020	5,000	10
Sablefish	W trawl gear	0.0000	448	0
	C trawl gear	0.0720	1,086	78
	WYK trawl gear	0.0488	258	13
Pacific Ocean perch	W	0.0623	2,610	163
	C	0.0866	8,220	712
	E	0.0466	2,360	110
Shortraker/Rougheye	W	0.0000	220	0
	C	0.0237	840	20
	E	0.0124	560	7
Other rockfish	W	0.0034	90	0
	C	0.2065	550	114
	E	0.0000	350	0
Northern rockfish	W	0.0003	810	0
	C	0.0336	4,170	140
Pelagic shelf rockfish	W	0.0001	510	0
	C	0.0000	3,480	0
	E	0.0067	1,500	10
Thornyhead rockfish	W	0.0308	360	11
	C	0.0308	840	26
	E	0.0308	790	24
Demersal shelf rockfish	SEO	0.0020	350	1
Atka mackerel	Gulfwide	0.0309	600	19
Other species	Gulfwide	0.0090	11,330	102

Notes:[1] The Pacific cod A season for trawl gear does not open until January 20.
[2] The Pacific cod B season for trawl gear closes November 1.

PSC bycatch limits for non-exempt AFA catcher vessels in the GOA are based upon the ratio of aggregate retained groundfish catch by non-exempt AFA catcher vessels in each PSC target category from 1995 through 1997 relative to the retained catch of all vessels in that fishery from 1995 through 1997 (§ 679.63(b)(1)(iii)). These amounts are shown in Table 27.

TABLE 27.—FINAL 2002 NON-EXEMPT AFA CATCHER VESSEL PROHIBITED SPECIES CATCH (PSC) LIMITS FOR THE GOA (VALUES ARE IN MT)

PSC species	Target fishery and season	Ratio of 1995–1997 non-exempt AFA CV retained catch to total retained catch	2002 PSC limit	2002 Non-exempt AFA catcher vessel PSC limit
Halibut (mortality in mt)	Trawl 1st Seasonal Allowance; January 20–April 1.			
	shallow water targets	0.340	450	153
	deep water targets	0.070	100	7
	Trawl 2nd Seasonal Allowance; April 1–June 30.			
	shallow water targets	0.340	100	34
	deep water targets	0.070	300	21
	Trawl 3rd Seasonal Allowance; June 30–Sept. 1.			
	shallow water targets	0.340	200	68
	deep water targets	0.070	400	28
	Trawl 4th Seasonal Allowance; Sept. 1–October 1.			
	shallow water targets	0.340	150	51
	deep water targets	0.070	0	any remainder from 3rd season above
	Trawl 5th Seasonal Allowance; October 1–December 31.			
	all targets	0.205	300	62

Closures

In accordance with § 679.20(d)(1)(i), if the Regional Administrator determines that the amount of a target species or ''other species'' category apportioned to a fishery or, with respect to pollock and Pacific cod, to an inshore or offshore component allocation, will be reached, the Regional Administrator may establish a directed fishing allowance for that species or species group. If the Regional Administrator establishes a directed fishing allowance, and that allowance is or will be reached before the end of the fishing year, NMFS will prohibit directed fishing for that species or species group in the specified GOA Regulatory Area or district (§ 679.20(d)(1)(iii)).

The Regional Administrator has determined that the following TAC amounts (Table 28) are necessary as incidental catch to support other anticipated groundfish fisheries for the 2002 fishing year.

TABLE 28.—INCIDENTAL CATCH NEEDED TO SUPPORT OTHER DIRECTED FISHERIES IN THE GOA IN 2002 (AMOUNTS ARE IN MT)

Target	Regulatory area	Gear/component	Amount
Atka Mackerel	Entire GOA	All	600
Thornyhead Rockfish	Entire GOA	All	1,990
Shortraker and Rougheye Rockfish	Entire GOA	All	1,620
Other Rockfish	Entire GOA	All	990
Sablefish	Entire GOA	Trawl	1,792
Pollock	Entire GOA	All/offshore	0

Consequently, in accordance with § 679.20(d)(1)(i), the Regional Administrator establishes the directed fishing allowances for the above species or species groups as zero and in accordance with § 679.20(d)(1)(iii), NMFS is prohibiting directed fishing for those species, areas, gear types, components, and seasons listed in Table 28.

Regulations at § 679.63(b)(1)(iv) provide for management of AFA catcher vessel groundfish harvest limits and PSC bycatch limits using directed fishing closures and PSC closures according to procedures set out at § 679.20(d)(1)(iv) and § 679.21(d)(8). The Regional Administrator has determined that in addition to the closures listed above, many of the non-exempt AFA catcher vessel sideboard amounts listed in Table 26 are necessary as incidental catch to support other anticipated groundfish fisheries for the 2001 fishing year. In accordance with § 679.20(d)(1)(iv), the Regional Administrator establishes these amounts as directed fishing allowances. The Regional Administrator finds that many of these directed fishing allowances will be reached before the end of the year. Therefore, in accordance with § 679.20(d)(1)(iii), NMFS is prohibiting directed fishing by non-exempt AFA catcher vessels in the GOA for the species and specified areas set out in Table 29.

TABLE 29.—NON-EXEMPT AFA CATCHER VESSEL SIDEBOARD DIRECTED FISHING CLOSURES IN THE GOA

Species	Regulatory Area/District	Gear
Pelagic shelf rockfish	Entire GOA	All.
Deep-water flatfish	W and E GOA	All.
Rex sole	W and E GOA	All.
Flathead sole	W and E GOA	All.
Arrowtooth Flounder	W and E GOA	All.
Northern rockfish	W GOA	All.
Shallow-water Flatfish	E GOA	All.
Pacific cod	E GOA	All.
Demersal shelf rockfish	SEO District	All.

Response to Comments

NMFS received two letters of comment in response to the July 17, 2001, emergency interim rule (66 FR 37167) that extended and modified Steller sea lion protection measures and harvest specifications through 2001. The letters indicated concern about the perceived inadequacy of the measures in the emergency interim rule to protect Steller sea lions, inadequacy of the accompanying NEPA analysis, and strength of data used for making decisions. The comments are responded to in this action because NMFS has completed the analysis of the current status of Steller sea lions and the interactions with the groundfish fisheries, making responses based on the best scientific information available. The changes made to Steller sea lion protection measures by the July 17, 2001, emergency interim rule were short-term changes that were likely to be modified for 2002 and the comments received were considered in the development of 2002 protection measures. Copies of the Environmental Assessment (EA) for the extension of the 2001 Steller sea lion protection measures and harvest specifications are available from NMFS (see **ADDRESSES**).

Comment 1. One of the main reasons for reducing 2001 protection measures is to allow access to certain areas important to commercial fisheries. According to the economic analysis for the 2001 protection measures, the selection of Alternative 3 from the Economic Assessment for the extension of the 2001 emergency rule ensures minimal economic impact. Minimizing economic hardship is not a legitimate reason for choosing protection measures.

Response. Economic considerations can be used as a basis for selecting Steller sea lion protection measures only from alternatives that avoid jeopardizing the continued existence of an endangered or threatened species and that avoid destroying or adversely modifying designated critical habitat.

Because Alternative 2 and 3 met or exceeded the level of protection necessary to avoid the likelihood of jeopardy and adverse modification of critical habitat, NMFS was able to choose between Alternatives 2 and 3 and selected the option less likely to cause adverse economic impact. NMFS determined that Alternative 2 would have excessive adverse economic impact; therefore, Alternative 3 was chosen.

Comment 2. Recent telemetry data analysis has led NMFS to reduce the size of Steller sea lion protection areas. Using the telemetry data in this way ignores the facts that (1) Steller sea lions forage beyond 10 nm of land, (2) the telemetry data are biased because the data are limited to Steller sea lions likely to occur closer to shore (lactating females and pups), and (3) NMFS is required to prevent adverse modification in all designated critical habitat.

Response. The best available information on the foraging patterns of Steller sea lions was summarized in a series of white papers by NMFS and the Alaska Department of Fish and Game. This information, along with historical data, was incorporated into an October 2001 Section 7 consultation under the ESA for the two populations of Steller sea lions. This new information was primarily gathered through satellite telemetry on sea lions, observing their at sea distribution, dive characteristics, and haulout patterns. The data indicate a strong preference among juveniles and lactating females to remain close to shore, generally within 10 nm. Some trips by tagged sea lions went beyond 10 nm; however, these were infrequent and often much longer trips going well beyond the boundaries of critical habitat. About 90 percent of the at-sea observations of these tagged animals were within 10 nm from shore.

NMFS recognizes certain limitations in the data that could create undetected biases; these were described in detail in the biological opinion. However, at this time, NMFS has no data to support these possible biases and has no reason to believe that the data mis-represent the at sea distribution of these animals. Little detailed information exists on the foraging patterns of adult males, mostly due to the difficulty in capturing and tagging these large animals. Anecdotal observations, including the Platform of Opportunity (POP) database, indicated that adult males forage over very large areas, often many miles from shore. Additionally, the available data suggest that the lack of juvenile survival may be the greatest cause of the decline, further supporting the use of the telemetry information as a reasonable description of the foraging areas important to Steller sea lions.

In 2002, numerous areas will receive greater protection than in the past; many sites will be protected out to 20 nm as well as parts of the sea lion aquatic foraging areas. NMFS used a zonal approach for closure areas, prohibiting nearly all fishing for the three species within 3 nm from rookeries and haulouts; limited fishing from 3–10 nm by gear types less likely to cause localized depletions of prey; and finally prohibiting fishing with trawl gear from 10–20 nm from most sites. Over the next 1–2 years, the Steller Sea Lion Recovery Team will evaluate the most up to date scientific and commercial data and make recommendations to NMFS on the appropriate boundaries for Steller sea lion critical habitat. NMFS has determined that the limited fishing that is expected to occur in critical habitat would not adversely modify or destroy that critical habitat.

Comment 3. Observed increases in some population segments of Steller sea lions is no reason for reducing protection measures in those localized areas.

Response. In developing protection measures for 2002, the entire western population of Steller sea lions was taken into account. In most cases, where an area was experiencing greater decline, greater protection was provided. Conversely, in some regions with consistent population increases such as Amak Island, the trawl closure zones were actually reduced. Although NMFS did consider some local population trend analyses, the policy was to minimize the impacts on the entire population in order to get a resulting population trajectory that was better than the expected trajectory from the RPA from the November 2000 Biological Opinion. NMFS does not believe that it has adequate information on the sub-populations of sea lions or their prey resources in the western stock to implement management measures that rely on the underlying site-by-site trend of the prey biomass estimates on similarly small scales.

Comment 4. The EA improperly tiers off the 1998 SEIS and the 2001 Draft Programmatic SEIS. A full environmental impact statement should have been developed.

Response. The EA incorporated relevant and accurate discussion and analysis in the 1998 SEIS. The EA did not tier off of the draft programmatic SEIS but it did reference a significant amount of analysis that may be found in that document. This was the latest scientific information available regarding the harvest specifications and it was appropriate to reference this material.

A full environmental impact statement was not developed for the emergency interim rule extension because the short term nature of the action with the protection measures proposed made a significant impact on the environment unlikely, making an environmental impact statement unnecessary. An environmental impact statement for the 2002 Steller sea lion protection measures was in the process of being developed and has been completed for this action.

Comment 5. Many of the comments submitted for the draft Programmatic SEIS also apply to the EA. These comments should also be included with the emergency interim rule extension record.

Response. Comments received on the draft Programmatic SEIS are in the process of being reviewed by NMFS and will be addressed in the final Programmatic SEIS. The comments are included in the administrative record for the July 17, 2001, emergency interim rule extension.

Comment 6. The management decisions determining the 2001 protection measures were based on scat data indicating that a diversity of prey is consumed throughout the year. These data consistently indicated that pollock, Atka mackerel, and Pacific cod were the three most common prey items and that stricter proactive action was needed.

Response. In an analysis by Sinclair and Zeppelin (submitted for publication), scat samples were collected and analyzed from 1991–1998. That paper concluded that pollock, Pacific cod, Atka mackerel, and salmon were the most commonly found four prey items for Steller sea lions based upon the animals sampled. NMFS is implementing Steller sea lion conservation measures for the fisheries for the three species managed by NMFS under the groundfish FMPs.

Comment 7. The telemetry data was based on 100 animals, primarily mothers and nursing pups, and the sightings were from the summer. One cannot assume similar behavior during other times of the year. The data also miss the sub-adults which are experiencing the greatest rate of decline.

Response. The available information on the at-sea distribution of Steller sea lions is quite large, but admittedly incomplete. Numerous research projects are under way to attempt to obtain more information on the distribution of the animals NMFS considers to be most at-risk. Currently, the best available information indicates that juvenile and

lactating females generally stay within 10 nm of shore during the summer, and perhaps make longer trips in the winter period as described in the biological opinion and associated white papers. NMFS is implementing management measures which avoid adverse impacts to these sensitive areas and time periods for Steller sea lions.

One letter of comments was received by NMFS on the draft EA prepared for the 2002 TAC specifications. A summary of the comments and NMFS' response follows:

Comment 1. The TAC setting process framework used by the Council and NMFS is inconsistent with the Magnuson-Stevens Act and the national standard guidelines because the North Pacific groundfish fisheries do not have overfishing status assessments consisting of both a maximum fishing mortality threshold and a minimum stock size threshold (MSST). Thus, NMFS and the Council lack criteria for determining whether stocks are overfished and thus subject to rebuilding plans.

The overfishing definitions employed by NMFS and the Council under Amendments 56/56 to the groundfish FMPs allow a stock abundance to drop to $B_{2\%}$ before harvest no longer is permitted. This policy allows for a species to be fished to the edge of extinction, with being declared overfished and for fishing efforts to be abandoned only at the edge of extinction. Thus, the 2002 TAC specifications are not in compliance with the Magnuson-Stevens Act. The failure of the Council and NMFS to adopt explicit MSSTs, to declare species as overfished, and to then institute multi-faceted ''rebuilding'' endangers the health of individual stocks already at low abundance levels. This, in turn, has significant impacts on the BSAI and GOA ecosystems and renders the analysis in the EA insufficient for NMFS to determine that the impacts on target species and the ecosystems as a whole are ''insignificant.''

Response. NMFS disagrees that the 2002 TAC specifications violate national standard 1 or the Magnuson-Stevens Act. The harvest control rules set forth in Amendments 56/56 (64 FR 10952, March 8, 1999) define OFL and constrain ABC for stocks managed under the fishery management plans for BSAI and GOA groundfish. In approving Amendments 56/56 (64 FR 10953, March 8, 1999), the Secretary of Commerce considered public comments submitted on the proposed amendments, including concerns that the amendments do not specify an MSST, and determined that the reasonable proxy for MSST is contained in the overfishing definitions and associated control rules are in compliance with national standard 1 and all other provisions of the Magnuson-Stevens Act.

Nonetheless, every stock managed under tiers 1–3 (defined under Amendments 56/56) of the BSAI and GOA groundfish FMPs was evaluated with respect to its MSST in the most recent SAFE reports. The TAC specifications use harvest control rules that are related to the MSY-based management required by the Magnuson Act. The control rules used to define OFL and the maximum permissible ABC restrict fishing at all stock sizes, not just at stock sizes below 5 percent of the MSY level. Not only is fishing restricted at all stock sizes, it is restricted in a conservative manner.

NMFS notes that the Steller sea lion protection measures recommended by the Council in October 2001, approved by NMFS, and described above under Part I of this preamble to the emergency interim rule, include a conservative modification of the existing harvest control rule for pollock, Pacific cod, and Atka mackerel.

Comment 1 appears to presume that harvest control rules can, by themselves, force stock biomass to increase. In fact, harvest control rules are rules used to control harvest, not biomass. All harvest control rules ''allow'' a depleted stock to remain at a low abundance level indefinitely, because no harvest control rule can control the size of incoming year classes. However, the control rules adopted in Amendments 56/56 are explicitly designed to be precautionary, especially in the context of managing stocks whose biomass have fallen below reference levels.

In 1998, NMFS did prepare a Supplemental Environmental Impact Statement (SEIS) on the TAC setting process. NMFS also recognizes that in a July 8, 1999 order, amended on July 13, 1999, the Court in *Greenpeace* v. *NMFS, Civ No. 98–0492 (W.D. Wash.)* held that the 1998 SEIS was too limited in scope by not adequately addressing aspects of the GOA and BSAI groundfish fishery management plans other than TAC setting and, therefore, was insufficient in scope under the National Environmental Policy Act. In response to the Court's order, NMFS prepared a new 2001 draft programmatic SEIS for the GOA and BSAI groundfish fishery management plans. In response to public comments and internal agency review, NMFS has determined that the draft 2001 programmatic SEIS should be revised to include additional analyses concerning environmental, economic, and cumulative impacts; to restructure alternatives; and to more clearly define the proposed action. The revised draft programmatic SEIS is scheduled to be distributed for public review and comment late Fall 2002.

Notwithstanding the less expansive scope of the 1998 SEIS, NMFS believes that the discussion and analysis of impacts and alternatives in the 1998 SEIS, which focused on the issue of TAC setting, is directly applicable to the EA prepared in support of this action-the setting of TACs for the 2002 fishery. Consequently, the EA adopts the discussion and analysis in the 1998 SEIS, as well as pertinent sections of the 2001 draft programmatic SEIS.

Finally, NMFS believes that the extensive discussion and analysis of the environmental impacts associated with various levels of TACs in the 1998 SEIS's and in the draft 2001 programmatic SEIS, coupled with the 2002 TAC EA's additional discussion, provide ample support for its determination that the 2002 specifications will not have significant environmental impacts.

Comment 2. Given the concerns expressed in Comment 1, above, many groundfish stocks are below B_{msy} and the 2002 TACs even would allow fishing on a number of stocks below $B_{2\%}$ without triggering a rebuilding plan, including GOA Greenland turbot, Bering Sea northern rockfish, GOA vermillion rockfish, and GOA Atka mackerel. The EA is deficient because the preferred alternative does not acknowledge that some species presently are at or approaching an ''overfished'' condition. The EA's failure to recognize overfished species means that the impacts to the ecosystem as a whole are not adequately analyzed. The NEPA analysis should look at the direct, indirect, cumulative, and synergistic effects of allowing TACs on species with very low biomasses.

Response. Currently, the best scientific information available indicates that no stock managed under the BSAI or GOA groundfish FMPs is being subjected to an inappropriate harvest rate and that no stock managed under tiers 1–3 of the BSAI or GOA groundfish FMPs are overfished. NMFS acknowledges that it is currently not possible to determine the status of stocks in tiers 4–6 with respect to their MSSTs because stocks qualify for management under these tiers only if the best scientific information available is insufficient to estimate the relevant biological reference points.

Currently, the best scientific information available indicates that no stock managed under the BSAI or GOA groundfish fishery management plans is

being subjected to an inappropriate harvest rate, and that no stock managed under the groundfish FMPs is overfished. NMFS believes, therefore, that the 2002 TAC specifications reflect the correct use of MSSTs.

The EA addresses uncertainty and ecosystem considerations associated with each stock assessment and acknowledges that all of the groundfish species are predators or prey at some stage of life. A review of ecosystem status and trends also was provided in the ecosystems chapter of the SAFE reports.

Comment 3. The concept of combining rockfish assemblages masks the fact that individual species currently are at an overfished level and the EA does not adequately analyze the present status of these long lived species. Specifically, the EA fails to analyze their biomass in relation to an overfished determination criterion that complies with the Magnuson-Stevens Act.

Response. NMFS disagrees that rockfish species are at an overfished level. However, NMFS does agree that potential concerns about disproportionate harvest relative to abundance of species within groups or assemblages could be at least partially addressed if existing complexes or assemblages were broken out to separate species and managed accordingly. Species within the rockfish assemblages tend to reflect tiers 4 or 5 stocks and it is not possible to determine whether any species is overfished or whether it is approaching an overfished condition.

Difficulties exist in working towards species specific management for existing assemblages, particularly for some of the rockfish assemblages. Most paramount of these difficulties is the collection of adequate species specific catch data upon which to monitor and manage species specific TACs. NMFS is working with its North Pacific Observer Program and stock assessment scientists to address this issue for 2003 and arrive at a subsampling protocol for rockfish species to meet this need. At that time, enhanced species specific management may be possible, notwithstanding other management issues that arise from very small TAC amounts.

Classification

The Administrator, Alaska Region, NMFS (Regional Administrator), has determined that this rule is necessary for the conservation and management of the groundfish fisheries of the BSAI and GOA. The Regional Administrator also has determined that this emergency interim rule is consistent with the Magnuson-Stevens Act and other applicable laws. No relevant Federal rules exist that may duplicate, overlap, or conflict with this action.

The Steller sea lion protection measures have been determined to be significant for purposes of Executive Order 12866 and a regulatory impact review was prepared. The regulatory impact review is available from NMFS as part of the final SEIS. (see **ADDRESSES**).

Consistent with the National Environmental Policy Act, NMFS prepared an environmental assessment for the TAC specifications portion of this action. NMFS also prepared an SEIS for the Steller sea lion protection measures; a notice of availability of the draft SEIS was published in the **Federal Register** on August 31, 2001 (66 FR 45984). Comments were received and responded to in the final SEIS and the final document was issued November 23, 2001 (66 FR 58734). The final SEIS and EA are available from NMFS (see **ADDRESSES**). Based on a comparison of the effects of the other alternatives in the SEIS, NMFS determined that this action meets the ESA requirements for Steller sea lion protection and environmental protection without providing extreme economic hardship that was anticipated from the most environmentally desirable alternative. Potential adverse impacts on marine mammals resulting from fishing activities conducted under this emergency interim rule are discussed in the EA and final SEIS for this action.

This rule contains and refers to collection-of-information requirements subject to the Paperwork Reduction Act. The requirement for a vessel fishing permit has been approved under OMB control number 0648–0444 (expiration date May 31, 2002). The estimated response time for an application to amend a permit and register for the Atka mackerel, pollock, or Pacific cod directed fisheries is 31 minutes. The CDQ reporting requirement has been approved by the OMB and issued OMB control number 0648–0269, expiration date October 31, 2004. Public reporting burden of CDQ collection of information is estimated to be an average of 15 minutes per response for a CDQ catch report. This time includes the time for reviewing instructions, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The requirement to install and use a VMS has been approved under OMB control number 0648–0445 (expiration date June 30, 2002). The response times for VMS-related requirements are 6 hours to install a unit, 12 minutes to fax a check-in report that the VMS is operational, 5 seconds per automated position report, and 4 hours per year for VMS maintenance.

The response-time estimates above include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding these burden estimates, or any other aspect of these data collections, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (Attn: NOAA Desk Officer).

Notwithstanding any other provisions of the law, no person is required to respond to, and no person shall be subject to a penalty for failure to comply with a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

A formal section 7 consultation under the ESA was initiated for this emergency interim rule under the FMPs for the groundfish fisheries of the BSAI and the GOA. In biological opinions dated October 17, 2001, December 22, 1999, and December 23, 1999, the Director of the Office of Protected Resources determined that fishing activities conducted under the emergency interim rule are not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of critical habitat. In a memorandum dated December 11, 2001, from the Office of Protected Resources to the Office of Sustainable Fisheries, the 1999 BiOps were extended for one year from January 1, 2002, for purposes of this action. This emergency interim rule is consistent with the objectives for Steller sea lion protection measures implemented in 2001 under section 209(c)(6) of Public Law 106–554, the ESA, and other applicable laws.

NMFS is establishing the 2002 TAC specifications for the BSAI and GOA by this emergency interim rule. The normal procedure of publishing proposed, interim, and final TAC specifications was not followed in 2002 because the information needed to establish the harvest specifications did not become available until mid-November and the Council recommendations were not received by NMFS until December 11, 2001. Analysis of the action and the preparation of the **Federal Register** notification could not be completed until the Council recommendations were received for the final specifications as well as the Steller sea lion protection

measures, of which the specifications are an integral part and must be in place by January 1, 2002, to allow the orderly commencement of the 2002 groundfish fisheries. Accordingly, it is impracticable to provide prior notice and an opportunity for public comment, or to delay for 30 days the effective date of this rule. Further, it would be contrary to the public interest to delay the start of the season to allow for prior notice, an opportunity for public comment, and for a 30-day delay in the effective date. Therefore, good cause exists to waive those requirements pursuant to 5 U.S.C. 553(b)(3). For the same reason, good cause exists to waive the 30-day delay in effective date. Accordingly, under 5 U.S.C. 553(d)(3), a delay in the effective date is hereby waived. Because prior notice and opportunity for public comment are not required for this emergency interim rule by 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* are not applicable. Therefore, no regulatory flexibility analysis has been prepared.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: December 27, 2001.

Rebecca Lent,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For reasons set out in the preamble, 50 CFR part 679 is amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

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

Authority: 16 U.S.C. 773 *et seq.*; 1801 *et seq.*; 3631 *et seq.*; Title II of Division C, Pub. L. 105–277; Sec. 3027, Pub. L. 106–31; 113 Stat. 57; 16 U.S.C. 1540(f); and Sec. 209, Pub. L. 106–554.

2. In § 679.2, the definitions for ''Steller Sea Lion Protection Areas'' and paragraph (5) under ''Directed Fishing'' are suspended until July 8, 2002, and definitions for ''Harvest limit area for platoon managed Atka mackerel directed fishing'', ''Inshore component in the GOA'', and ''Offshore component in the GOA'' are added in alphabetical order to read as follows:

§ 679.2 Definitions.

* * * * *

Harvest limit area for platoon managed Atka mackerel directed fishing (applicable through July 8, 2002) for the purposes of §§ 679.4(b)(5)(iv), 679.20(a)(8)(ii) and (iii) and 679.22(a)(12)(iv)(A), means the waters of statistical areas 542 and 543 west of 178° W long. within 20 nm seaward of sites listed in Table 24 of this part and located west of 177.58° W long.

* * * * *

Inshore component in the GOA (applicable through July 8, 2002) means the following three categories of the U.S. groundfish fishery that process groundfish harvested in the BSAI or GOA:

(1) Shoreside processing operations;

(2) Vessels less than 125 ft (38.1 m) LOA that process no more than 126 mt per week in round-weight equivalents of an aggregate amount of pollock and Pacific cod; and

(3) Vessels that process pollock or Pacific cod, harvested in a directed fishery for those species, at a single geographic location in Alaska State waters during a fishing year.

* * * * *

Offshore component in the GOA (applicable through July 8, 2002) means all vessels not included in the definition of ''inshore component in the GOA'' that process groundfish in the BSAI or GOA.

* * * * *

3. In § 679.4, paragraphs (b)(5)(iv)(E) and (F) are added to read as follows:

§ 679.4 Permits.

* * * * *

(b) * * *

(5) * * *

(iv) * * *

(E) (Applicable through July 8, 2002) If the vessel will be using pot, hook-and-line, or trawl gear in the directed fisheries for pollock, Atka mackerel or Pacific cod in the GOA or in the BSAI.

(F) (Applicable through July 8, 2002) If the vessel owner will be fishing in the harvest limit area in Statistical Areas 542 or 543 in the directed fishery for Atka mackerel.

* * * * *

4. In § 679.5, paragraph (n)(2)(iii)(A)(*4*) is added to read as follows:

§ 679.5 Recordkeeping and reporting.

* * * * *

(n) * * *

(2) * * *

(iii) * * *

(A) * * *

(*4*) (Applicable through July 8, 2002) Indicate the intended target species.

* * * * *

5. In § 679.7, paragraphs (a)(11), (b), (d)(16), and (d)(23) are suspended until July 8, 2002, paragraph (c)(3) is suspended 1200 hours, A.l.t., June 10, 2002, until July 8, 2002, and paragraphs (a)(7)(iii) through (vii), (a)(17), (a)(18), (a)(19), (d)(26), (j), and (k) are added to read as follows:

§ 679.7 Prohibitions.

* * * * *

(a) * * *

(7) * * *

(iii) (Applicable through July 8, 2002) Operate any vessel in the BSAI under both the ''inshore component in the GOA'' and the ''offshore component in the BSAI'' or under both the ''offshore component in the GOA'' and the ''inshore component in the BSAI'' definitions in § 679.2 during the same fishing year.

(iv) (Applicable through July 8, 2002) Operate any vessel in the GOA in more than one of the three categories included in the definitions of ''inshore component in the GOA,'' in § 679.2, during any fishing year.

(v) (Applicable through July 8, 2002) Operate any vessel in the GOA under both the ''inshore component in the GOA'' and the ''offshore component in the GOA'' definitions in § 679.2 during the same fishing year.

(vi) (Applicable through July 8, 2002) Operate any vessel in the GOA under both the ''inshore component in the GOA'' and the ''offshore component in the BSAI'' or under both the ''offshore component in the GOA'' and the ''inshore component in the BSAI'' definitions in § 679.2 during the same fishing year.

(vii) (Applicable through July 8, 2002) Operate any vessel that processes pollock or Pacific cod, harvested in a directed fishery for those species, at a single location in Alaska State waters under the ''inshore component in the BSAI'' and the ''inshore component in the GOA'' definitions in § 679.2 during the same fishing year.

* * * * *

(17) *Tender vessel* (applicable through July 8, 2002).

(i) Use a catcher vessel or catcher/processor as a tender vessel before offloading all groundfish or groundfish product harvested or processed by that vessel.

(ii) Use a catcher vessel or catcher/processor to harvest groundfish while operating as a tender vessel.

(18) *Pollock, Pacific Cod, and Atka Mackerel Directed Fishing and VMS* (applicable 1200 hours, A.l.t., June 10, 2002, through July 8, 2002). When a vessel using pot, hook-and-line, or trawl gear in the BSAI or GOA is authorized under § 679.4(b)(5)(iv)(E) to participate in the Atka mackerel, Pacific cod, or pollock directed fisheries; conduct directed fishing for groundfish or for Pacific halibut IFQ under § 679.4(d),

unless the vessel carries an operable NMFS-approved Vessel Monitoring System (VMS) transmitter and complies with the requirements in § 679.28(f) at all times any of these directed fisheries which the vessel is authorized for is open.

(19) *Atka Mackerel Harvest Limit Area Groundfish Prohibition* (applicable through July 8, 2002). For vessels registered for the Atka mackerel harvest limit area directed fishery under § 679.20(a)(8)(iii), conduct directed fishing for groundfish, other than Atka mackerel in an assigned harvest limit area directed fishery under § 679.20(a)(8)(iii), during the time period that the first Atka mackerel directed fishery assigned to the vessel under § 679.20(a)(8)(iii)(B) is open.

* * * * *

(d) * * *

(26) (Applicable through July 8, 2002) Use any groundfish CDQ species as a basis species for calculating retainable amounts of non-CDQ species under § 679.20.

* * * * *

(j) *Prohibitions specific to the GOA* (applicable through July 8, 2002)—(1) *Southeast Outside trawl closure.* Use any gear other than non-trawl gear in the GOA east of 140° W long.

(2) *Catcher vessel trip limit for pollock.* Retain on board a catcher vessel at any time during a trip, more than 300,000 lb (136 mt) of unprocessed pollock.

(3) *Tender vessel restrictions for pollock.* (i) Operate as a tender vessel east of 157°00′ W long. for pollock harvested in the GOA.

(ii) Operate as a tender vessel west of 157°00′ W long. while retaining on board at any time more than 600,000 lb (272 mt) of unprocessed pollock.

(k) *Prohibitions specific to AFA* (applicable January 15, 2002, through July 8, 2002) It is unlawful for any person to do any of the following:

(1) *Catcher vessels.* Use an AFA catcher vessel to retain any BSAI crab species unless the catcher vessel's AFA permit contains a crab sideboard endorsement for that crab species.

(2) *Crab processing limits.* It is unlawful for an AFA entity that processes pollock harvested in the BSAI directed pollock fishery by an AFA inshore or AFA mothership catcher vessel cooperative to use an AFA crab facility to process crab in excess of the crab processing sideboard cap established for that AFA inshore or mothership entity. The owners and operators for the individual entities comprising the AFA inshore or mothership entity will be held jointly and severally liable for any overages of the AFA inshore or mothership entity's crab processing sideboard cap.

6. In § 679.20, paragraphs (a)(5)(i)(A), (a)(5)(ii)(B), (a)(7)(i)(C)(*2*), (a)(7)(i)(C)(*3*), (a)(7)(ii)(A), (a)(7)(iii)(A), (a)(7)(iii)(B), (f)(2), and (f)(3) are suspended until July 8, 2002, and paragraphs (a)(5)(i)(B), (a)(5)(i)(F), (a)(5)(ii)(C), (a)(6)(ii), (a)(6)(iii), (a)(7)(i)(C)(*4*), (a)(7)(i)(C)(*5*), (a)(7)(ii)(D) and (E), (a)(7)(iii)(D), (a)(8)(ii)(C), (a)(8)(iii), (a)(11), (b)(2)(i), (b)(2)(ii), (d)(4), and (f)(4) are added to read as follows:

§ 679.20 General limitations.

* * * * *

(a) * * *

(5) * * *

(i) * * *

(B) *BSAI seasonal allowances* (applicable through July 8, 2002)—(*1*) *Inshore, catcher/processor, mothership, and CDQ components.* The portions of the BS subareas pollock directed fishing allowances allocated to each component under sections 206(a) and 206(b) of the American Fisheries Act will be divided into two seasonal allowances corresponding to the two fishing seasons set out at § 679.23(e)(5), as follows: A Season, 40 percent; B Season, 60 percent.

(*2*) *Inseason adjustments.* Within any fishing year, the Regional Administrator will add or subtract any under harvest or over harvest of a seasonal allowance for a component to the subsequent seasonal allowance for the component through notification published in the **Federal Register**.

* * * * *

(F) *Steller sea lion conservation area harvest limit* (applicable through July 8, 2002).

(*1*) For each component under Sections 206(a) and 206(b) of the American Fisheries Act and for the open access fishery, no more than 28 percent of the annual pollock directed fishery allowance may be taken from the Steller sea lion conservation area (SCA) before April 1. The SCA is defined at § 679.22(a)(11)(vii).

(*2*) After April 1, the unharvested amount available in the SCA before April 1 is available for directed fishing either within or outside the SCA during the remainder of the A season.

(ii) * * *

(C) *GOA seasonal apportionments* (applicable through July 8, 2002). Each apportionment established under paragraph (a)(5)(ii)(A) of this section will be divided into four seasonal apportionments corresponding to the four fishing seasons set out at § 679.23(d)(3) of this part as follows: A Season, 25 percent; B Season, 25 percent; C Season, 25 percent; D Season, 25 percent. Within any fishing year, under harvest or over harvest of a seasonal apportionment may be added to or subtracted from remaining seasonal apportionments in a manner to be determined by the Regional Administrator, provided that any revised seasonal apportionment does not exceed 30 percent of the annual TAC apportionment for the combined GOA Western and Central Regulatory Areas.

(6) * * *

(ii) *GOA pollock* (applicable through July 8, 2002). The apportionment of pollock in all GOA regulatory areas and for each seasonal apportionment described in paragraph (a)(5)(ii) of this section will be allocated entirely to vessels catching pollock for processing by the inshore component in the GOA after subtraction of an amount that is projected by the Regional Administrator to be caught by, or delivered to, the offshore component in the GOA incidental to directed fishing for other groundfish species.

(iii) *GOA Pacific cod* (applicable through July 8, 2002). The apportionment of Pacific cod in all GOA regulatory areas will be allocated 90 percent to vessels catching Pacific cod for processing by the inshore component in the GOA and 10 percent to vessels catching Pacific cod for processing by the offshore component in the GOA.

(7) * * *

(i) * * *

(C) * * *

(*4*) (Applicable through July 8, 2002) Harvest of Pacific cod made by catcher vessels less than 60 ft (18.3 m) LOA using pot gear:

(*i*) Will accrue against the 18.3 percent specified in paragraph (a)(7)(i)(C)(*1*)(*iii*) of this section when the Pacific cod fishery for vessels equal to or greater than 60 ft (18.3 m) LOA using pot gear is open.

(*ii*) Will accrue against the 1.4 percent specified in paragraph (a)(7)(i)(C)(*1*)(*iv*) of this section when the Pacific cod fishery for vessels equal to or greater than 60 ft (18.3 m) LOA using pot gear is closed.

(*5*) (Applicable through July 8, 2002) Harvest of Pacific cod made by catcher vessels less than 60 ft (18.3 m) LOA using hook-and-line gear:

(*i*) Will accrue against the 0.3 percent specified in paragraph (a)(7)(i)(C)(*1*)(*ii*) of this section when the Pacific cod fishery for vessels equal to or greater than 60 ft (18.3 m) LOA using hook-and-line gear is open.

(*ii*) Will accrue against the 1.4 percent specified in paragraph (a)(7)(i)(C)(*1*)(*iv*) of this section when the Pacific cod fishery for vessels equal to or greater than 60 ft (18.3 m) LOA using hook-and-line gear is closed.

* * * * *

(ii) * * *

(D) *Reallocation within the trawl sector* (applicable through July 8, 2002). If, during a fishing season, the Regional Administrator determines that either catcher vessels using trawl gear or catcher/processors using trawl gear will not be able to harvest the entire amount of Pacific cod in the BSAI allocated to those vessels under paragraph (a)(7)(i) or (a)(7)(ii)(C) of this section, he/she may reallocate the projected unused amount of Pacific cod to vessels using trawl gear in the other trawl component through notification in the **Federal Register** before any reallocation to vessels using other gear type(s).

(E) *Unused seasonal allowance for trawl* (applicable through July 8, 2002). Any unused portion of a seasonal allowance of Pacific cod for vessels using trawl gear under paragraph (a)(7)(i)(C) of this section may be reapportioned by the Regional Administrator, through notification published in the **Federal Register**, to the subsequent seasonal allocations for vessels using trawl gear.

(iii) * * *

(D) *Seasonal apportionment and gear allocations* (applicable through July 8, 2002). The Pacific cod BSAI gear allocations and apportionments by seasons, as specified in § 679.23 (e)(6), are as follows:

Gear type	A season (percent)	B season (percent)	C season (percent)
Trawl	60	20	20
Trawl CV	70	10	20
Trawl CP	50	30	20
Hook-and-line ≥60 ft (18.3 m) LOA, non-CDQ pot vessels ≥60 ft (18.3 m) LOA, and jig vessels	60	40	
All other nontrawl vessels	No seasonal apportionment.		

CV = catcher vessels.
CP = catcher/processor vessels.

(8) * * *

(ii) * * *

(C) *Atka mackerel harvest limit area* (applicable through July 8, 2002). Harvest of Atka mackerel is limited in the harvest limit area, as defined in § 679.2, as follows:

(*1*) For the Atka mackerel harvest limit area as defined in § 679.2, the Regional Administrator will establish a harvest limit of no more than 60 percent of the seasonal TAC as specified in paragraph (a)(8)(ii)(A) of this section.

(*2*) *CDQ fishing.* A CDQ group is prohibited from exceeding the CDQ portion of the percentage of annual Atka mackerel in the Western and/or Central districts of the AI specified in paragraph (a)(8)(ii)(C)(*1*) of this section for the harvest limit area as defined in § 679.2.

(iii) *Platoon management of Atka mackerel harvest limit area directed fishing* (applicable through July 8, 2002)—(A) *Registration.* All vessels using trawl gear for directed fishing for Atka mackerel in the harvest limit area, as defined in § 679.2, are required to register with NMFS by January 15, 2002. To register, the vessel owner or operator must provide information required by § 679.4(b)(5)(iv) for an endorsement to the vessel's Federal fishery permit issued under § 679.4.

(B) *Platoon assignment.* For each season, NMFS will manage the harvest limit area fishery for the vessels registered to fish in areas 542 or 543 under paragraph (a)(8)(iii)(A) of this section as follows:

(*1*) *Lottery.* The Regional Administrator or his/her designee randomly will assign each vessel to a platoon for one of two directed fisheries for each statistical area in which the vessel is registered under paragraph (a)(8)(iii)(A) of this section. Each platoon within a statistical area will be assigned an equal number of vessels unless there is an odd number of vessels registered under paragraph (a)(8)(iii)(A) of this section. In the case of an odd number of vessels, the Regional Administrator will assign one additional vessel to one platoon. Vessels registering under paragraph (a)(8)(iii)(A) of this section to fish in both area 542 and area 543 will be randomly assigned to a harvest limit area directed fishery in area 542 and will be placed in the area 543 harvest limit area directed fishery occurring at an alternate time during the season.

(*2*) *Notification.* The Regional Administrator will provide the results of the lottery under (a)(8)(iii)(B)(*1*) of this section by notification published in the **Federal Register** and other means of practicable notification.

(C) *Harvest limit area directed fisheries.* 48 hours after a seasonal closure of the area 541 Atka mackerel directed fishery, the Regional Administrator will open the directed fisheries within the harvest limit area in areas 542 and 543, as defined at § 679.2. The Regional Administrator will provide notification by publication in the **Federal Register** of the opening and closure date of the directed fisheries, as determined by paragraph (a)(8)(iii)(E) of this section. Closures specified in Table 24 of this part and in § 679.22(a)(12) will remain in effect.

(D) *Harvest limit area harvest limit.* The Regional Administrator will establish the harvest limit for each harvest limit area directed fishery for areas 542 and 543 based on the seasonal apportionment at paragraph (a)(8)(ii)(C) of this section and in proportion to the number of vessels in a platoon compared to the total number of vessels participating in the harvest limit area directed fishery for area 542 or 543 during a season.

(E) *Harvest limit area directed fisheries closures.* The Regional Administrator will establish the closure date of the Atka mackerel directed fisheries in the harvest limit area for areas 542 and 543 based on the estimated fishing capacity of vessels registered to fish in the area and assigned to the platoon under paragraph (a)(8)(iii)(B) of this section. Each harvest limit area directed fishery will last no longer than 14 days.

(F) *Groundfish directed fishery prohibition.* Vessels registering under paragraph (a)(8)(iii)(A) of this section are prohibited from participating in any groundfish directed fishery other than the one assigned under paragraph (a)(8)(iii)(B) of this section during the opening of the first harvest limit area directed fishery to which the vessel is assigned in a season, as specified in § 679.7(a)(19).

* * * * *

(11) *GOA Pacific cod TAC* (applicable through July 8, 2002)—(i) *Seasonal apportionment.* The TAC established for Pacific cod in the Western and Central areas of the GOA will be divided 60 percent to the A season and 40 percent to the B season, as specified in § 679.23(d)(4).

(ii) The Regional Administrator may apply any underage or overage of Pacific

cod harvest from one season to the subsequent season. In adding or subtracting any underages or overages to the subsequent season, the Regional Administrator must consider bycatch needed to optimize catch by gear groups and sectors.

(iii) *Bycatch.* Pacific cod bycatch taken between the closure of the A season and opening of the B season shall be deducted from the B season TAC apportionment.

(b) * * *

(2) * * *

(i) *Pollock inshore-offshore reapportionment* (applicable through July 8, 2002). Any amounts of the GOA reserve that are reapportioned to pollock as provided by paragraph (b) of this section must be apportioned between the inshore component in the GOA and the offshore component in the GOA in the same proportions specified in paragraph (a)(6)(ii) of this section.

(ii) *Pacific Cod inshore-offshore reapportionment* (applicable through July 8, 2002). Any amounts of the GOA reserve that are reapportioned to Pacific cod as provided by paragraph (b) of this section must be apportioned between the inshore component in the GOA and the offshore component in the GOA in the same proportion specified in paragraph (a)(6)(iii) of this section.

* * * * *

(d) * * *

(4) *Harvest control for pollock, Atka mackerel and Pacific cod* (applicable through July 8, 2002). If a biological assessment of stock condition for pollock, Pacific cod, or Atka mackerel within an area projects that the biomass in an area will be below 20 percent of the projected unfished biomass during a fishing year, the Regional Administrator will prohibit the directed fishery for the relevant species within the area. The Regional Administrator will prohibit the directed fishery under this paragraph by notification published in the **Federal Register**. The directed fishery will remain closed until a subsequent biological assessment projects that the biomass for the species in the area will exceed 20 percent of the projected unfished biomass during a fishing year.

* * * * *

(f) * * *

(4) *Retainable amounts* (applicable through July 8, 2002). Except as provided in Table 10 to this part, arrowtooth flounder, or any groundfish species for which directed fishing is closed may not be used to calculate retainable amounts of other groundfish species. CDQ species may only be used to calculate retainable amounts of other CDQ species.

* * * * *

7. In § 679.22, paragraphs (a)(5)(i) through (iii), (a)(7), (a)(8), and (b)(2) are suspended until July 8, 2002, and paragraphs (a)(5)(iv), (a)(11), (a)(12), (b)(3), and (b)(6) are added to read as follows:

§ 679.22 Closures.

(a) * * *

(5) * * *

(iv) *Catcher/processor restrictions* (applicable through July 8, 2002). A catcher/processor vessel authorized to fish for BSAI pollock under § 679.4 is prohibited from conducting directed fishing for pollock in the CVOA during the pollock B season defined at § 679.23(e)(5)(ii), unless it is operating under a CDP approved by NMFS.

* * * * *

(11) *Steller sea lion protection areas, Bering Sea subarea* (applicable through July 8, 2002)—(i) *Bogoslof area*—(A) Boundaries. The Bogoslof area consists of all waters of area 518 as described in Figure 1 of this part south of a straight line connecting 55°00′ N lat./170°00′ W long., and 55°00′ N lat./168°11′4.75″ W long.;

(B) *Fishing prohibition.* All waters within the Bogoslof area are closed to directed fishing for pollock, Pacific cod, and Atka mackerel by federally permitted vessels, except as provided in paragraph (a)(11)(i)(C) of this section.

(C) *Bogoslof Pacific cod exemption area.* (*1*) All catcher vessels less than 60 ft (18.3 m) LOA using jig or hook-and-line gear for directed fishing for Pacific cod are exempt from the Pacific cod fishing prohibition as described in paragraph (a)(11)(i)(B) of this section in the portion of the Bogoslof area south of a line connecting a point that is 3 nm north of Bishop Point (54°01′25″ N lat./166° 57′00'' W long.) to Cape Tanak (53°33′50″ N lat./168°00′00″ W long.), not including waters of the Bishop Point Pacific cod fishing closures as described in Table 23 of this part.

(*2*) If the Regional Administrator determines that 113 mt of Pacific cod has been caught by catcher vessels less than 60 ft (18.3 m) LOA using jig or hook-and-line gear in the exemption area described in paragraph (a)(11)(i)(C)(*1*) of this section, the Regional Administrator will prohibit directed fishing for Pacific cod by catcher vessels less than 60 ft (18.3 m) LOA using jig or hook-and-line gear in the exemption area by notification published in the **Federal Register**.

(ii) *Bering Sea Pollock Restriction Area*—(A) *Boundaries.* The Bering Sea Pollock Restriction Area consists of all waters of the Bering Sea subarea south of a line connecting the points 163°0′00″ W long./55°46′30″ N lat., 165°08′00″ W long./54°42′9″ N lat., 165°40′00″ W long./54°26′30″ N lat., 166°12′00″ W long./54°18′40″ N lat., and 167°0′00″ W long./54°8′50″ N lat.

(B) *Fishing prohibition.* All waters within the Bering Sea Pollock Restriction Area are closed to directed fishing for pollock by federally permitted vessels during the A season, as defined at § 679.23(e)(5).

(iii) Groundfish closures. Directed fishing for groundfish by federally permitted vessels is prohibited within 3 nm of selected sites. These sites are listed in Table 21 of this part and are identifiable by ''Bering Sea'' in column 2.

(iv) *Pollock closures.* Directed fishing for pollock by federally permitted vessels is prohibited within pollock no fishing zones around selected sites. These sites are listed in Table 22 of this part and are identifiable by ''Bering Sea'' in column 2.

(v) *Pacific cod closures.* Directed fishing for Pacific cod by federally permitted vessels using trawl, hook-and-line, and pot gear is prohibited within the Pacific cod no fishing zones around selected sites. These sites and gear types are listed in Table 23 of this part and are identifiable by ''BS'' in column 2.

(vi) *Atka mackerel closures.* Directed fishing for Atka mackerel by federally permitted vessels using trawl gear is prohibited within Atka mackerel no fishing zones around selected sites. These sites are listed in Table 24 of this part and are identifiable by ''Bering Sea'' in column 2.

(vii) *Steller sea lion conservation area (SCA).* (A) General. When the Regional Administrator announces, by notification in the **Federal Register**, that the criteria set out in paragraph (a)(11)(vii)(C) of this section have been met by one or more industry component(s) made of vessels catching pollock for processing by the inshore component, catcher/processors in the offshore component, motherships in the offshore component, or directed fishing for pollock CDQ; directed fishing for pollock by that industry component(s) is prohibited within the SCA until April 1.

(B) *Boundaries.* The SCA consists of the area of the Bering Sea subarea between 170°00′ W long. and 163°00′ W long., south of straight lines connecting the following points in the order listed: 55°00′ N lat., 170°00′ W long.; 55°00′ N lat., 168°00′ W long.; 55°30′ N lat., 168°00′ W long.; 55°30′ N lat., 166°00′ W long.; 56°00′ N lat., 166°00′ W long.; and, 56°00′ N lat., 163°00′ W long.

(C) *Criteria for closure*—(1) *General.* The directed fishing closures identified in paragraph (a)(11)(vii)(A) of this section will take effect when the Regional Administrator determines that the harvest limit for pollock within the SCA, as specified in § 679.20(a)(5)(i)(F)(1) is reached before April 1. The Regional Administrator will close the directed pollock fishery in the SCA by notification published in the **Federal Register**.

(*2*) *Inshore catcher vessels greater than 99 ft (30.2 m) LOA.* The Regional Administrator will prohibit directed fishing for pollock to vessels greater than 99 ft (30.2 m) LOA, catching pollock for processing by the inshore component before reaching the inshore SCA harvest limit before April 1 to accommodate fishing by vessels less than or equal to 99 ft (30.2 m) inside the SCA until April 1. The Regional Administrator will estimate how much of the inshore seasonal allowance is likely to be harvested by catcher vessels less than or equal to 99 ft (30.2 m) LOA and reserve a sufficient amount of the inshore SCA allowance to accommodate fishing by such vessels after the closure of the SCA to inshore vessels greater than 99 ft (30.2 m) LOA. The Regional Administrator will prohibit directed fishing for all inshore catcher vessels within the SCA when the harvest limit specified in § 679.20(a)(5)(i)(F) has been met before April 1.

(12) *Steller sea lion protection areas, Aleutian Islands subarea* (applicable through July 8, 2002)—(i) *Seguam Foraging area.* (A) The Seguam foraging area is established as all waters within the area between 52° N lat. and 53° N lat. and between 173°30′ W long. and 172°30′ W long.

(B) Directed fishing for pollock, Pacific cod, and Atka mackerel by federally permitted vessels is prohibited in the Seguam Foraging area as described in paragraph (a)(12)(i)(A) of this section.

(ii) *Pollock Closure.* Directed fishing for pollock by federally permitted vessels is prohibited within the Aleutian Islands subarea at all times.

(iii) *Groundfish closures.* Directed fishing for groundfish by federally permitted vessels is prohibited within 3 nm of selected sites. These sites are listed in Table 21 of this part and are identifiable by ''Aleutian Islands'' in column 2.

(iv) *Pacific cod closures*—(A) *Central and Western Aleutian Islands harvest limit area.* Directed fishing for Pacific cod by federally permitted vessels using trawl gear is prohibited in the Atka mackerel harvest limit area in area 542 or area 543, as defined in § 679.2, when the Atka mackerel harvest limit area directed fishery in area 542 or area 543 is open.

(B) *Gear specific closures.* Directed fishing for Pacific cod by federally permitted vessels using trawl, hook-and-line, or pot gear is prohibited within the Pacific cod no fishing zones around selected sites. These sites and gear types are listed in Table 23 of this part and are identifiable by ''AI'' in column 2.

(v) *Atka mackerel closures.* Directed fishing for Atka mackerel by federally permitted vessels using trawl gear is prohibited within Atka mackerel no fishing zones around selected sites. These sites are listed in Table 24 of this part and are identifiable by ''Aleutian Islands'' in column 2.

(b) * * *

(3) *Steller sea lion protection areas* (applicable through July 8, 2002)—(i) *Groundfish closures.* Directed fishing for groundfish by federally permitted vessels is prohibited within 3 nm of selected sites. These sites are listed in Table 21 of this part and are identifiable by ''Gulf of Alaska'' in column 2.

(ii) *Pollock closures.* Directed fishing for pollock by federally permitted vessels is prohibited within pollock no fishing zones around selected sites. These sites are listed in Table 22 of this part and are identifiable by ''Gulf of Alaska'' in column 2.

(iii) *Pacific cod closures.* Directed fishing for Pacific cod by federally permitted vessels using trawl, hook-and-line, or pot gear is prohibited within Pacific cod no fishing zones around selected sites. These sites and gear types are listed in Table 23 of this part and are identifiable by ''GOA'' in column 2.

(iv) *Atka mackerel closure.* Directed fishing for Atka mackerel by federally permitted vessels within the Gulf of Alaska is prohibited at all times.

* * * * *

(6) *Chiniak Gully Research Area* (applicable through July 8, 2002)—(i) *Description of Chiniak Gully Research Area.* The Chiniak Gully Research Area is defined as that part of Statistical Area 630 bounded by straight lines connecting the coordinates in the order listed: 57.81° N lat., 152.37° W long.; 57.81° N lat., 151.85° W long.; 57.22° N lat., 150.64° W long.; 56.98° N lat., 151.27° W long.; 57.62° N lat., 152.16° W long.; and hence counterclockwise along the shoreline of Kodiak Island to 57.81° N lat., 152.37° W long.

(ii) *Closure.* (A) The Chiniak Gully Research Area is closed to federally permitted vessels using trawl gear from August 1 to a date no later than September 20, except that trawl gear may be tested in the manner described at § 679.24(d)(2) in the Kodiak Test Area defined at § 679.24(d)(4)(i) and illustrated in Figure 7 to this part.

(B) Prior to September 20, the Regional Administrator may publish notification in the **Federal Register** rescinding the trawl closure in the Chiniak Gully Research Area described in paragraph (b)(6)(ii)(A) of this section.

* * * * *

8. In § 679.23, paragraphs (d)(2), (e)(2), (e)(3), and (e)(4)(iii), are suspended until July 8, 2002, and paragraphs (d)(3), (d)(4), (e)(4)(iv), (e)(4)(v), (e)(5), (e)(6), (e)(7), and (i) are added to read as follows:

§ 679.23 Seasons.

* * * * *

(d) * * *

(3) *Directed fishing for pollock* (applicable through July 8, 2002). Subject to other provisions of this part, directed fishing for pollock in the Western and Central Regulatory Areas is authorized only during the following four seasons:

(i) *A season.* From 1200 hours, A.l.t., January 20 through 1200 hours, A.l.t., February 25;

(ii) *B season.* From 1200 hours, A.l.t., March 10 through 1200 hours, A.l.t., May 31;

(iii) *C season.* From 1200 hours, A.l.t., August 25 through 1200 hours, A.l.t., September 15; and

(iv) *D season.* From 1200 hours, A.l.t., October 1 through 1200 hours, A.l.t., November 1.

(4) *Directed fishing for Pacific cod* (applicable through July 8, 2002)—(i) *Hook-and-line, pot, or jig gear.* Subject to other provisions of this part, directed fishing for Pacific cod with hook-and-line, pot, or jig gear in the Western and Central Regulatory Areas is authorized only during the following two seasons:

(A) *A season.* From 0001 hours, A.l.t., January 1 through 1200 hours, A.l.t., June 10; and

(B) *B season.* From 1200 hours, A.l.t., September 1 through 2400 hours, A.l.t., December 31.

(ii) *Trawl gear.* Subject to other provisions of this part, directed fishing for Pacific cod with trawl gear in the Western and Central Regulatory Areas is authorized only during the following two seasons:

(A) *A season.* From 1200 hours, A.l.t., January 20 through 1200 hours, A.l.t., June 10; and

(B) *B season.* From 1200 hours, A.l.t., September 1 through 1200 hours, A.l.t., November 1.

(e) * * *

(4) * * *

(iv) *Groundfish CDQ* (applicable through July 8, 2002). Fishing for

groundfish CDQ species, other than pollock CDQ; hook-and-line, jig, or trawl Pacific cod CDQ; and fixed gear sablefish CDQ under subpart C of this part, is authorized from 0001 hours, A.l.t., January 1 through the end of each fishing year, except as provided under paragraph (c) of this section.

(v) *Pollock CDQ and Pacific cod CDQ harvested with hook-and-line, jig or trawl gear* (applicable through July 8, 2002). (A) Fishing for pollock CDQ is authorized under paragraph (e)(5) of this section.

(B) Fishing for Pacific cod CDQ with hook-and-line, jig or trawl gear is authorized under paragraph (e)(6) of this section.

(5) *Directed fishing for pollock in the Bering Sea Subarea by inshore, offshore catcher/processor, and mothership components and pollock CDQ fisheries* (applicable through July 8, 2002). Subject to other provisions of this part, directed fishing for pollock by vessels catching pollock for processing by the inshore component, catcher/processors in the offshore component, and motherships in the offshore component in the Bering Sea subarea or directed fishing for pollock CDQ in the Bering Sea subarea is authorized only during the following two seasons:

(i) *A season.* From 1200 hours, A.l.t., January 20 through 1200 hours, A.l.t., June 10; and

(ii) *B season.* From 1200 hours, A.l.t., June 10 through 1200 hours, A.l.t., November 1.

(6) *Directed fishing for Pacific cod* (applicable through July 8, 2002). (i) *Fixed gear.* Subject to other provisions of this part, directed fishing for Pacific cod with fixed gear in the BSAI is authorized only during the following two seasons:

(ii) *Hook-and-line and jig gear.* Subject to other provisions of this part, directed fishing for CDQ and non-CDQ Pacific cod with vessels equal to or greater than 60 ft (18.3 m) LOA using hook-and-line and with vessels using jig gear in the BSAI is authorized only during the following two seasons:

(A) *A season.* From 0001 hours, A.l.t., January 1 through 1200 hours, A.l.t., June 10; and

(B) *B season.* From 1200 hours, A.l.t., June 10 through 2400 hours, A.l.t., December 31.

(iii) *Trawl gear.* Subject to other provisions of this part, directed fishing for CDQ and non-CDQ Pacific cod with trawl gear in the BSAI is authorized only during the following three seasons:

(A) *A season.* From 1200 hours, A.l.t., January 20 through 1200 hours, A.l.t., April 1;

(B) *B season.* From 1200 hours, A.l.t., April 1 through 1200 hours, A.l.t., June 10; and

(C) *C season.* From 1200 hours, A.l.t., June 10 through 1200 hours, A.l.t., November 1.

(iv) *Pot gear.* Subject to other provisions of this part, non-CDQ directed fishing for Pacific cod with vessels equal to or greater than 60 ft (18.3 m) LOA using pot gear in the BSAI is authorized only during the following two seasons:

(A) *A season.* From 0001 hours, A.l.t., January 1 through 1200 hours, A.l.t., June 10; and

(B) *B season.* From 1200 hours, A.l.t., September 1 through 2400 hours, A.l.t., December 31.

(7) *Directed fishing for Atka mackerel with trawl gear* (applicable through July 8, 2002). Subject to other provisions of this part, non-CDQ directed fishing for Atka mackerel with trawl gear in the Aleutian Islands subarea is authorized only during the following two seasons:

(i) *A season.* From 1200 hours, A.l.t., January 20 through 1200 hours, A.l.t., April 15; and

(ii) *B season.* From 1200 hours, A.l.t., September 1 through 1200 hours, A.l.t., November 1.

* * * * *

(i) *Catcher vessel exclusive fishing seasons for pollock* (applicable through July 8, 2002). Catcher vessels are prohibited from participating in directed fishing for pollock under the following conditions. Vessels less than 125 ft (38.1 m) LOA are exempt from this restriction when fishing east of 157°00' W long. GOA and Bering Sea seasons are specified at § 679.23(d)(3) and § 679.23(e)(5).

If you own or operate a catcher vessel and engage in directed fishing for pollock in the	During the	Then you are prohibited from subsequently engaging in directed fishing for pollock with that catcher vessel in the
Bering Sea subarea	A season	GOA until the following C season.
	B season	GOA until the A season of the next year.
GOA	A season	BSAI until the following B season.
	B season	BSAI until the following B season.
	C season	BSAI until the A season of the following year.
	D season	BSAI until the A season of the following year.

8a. In §679.23, new paragraph (e)(6)(i) is suspended until July 8, 2002.

9. In § 679.28, paragraph (f)(3)(viii) is added to read as follows:

§ 679.28 Equipment and operational requirements.

* * * * *

(f) * * *

(3) * * *

(viii) (Applicable 1200 hours A. l. t. June 10, 2002, through July 8, 2002) For vessels permitted to fish in the pollock, Pacific cod, or Atka mackerel directed fisheries under § 679.4(b)(5)(iv)(E), the vessel owner must inform NMFS Enforcement Division by FAX at least 72 hours before entering the area the vessel is permitted to directed fish for pollock, Atka mackerel, or Pacific cod, of the VMS transponder ID and the vessel ID on which the VMS unit is used and the approximate time and location that the vessel will begin directed fishing for groundfish or halibut IFQ.

10. In § 679.31, paragraph (f) is suspended until July 8, 2002, and paragraph (g) is added to read as follows:

§ 679.31 CDQ reserves.

* * * * *

(g) Non-specific CDQ reserve (applicable through July 8, 2002). Annually, NMFS will apportion 50 percent of the arrowtooth flounder CDQ and 15 percent of the ''other species'' CDQ for each CDQ group to a non-specific CDQ reserve. A CDQ group's non-specific CDQ reserve must be for the exclusive use of that CDQ group. A release from the non-specific reserve to the CDQ group's arrowtooth flounder or ''other species'' CDQ is a technical amendment to a community development plan as described in § 679.30(g)(5). The technical amendment must be approved before harvests relying on CDQ transferred from the non-specific CDQ reserve may be conducted.

11. In § 679.32, paragraphs (a)(2) and (e) are suspended until July 8, 2002.

12. In § 679.50, paragraph (c)(4)(i) is suspended until July 8, 2002, paragraph (c)(5) is added and reserved, and paragraphs (c)(1)(x), (c)(4)(vi), and (c)(6) are added to read as follows:

§ 679.50 Groundfish observer program applicable through December 31, 2002.

* * * * *

(c) * * *

(1) * * *

(x) (Applicable through July 8, 2002) *A vessel directed fishing with trawl gear for Atka mackerel in the Aleutian Islands subarea* must carry two NMFS-certified observers at all times while directed fishing for Atka mackerel in the harvest limit area for platoon managed Atka mackerel directed fishing, as defined in § 679.2.

* * * * *

(4) * * *

(vi) *Motherships or catcher/processors using trawl gear* (applicable January 15, 2002, through July 8, 2002). (A) A mothership or catcher/processor vessel using trawl gear to participate in a directed fishery for pollock CDQ must have at least two NMFS-certified observers aboard the vessel, at least one of whom must be certified as a lead CDQ observer as described at paragraph (h)(1)(i)(E) of this section.

(B) A mothership or catcher/processor vessel using trawl gear to participate in a directed fishery for other than pollock CDQ must have at least two CDQ observes as described at paragraphs (h)(1)(i)(D) and (E) of this section aboard the vessel, at least one of whom must be certified as a lead CDQ observer.

* * * * *

(6) *AFA catcher/processors and motherships* (applicable January 15, 2002, through July 8, 2002).

(i) *Coverage requirement*—(A) *Unrestricted AFA catcher/processors and AFA motherships.* The owner or operator of an unrestricted AFA catcher/processor or AFA mothership must provide at least two NMFS-certified observers for each day that the vessel is used to harvest, process, or take deliveries of groundfish. More than two observers are required if the observer workload restriction in paragraph (c)(6)(iii) of this section would otherwise preclude sampling.

(B) *Restricted AFA catcher/processors.* The owner or operator of a restricted AFA catcher/processor must provide at least two NMFS-certified observers for each day that the vessel is used to engage in directed fishing for pollock in the BSAI, or take deliveries of pollock harvested in the BSAI. When a restricted AFA catcher/processor is not engaged in directed fishing for BSAI pollock and is not receiving deliveries of pollock harvested in the BSAI, the observer coverage requirements in paragraph (c)(1)(iv) of this section apply.

(ii) *Certification level.* At least one of the observers required under paragraphs (c)(6)(i)(A) and (B) of this section must be certified as a lead CDQ observer as specified in paragraph (h)(1)(i)(E)(*1*) of this section.

(iii) *Observer work load.* The time required for the observer to complete sampling, data recording, and data communication duties may not exceed 12 consecutive hours in each 24-hour period, and the observer may not sample more than 9 hours in each 24-hour period.

* * * * *

13. In 50 CFR part 679, Tables 4, 5, and 6 are suspended until July 8, 2002, and Tables 21, 22, 23, and 24 are added to read as follows:

Table 21 to 50 CFR Part 679 Steller Sea Lion Protection Areas 3nm No Groundfish Fishing Sites

Column Number 1	2	3	4	5	6	7
Site name	Subarea	Boundaries from		Boundaries to [1]		No transit [2]
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	3 nm
Walrus I. (Pribilofs)	Bering Sea	57 11.00 N	169 56.00 W			Y
Attu I./Cape Wrangell	Aleutian I.	52 54.60 N	172 27.90 E	52 55.40 N	172 27.20 E	Y
Agattu I./Gillon Pt	Aleutian I.	52 24.13 N	173 21.31 E			Y
Agattu I./Cape Sabak	Aleutian I.	52 22.50 N	173 43.30 E	52 21.80 N	173 41.40 E	Y
Buldir I.	Aleutian I.	52 20.25 N	175 54.03 E	52 20.38 N	175 53.85 E	Y
Kiska I./Cape St. Stephen	Aleutian I.	51 52.50 N	177 12.70 E	51 53.50 N	177 12.00 E	Y
Kiska I./Lief Cove	Aleutian I.	51 57.16 N	177 20.41 E	51 57.24 N	177 20.53 E	Y
Ayugadak Point	Aleutian I.	51 45.36 N	178 24.30 E			Y
Amchitka I./Column Rocks	Aleutian I.	51 32.32 N	178 49.28 E			Y
Amchitka I./East Cape	Aleutian I.	51 22.26 N	179 27.93 E	51 22.00 N	179 27.00 E	Y
Semisopochnoi/Petrel Pt.	Aleutian I.	52 01.40 N	179 36.90 E	52 01.50 N	179 39.00 E	Y
Semisopochnoi I./Pochnoi Pt.	Aleutian I.	51 57.30 N	179 46.00 E			Y
Ulak I./Hasgox Pt.	Aleutian I.	51 18.90 N	178 58.90 W	51 18.70 N	178 59.60 W	Y
Tag I.	Aleutian I.	51 33.50 N	178 34.50 W			Y
Gramp Rock	Aleutian I.	51 28.87 N	178 20.58 W			Y
Adak I.	Aleutian I.	51 35.50 N	176 57.10 W	51 37.40 N	176 59.60 W	Y
Kasatochi I.	Aleutian I.	52 11.11 N	175 31.00 W			Y
Agligadak I.	Aleutian I.	52 06.09 N	172 54.23 W			Y
Seguam I./Saddleridge Pt.	Aleutian I.	52 21.05 N	172 34.40 W	52 21.02 N	172 33.60 W	Y
Yunaska I.	Aleutian I.	52 41.40 N	170 36.35 W			Y
Adugak I.	Bering Sea	52 54.70 N	169 10.50 W			Y
Ogchul I.	Gulf of Alaska	52 59.71 N	168 24.24 W			Y
Bogoslof I./Fire I.	Bering Sea	53 55.69 N	168 02.05 W			Y
Akutan I./Cape Morgan	Gulf of Alaska	54 03.39 N	165 59.65 W	54 03.70 N	166 03.68 W	Y
Akun I./Billings Head	Bering Sea	54 17.62 N	165 32.06 W	54 17.57 N	165 31.71 W	Y
Ugamak I.	Gulf of Alaska	54 13.50 N	164 47.50 W	54 12.80 N	164 47.50 W	Y

Column Number 1	2	3	4	5	6	7
Site name	Subarea	Boundaries from		Boundaries to [1]		No transit [2]
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	3 nm
Sea Lion Rock (Amak)	Bering Sea	55 27.82 N	163 12.10 W			Y
Clubbing Rocks (S)	Gulf of Alaska	54 41.98 N	162 26.7 W			Y
Clubbing Rocks (N)	Gulf of Alaska	54 42.75 N	162 26.7 W			Y
Pinnacle Rock	Gulf of Alaska	54 46.06 N	161 45.85 W			Y
Chernabura I.	Gulf of Alaska	54 45.18 N	159 32.99 W	54 45.87 N	159 35.74 W	Y
Atkins I.	Gulf of Alaska	55 03.20 N	159 17.40 W			Y
Chowiet I.	Gulf of Alaska	56 00.54 N	156 41.42 W	56 00.30 N	156 41.60 W	Y
Chirikof I.	Gulf of Alaska	55 46.50 N	155 39.50 W	55 46.44 N	155 43.46 W	Y
Sugarloaf I.	Gulf of Alaska	58 53.25 N	152 02.40 W			Y
Marmot I.	Gulf of Alaska	58 13.65 N	151 47.75 W	58 09.90 N	151 52.06 W	Y
Outer (Pye) I.	Gulf of Alaska	59 20.50 N	150 23.00 W	59 21.00 N	150 24.50 W	Y
Wooded I. (Fish I.)	Gulf of Alaska	59 52.90 N	147 20.65 W			
Seal Rocks (Cordova)	Gulf of Alaska	60 09.78 N	146 50.30 W			

[1] Where two sets of coordinates are given, the baseline extends in a clock-wise direction from the first set of geographic coordinates along the shoreline at mean lower-low water to the second set of coordinates. Where only one set of coordinates is listed, that location is the base point.

[2] See 50 CFR 223.202(a)(2)(i) for regulations regarding 3 nm no transit zones.

Note: No groundfish fishing zones are the waters between 0 nm to 3 nm surrounding each site.

Table 22 to 50 CFR Part 679 Steller Sea Lion Protection Areas Pollock Fisheries Restrictions

Column Number 1	2	3	4	5	6	7
Site name	Subarea	Boundaries from		Boundaries to [1]		Pollock No Fishing Zones for Trawl Gear[2, 8] (nm)
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	
St. Lawrence I./S Punuk I.	Bering Sea	63 04.00 N	168 51.00 W			20
St. Lawrence I./SW Cape	Bering Sea	63 18.00 N	171 26.00 W			20
Hall I.	Bering Sea	60 37.00 N	173 00.00 W			20
St Paul I./Sea Lion Rock	Bering Sea	57 06.00 N	170 17.50 W			3
St Paul I./NE Pt.	Bering Sea	57 15.00 N	170 06.50 W			3
Walrus I. (Pribilofs)	Bering Sea	57 11.00 N	169 56.00 W			10
St. George I./Dalnoi Pt.	Bering Sea	56 36.00 N	169 46.00 W			3
St. George I./S Rookery	Bering Sea	56 33.50 N	169 40.00 W			3
Cape Newenham	Bering Sea	58 39.00 N	162 10.50 W			20
Round (Walrus Islands)	Bering Sea	58 36.00 N	159 58.00 W			20
Uliaga[3]	Bering Sea	53 04.00 N	169 47.00 W	53 05.00 N	169 46.00 W	10
Chuginadak	Gulf of Alaska	52 46.70 N	169 41.90 W			20
Kagamil[3]	Bering Sea	53 02.10 N	169 41.00 W			10
Samalga	Gulf of Alaska	52 46.00 N	169 15.00 W			20
Adugak I.[3]	Bering Sea	52 54.70 N	169 10.50 W			10
Umnak I./Cape Aslik[3]	Bering Sea	53 25.00 N	168 24.50 W			BA
Ogchul I.	Gulf of Alaska	52 59.71 N	168 24.24 W			20
Bogoslof I./Fire I.[3]	Bering Sea	53 55.69 N	168 02.05 W			BA
Polivnoi Rock	Gulf of Alaska	53 15.96 N	167 57.99 W			20
Emerald I.	Gulf of Alaska	53 17.50 N	167 51.50 W			20
Unalaska/Cape Izigan	Gulf of Alaska	53 13.64 N	167 39.37 W			20

Column Number 1	2	3	4	5	6	7
Site name	Subarea	Boundaries from		Boundaries to [1]		Pollock No Fishing Zones for Trawl Gear[2, 8] (nm)
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	
Unalaska/Bishop Pt[9]	Bering Sea	53 58.40 N	166 57.50 W			10
Akutan I./Reef-lava[9]	Bering Sea	54 08.10 N	166 06.19 W	54 09.10 N	166 05.50 W	10
Unalaska I./Cape Sedanka[6]	Gulf of Alaska	53 50.50 N	166 05.00 W			20
Old Man Rocks[6]	Gulf of Alaska	53 52.20 N	166 04.90 W			20
Akutan I./Cape Morgan[6]	Gulf of Alaska	54 03.39 N	165 59.65 W	54 03.70 N	166 03.68 W	20
Akun I./Billings Head[9]	Bering Sea	54 17.62 N	165 32.06 W	54 17.57 N	165 31.71 W	10
Rootok[6]	Gulf of Alaska	54 03.90 N	165 31.90 W	54 02.90 N	165 29.50 W	20
Tanginak I.[6]	Gulf of Alaska	54 12.00 N	165 19.40 W			20
Tigalda/Rocks NE[6]	Gulf of Alaska	54 09.60 N	164 59.00 W	54 09.12 N	164 57.18 W	20
Unimak/Cape Sarichef[9]	Bering Sea	54 34.30 N	164 56.80 W			10
Aiktak[6]	Gulf of Alaska	54 10.99 N	164 51.15 W			20
Ugamak I.[6]	Gulf of Alaska	54 13.50 N	164 47.50 W	54 12.80 N	164 47.50 W	20
Round (GOA)[6]	Gulf of Alaska	54 12.05 N	164 46.60 W			20
Sea Lion Rock (Amak)[9]	Bering Sea	55 27.82 N	163 12.10 W			10
Amak I. and rocks[9]	Bering Sea	55 24.20 N	163 09.60 W	55 26.15 N	163 08.50 W	10
Bird I.	Gulf of Alaska	54 40.00 N	163 17.2 W			10
Caton I.	Gulf of Alaska	54 22.70 N	162 21.30 W			3
South Rocks	Gulf of Alaska	54 18.14 N	162 41.3 W			10
Clubbing Rocks (S)	Gulf of Alaska	54 41.98 N	162 26.7 W			10
Clubbing Rocks (N)	Gulf of Alaska	54 42.75 N	162 26.7 W			10
Pinnacle Rock	Gulf of Alaska	54 46.06 N	161 45.85 W			3
Sushilnoi Rocks	Gulf of Alaska	54 49.30 N	161 42.73 W			10
Olga Rocks	Gulf of Alaska	55 00.45 N	161 29.81 W	54 59.09 N	161 30.89 W	10
Jude I.	Gulf of Alaska	55 15.75 N	161 06.27 W			20
Sea Lion Rocks (Shumagins)	Gulf of Alaska	55 04.70 N	160 31.04 W			3

Column Number 1	2	3	4	5	6	7
Site name	Subarea	Boundaries from		Boundaries to [1]		Pollock No Fishing Zones for Trawl Gear[2, 8] (nm)
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	
Nagai I./Mountain Pt.	Gulf of Alaska	54 54.20 N	160 15.40 W	54 56.00 N	160 15.00 W	3
The Whaleback	Gulf of Alaska	55 16.82 N	160 05.04 W			3
Chernabura I.	Gulf of Alaska	54 45.18 N	159 32.99 W	54 45.87 N	159 35.74 W	20
Castle Rock	Gulf of Alaska	55 16.47 N	159 29.77 W			3
Atkins I.	Gulf of Alaska	55 03.20 N	159 17.40 W			20
Spitz I.	Gulf of Alaska	55 46.60 N	158 53.90 W			3
Mitrofania	Gulf of Alaska	55 50.20 N	158 41.90 W			3
Kak	Gulf of Alaska	56 17.30 N	157 50.10 W			20
Lighthouse Rocks	Gulf of Alaska	55 46.79 N	157 24.89 W			20
Sutwik I.	Gulf of Alaska	56 31.05 N	157 20.47 W	56 32.00 N	157 21.00 W	20
Chowiet I.	Gulf of Alaska	56 00.54 N	156 41.42 W	56 00.30 N	156 41.60 W	20
Nagai Rocks	Gulf of Alaska	55 49.80 N	155 47.50 W			20
Chirikof I.	Gulf of Alaska	55 46.50 N	155 39.50 W	55 46.44 N	155 43.46 W	20
Puale Bay	Gulf of Alaska	57 40.60 N	155 23.10 W			10
Kodiak/Cape Ikolik	Gulf of Alaska	57 17.20 N	154 47.50 W			3
Takli I.	Gulf of Alaska	58 01.75 N	154 31.25 W			10
Cape Kuliak	Gulf of Alaska	58 08.00 N	154 12.50 W			10
Cape Gull	Gulf of Alaska	58 11.50 N	154 09.60 W	58 12.50 N	154 10.50 W	10
Kodiak/Cape Ugat	Gulf of Alaska	57 52.41 N	153 50.97 W			10
Sitkinak/Cape Sitkinak	Gulf of Alaska	56 34.30 N	153 50.96 W			10
Shakun Rock	Gulf of Alaska	58 32.80 N	153 41.50 W			10
Twoheaded I.	Gulf of Alaska	56 54.50 N	153 32.75 W	56 53.90 N	153 33.74 W	10
Cape Douglas (Shaw I.)	Gulf of Alaska	59 00.00 N	153 22.50 W			10
Kodiak/Cape Barnabas	Gulf of Alaska	57 10.20 N	152 53.05 W			3
Kodiak/Gull Point[4]	Gulf of Alaska	57 21.45 N	152 36.30 W			10, 3
Latax Rocks	Gulf of Alaska	58 40.10 N	152 31.30 W			10
Ushagat I./SW	Gulf of Alaska	58 54.75 N	152 22.20 W			10

Column Number 1	2	3	4	5	6	7
Site name	Subarea	Boundaries from		Boundaries to [1]		Pollock No Fishing Zones for Trawl Gear[2, 8] (nm)
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	
Ugak I.[4]	Gulf of Alaska	57 23.60 N	152 17.50 W	57 21.90 N	152 17.40 W	10, 3
Sea Otter I.	Gulf of Alaska	58 31.15 N	152 13.30 W			10
Long I.	Gulf of Alaska	57 46.82 N	152 12.90 W			10
Sud I.	Gulf of Alaska	58 54.00 N	152 12.50 W			10
Kodiak/Cape Chiniak	Gulf of Alaska	57 37.90 N	152 08.25 W			10
Sugarloaf I.	Gulf of Alaska	58 53.25 N	152 02.40 W			20
Sea Lion Rocks (Marmot)	Gulf of Alaska	58 20.53 N	151 48.83 W			10
Marmot I.[5]	Gulf of Alaska	58 13.65 N	151 47.75 W	58 09.90 N	151 52.06 W	15, 20
Nagahut Rocks	Gulf of Alaska	59 06.00 N	151 46.30 W			10
Perl	Gulf of Alaska	59 05.75 N	151 39.75 W			10
Gore Point	Gulf of Alaska	59 12.00 N	150 58.00 W			10
Outer (Pye) I.	Gulf of Alaska	59 20.50 N	150 23.00 W	59 21.00 N	150 24.50 W	20
Steep Point	Gulf of Alaska	59 29.05 N	150 15.40 W			10
Seal Rocks (Kenai)	Gulf of Alaska	59 31.20 N	149 37.50 W			10
Chiswell Islands	Gulf of Alaska	59 36.00 N	149 34.00 W			10
Rugged Island	Gulf of Alaska	59 50.00 N	149 23.10 W	59 51.00 N	149 24.70 W	10
Point Elrington[7, 10]	Gulf of Alaska	59 56.00 N	148 15.20 W			20
Perry I.[7]	Gulf of Alaska	60 44.00 N	147 54.60 W			
The Needle[7]	Gulf of Alaska	60 06.64 N	147 36.17 W			
Point Eleanor[7]	Gulf of Alaska	60 35.00 N	147 34.00 W			
Wooded I. (Fish I.)	Gulf of Alaska	59 52.90 N	147 20.65 W			20
Glacier Island[7]	Gulf of Alaska	60 51.30 N	147 14.50 W			
Seal Rocks (Cordova)[10]	Gulf of Alaska	60 09.78 N	146 50.30 W			20
Cape Hinchinbrook[10]	Gulf of Alaska	60 14.00 N	146 38.50 W			20
Middleton I.	Gulf of Alaska	59 28.30 N	146 18.80 W			10
Hook Point[10]	Gulf of Alaska	60 20.00 N	146 15.60 W			20
Cape St. Elias	Gulf of Alaska	59 47.50 N	144 36.20 W			20

Column Number 1	2	3	4	5	6	7
Site name	Subarea	Boundaries from		Boundaries to [1]		Pollock No Fishing Zones for Trawl Gear[2, 8] (nm)
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	

[1]Where two sets of coordinates are given, the baseline extends in a clock-wise direction from the first set of geographic coordinates along the shoreline at mean lower-low water to the second set of coordinates. Where only one set of coordinates is listed, that location is the base point.

[2] Closures as stated in § 679.22(a)(11)(iv) and (b)(3)(ii).

[3]This site lies within the Bogoslof area (BA). The BA consists of all waters of Area 518 as described in Figure 1 of this part south of a straight line connecting 55°00' N/170°00' W, and 55°00' N/168°11'4.75" W.

[4]The trawl closure between 0 nm to 10 nm is effective from January 20 through May 31. Trawl closure between 0 nm to 3 nm is effective from August 25 through November 1.

[5]Trawl closure between 0 nm to 15 nm is effective from January 20 through May 31. Trawl closure between 0 nm to 20 nm is effective from August 25 to November 1.

[6]Restriction area includes only waters of the Gulf of Alaska Area.

[7]Contact the Alaska Department of Fish and Game for fishery restrictions at these sites.

[8] No fishing zones are the waters between 0 nm and the nm specified in column 7 around each site and within the BA.

[9] This site is located in the Bering Sea Pollock Restriction Area, closed to pollock trawling during the A season. This area consists of all waters of the Bering Sea subarea south of a line connecting the points 163° 0'00" W long./55°46'30" N lat., 165°08'00" W long./54°42'9" N lat., 165°40'00" long./54°26'30" N lat., 166°12'00" W long./54°18'40" N lat., and 167°0'00" W long./54°8'50" N lat.

[10] The 20 nm closure around this site is effective in federal waters outside of State of Alaska waters of Prince William Sound.

Table 23 to 50 CFR Part 679 Steller Sea Lion Protection Areas Pacific Cod Fisheries Restrictions

Column Number 1	2	3	4	5	6	7	8	9
Site name	Subarea	Boundaries from		Boundaries to [1]		Pacific Cod No Fishing Zones for Trawl Gear[2,3]	Pacific Cod No Fishing Zone for Hook-and-Line Gear[2,3]	Pacific Cod No Fishing Zone for Pot Gear[2,3]
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	(nm)	(nm)	(nm)
St. Lawrence I./S Punuk I.	BS	63 04.00 N	168 51.00 W			20	20	20
St. Lawrence I./SW Cape	BS	63 18.00 N	171 26.00 W			20	20	20
Hall I.	BS	60 37.00 N	173 00.00 W			20	20	20
St Paul I./Sea Lion Rock	BS	57 06.00 N	170 17.50 W			3	3	3
St Paul I./NE Pt.	BS	57 15.00 N	170 06.50 W			3	3	3
Walrus I. (Pribilofs)	BS	57 11.00 N	169 56.00 W			10	3	3
St. George I./Dalnoi Pt.	BS	56 36.00 N	169 46.00 W			3	3	3
St. George I./S Rookery	BS	56 33.50 N	169 40.00 W			3	3	3
Cape Newenham	BS	58 39.00 N	162 10.50 W			20	20	20
Round (Walrus Islands)	BS	58 36.00 N	159 58.00 W			20	20	20
Attu I./Cape Wrangell[11]	AI	52 54.60 N	172 27.90 E	52 55.40 N	172 27.20 E	20, 10	3	3
Agattu I./Gillon Pt[11]	AI	52 24.13 N	173 21.31 E			20, 10	3	3
Attu I./Chirikof Pt.[11]	AI	52 49.75 N	173 26.00 E			20, 3		
Agattu I./Cape Sabak[11]	AI	52 22.50 N	173 43.30 E	52 21.80 N	173 41.40 E	20, 10	3	3
Alaid I.[11]	AI	52 46.50 N	173 51.50 E	52 45.00 N	173 56.50 E	20,3		
Shemya I.[11]	AI	52 44.00 N	174 08.70 E			20,3		
Buldir I.[11]	AI	52 20.25 N	175 54.03 E	52 20.38 N	175 53.85 E	20, 10	10	10
Kiska I./Cape St. Stephen[11]	AI	51 52.50 N	177 12.70 E	51 53.50 N	177 12.00 E	20, 10	3	3

Column Number 1	2	3	4	5	6	7	8	9
Site name	Subarea	Boundaries from		Boundaries to [1]		Pacific Cod No Fishing Zones for Trawl Gear[2,3]	Pacific Cod No Fishing Zone for Hook-and-Line Gear[2,3]	Pacific Cod No Fishing Zone for Pot Gear[2,3]
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	(nm)	(nm)	(nm)
Kiska I./Sobaka & Vega[11]	AI	51 49.50 N	177 19.00 E	51 48.50 N	177 20.50 E	20, 3		
Kiska I./Lief Cove[11]	AI	51 57.16 N	177 20.41 E	51 57.24 N	177 20.53 E	20, 10	3	3
Kiska I./Sirius Pt.[11]	AI	52 08.50 N	177 36.50 E			20, 3		
Tanadak I. (Kiska)[11]	AI	51 56.80 N	177 46.80 E			20, 3		
Segula I.[11]	AI	51 59.90 N	178 05.80 E	52 03.06 N	178 08.80 E	20, 3		
Ayugadak Point[11]	AI	51 45.36 N	178 24.30 E			20, 10	3	3
Rat I./Krysi Pt.[11]	AI	51 49.98 N	178 12.35 E			20, 3		
Little Sitkin I.[11]	AI	51 59.30 N	178 29.80 E			20, 3		
Amchitka I./Column Rocks[11]	AI	51 32.32 N	178 49.28 E			20, 10	3	3
Amchitka I./East Cape[11]	AI	51 22.26 N	179 27.93 E	51 22.00 N	179 27.00 E	20, 10	3	3
Amchitka I./Cape Ivakin[11]	AI	51 24.46 N	179 24.21 E			20, 3		
Semisopochnoi/Petrel Pt.[11]	AI	52 01.40 N	179 36.90 E	52 01.50 N	179 39.00 E	20, 10	3	3
Semisopochnoi I./Pochnoi Pt.[11]	AI	51 57.30 N	179 46.00 E			20, 10	3	3
Amatignak I./Nitrof Pt.[11]	AI	51 13.00 N	179 07.80 W			20, 3		
Unalga & Dinkum Rocks[11]	AI	51 33.67 N	179 04.25 W	51 35.09 N	179 03.66 W	20, 3		
Ulak I./Hasgox Pt.[11]	AI	51 18.90 N	178 58.90 W	51 18.70 N	178 59.60 W	20, 10	3	3
Kavalga I[11].	AI	51 34.50 N	178 51.73 W	51 34.50 N	178 49.50 W	20, 3		
Tag I.[11]	AI	51 33.50 N	178 34.50 W			20, 10	3	3
Ugidak I.[11]	AI	51 34.95 N	178 30.45 W			20, 3		
Gramp Rock[11]	AI	51 28.87 N	178 20.58 W			20, 10	3	3

Column Number 1	2	3	4	5	6	7	8	9
Site name	Subarea	Boundaries from		Boundaries to [1]		Pacific Cod No Fishing Zones for Trawl Gear[2,3]	Pacific Cod No Fishing Zone for Hook-and-Line Gear[2,3]	Pacific Cod No Fishing Zone for Pot Gear[2,3]
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	(nm)	(nm)	(nm)
Tanaga I./Bumpy Pt.	AI	51 55.00 N	177 58.50 W	51 55.00 N	177 57.10 W	3		
Bobrof I.	AI	51 54.00 N	177 27.00 W			3		
Kanaga I./Ship Rock	AI	51 46.70 N	177 20.72 W			3		
Kanaga I./North Cape	AI	51 56.50 N	177 09.00 W			3		
Adak I.	AI	51 35.50 N	176 57.10 W	51 37.40 N	176 59.60 W	10	3	3
Little Tanaga Strait	AI	51 49.09 N	176 13.90 W			3		
Great Sitkin I.	AI	52 06.00 N	176 10.50 W	52 06.60 N	176 07.00 W	3		
Anagaksik I.	AI	51 50.86 N	175 53.00 W			3		
Kasatochi I.	AI	52 11.11 N	175 31.00 W			10	3	3
Atka I./N. Cape	AI	52 24.20 N	174 17.80 W			3		
Amlia I./Sviech. Harbor[4]	AI	52 01.80 N	173 23.90 W			3		
Sagigik I.[4]	AI	52 00.50 N	173 09.30 W			3		
Amlia I./East[4]	AI	52 05.70 N	172 59.00 W	52 05.75 N	172 57.50 W	3	20	20
Tanadak I. (Amlia[4]	AI	52 04.20 N	172 57.60 W			3	20	20
Agligadak I[4]	AI	52 06.09 N	172 54.23 W			20	20	20
Seguam I./Saddleridge Pt.[4]	AI	52 21.05 N	172 34.40 W	52 21.02 N	172 33.60 W	10	20	20
Seguam I./Finch Pt.	AI	52 23.40 N	172 27.70 W	52 23.25 N	172 24.30 W	3	20	20
Seguam I./South Side	AI	52 21.60 N	172 19.30 W	52 15.55 N	172 31.22 W	3	20	20
Amukta I. & Rocks	AI	52 27.25 N	171 17.90 W			3	20	20
Chagulak I.	AI	52 34.00 N	171 10.50 W			3	20	20
Yunaska I.	AI	52 41.40 N	170 36.35 W			10	20	20
Uliaga[5, 14]	BS	53 04.00 N	169 47.00 W	53 05.00 N	169 46.00 W	10	BA	BA
Chuginadak[14]	GOA	52 46.70 N	169 41.90 W			20	10	20
Kagamil[5, 14]	BS	53 02.10 N	169 41.00 W			10	BA	BA

Column Number 1	2	3	4	5	6	7	8	9
Site name	Subarea	Boundaries from		Boundaries to [1]		Pacific Cod No Fishing Zones for Trawl Gear[2,3]	Pacific Cod No Fishing Zone for Hook-and-Line Gear[2,3]	Pacific Cod No Fishing Zone for Pot Gear[2,3]
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	(nm)	(nm)	(nm)
Samalga	GOA	52 46.00 N	169 15.00 W			20	10	20
Adugak I[5]	BS	52 54.70 N	169 10.50 W			10	BA	BA
Umnak I./Cape Aslik[5]	BS	53 25.00 N	168 24.50 W			BA	BA	BA
Ogchul I.	GOA	52 59.71 N	168 24.24 W			20	10	20
Bogoslof I./Fire Island[5]	BS	53 55.69 N	168 02.05 W			BA	BA	BA
Polivnoi Rock[9]	GOA	53 15.96 N	167 57.99 W			20	10	20
Emerald I. [13, 9]	GOA	53 17.50 N	167 51.50 W			20	10	20
Unalaska/Cape Izigan[9]	GOA	53 13.64 N	167 39.37 W			20	10	20
Unalaska/Bishop Pt[6, 13]	BS	53 58.40 N	166 57.50 W			10	10	3
Akutan I./Reef-lava[6]	BS	54 08.10 N	166 06.19 W	54 09.10 N	166 05.50 W	10	10	3
Unalaska I./Cape Sedanka[9]	GOA	53 50.50 N	166 05.00 W			20	10	20
Old Man Rocks[9]	GOA	53 52.20 N	166 04.90 W			20	10	20
Akutan I./Cape Morgan[9]	GOA	54 03.39 N	165 59.65 W	54 03.70 N	166 03.68 W	20	10	20
Akun I./Billings Head	BS	54 17.62 N	165 32.06 W	54 17.57 N	165 31.71 W	10	3	3
Rootok[9]	GOA	54 03.90 N	165 31.90 W	54 02.90 N	165 29.50 W	20	10	20
Tanginak I.[9]	GOA	54 12.00 N	165 19.40 W			20	10	20
Tigalda/Rocks NE[9]	GOA	54 09.60 N	164 59.00 W	54 09.12 N	164 57.18 W	20	10	20
Unimak/Cape Sarichef	BS	54 34.30 N	164 56.80 W			10	3	3
Aiktak[9]	GOA	54 10.99 N	164 51.15 W			20	10	20
Ugamak I.[9]	GOA	54 13.50 N	164 47.50 W	54 12.80 N	164 47.50 W	20	10	20
Round (GOA)[9]	GOA	54 12.05 N	164 46.60 W			20	10	20
Sea Lion Rock (Amak)	BS	55 27.82 N	163 12.10 W			10	7	7
Amak I. and rocks	BS	55 24.20 N	163 09.60 W	55 26.15 N	163 08.50 W	10	3	3

Column Number 1	2	3	4	5	6	7	8	9
Site name	Subarea	Boundaries from		Boundaries to [1]		Pacific Cod No Fishing Zones for Trawl Gear[2,3]	Pacific Cod No Fishing Zone for Hook-and-Line Gear[2,3]	Pacific Cod No Fishing Zone for Pot Gear[2,3]
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	(nm)	(nm)	(nm)
Bird I.	GOA	54 40.00 N	163 17.2 W			10		
Caton I.	GOA	54 22.70 N	162 21.30 W			3	3	3
South Rocks	GOA	54 18.14 N	162 41.3 W			10		
Clubbing Rocks (S)	GOA	54 41.98 N	162 26.7 W			10	3	3
Clubbing Rocks (N)	GOA	54 42.75 N	162 26.7 W			10	3	3
Pinnacle Rock	GOA	54 46.06 N	161 45.85 W			3	3	3
Sushilnoi Rocks	GOA	54 49.30 N	161 42.73 W			10		
Olga Rocks	GOA	55 00.45 N	161 29.81 W	54 59.09 N	161 30.89 W	10		
Jude I.	GOA	55 15.75 N	161 06.27 W			20		
Sea Lion Rocks (Shumagins)	GOA	55 04.70 N	160 31.04 W			3	3	3
Nagai I./Mountain Pt.	GOA	54 54.20 N	160 15.40 W	54 56.00 N	160 15.00 W	3	3	3
The Whaleback	GOA	55 16.82 N	160 05.04 W			3	3	3
Chernabura I.	GOA	54 45.18 N	159 32.99 W	54 45.87 N	159 35.74 W	20	3	3
Castle Rock	GOA	55 16.47 N	159 29.77 W			3	3	3
Atkins I.	GOA	55 03.20 N	159 17.40 W			20	3	3
Spitz I.	GOA	55 46.60 N	158 53.90 W			3	3	3
Mitrofania	GOA	55 50.20 N	158 41.90 W			3	3	3
Kak	GOA	56 17.30 N	157 50.10 W			20	20	20
Lighthouse Rocks	GOA	55 46.79 N	157 24.89 W			20	20	20
Sutwik I.	GOA	56 31.05 N	157 20.47 W	56 32.00 N	157 21.00 W	20	20	20
Chowiet I.	GOA	56 00.54 N	156 41.42 W	56 00.30 N	156 41.60 W	20	20	20
Nagai Rocks	GOA	55 49.80 N	155 47.50 W			20	20	20
Chirikof I.	GOA	55 46.50 N	155 39.50 W	55 46.44 N	155 43.46 W	20	20	20
Puale Bay	GOA	57 40.60 N	155 23.10 W			10		
Kodiak/Cape Ikolik	GOA	57 17.20 N	154 47.50 W			3	3	3

Column Number 1	2	3	4	5	6	7	8	9
Site name	Subarea	Boundaries from		Boundaries to [1]		Pacific Cod No Fishing Zones for Trawl Gear[2,3]	Pacific Cod No Fishing Zone for Hook-and-Line Gear[2,3]	Pacific Cod No Fishing Zone for Pot Gear[2,3]
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	(nm)	(nm)	(nm)
Takli I.	GOA	58 01.75 N	154 31.25 W			10		
Cape Kuliak	GOA	58 08.00 N	154 12.50 W			10		
Cape Gull	GOA	58 11.50 N	154 09.60 W	58 12.50 N	154 10.50 W	10		
Kodiak/Cape Ugat	GOA	57 52.41 N	153 50.97 W			10		
Sitkinak/Cape Sitkinak	GOA	56 34.30 N	153 50.96 W			10		
Shakun Rock	GOA	58 32.80 N	153 41.50 W			10		
Twoheaded I.	GOA	56 54.50 N	153 32.75 W	56 53.90 N	153 33.74 W	10		
Cape Douglas (Shaw I.)	GOA	59 00.00 N	153 22.50 W			10		
Kodiak/Cape Barnabas	GOA	57 10.20 N	152 53.05 W			3	3	3
Kodiak/Gull Point[7]	GOA	57 21.45 N	152 36.30 W			10, 3		
Latax Rocks	GOA	58 40.10 N	152 31.30 W			10		
Ushagat I./SW	GOA	58 54.75 N	152 22.20 W			10		
Ugak I.[7]	GOA	57 23.60 N	152 17.50 W	57 21.90 N	152 17.40 W	10, 3		
Sea Otter I.	GOA	58 31.15 N	152 13.30 W			10		
Long I.	GOA	57 46.82 N	152 12.90 W			10		
Sud I.	GOA	58 54.00 N	152 12.50 W			10		
Kodiak/Cape Chiniak	GOA	57 37.90 N	152 08.25 W			10		
Sugarloaf I.	GOA	58 53.25 N	152 02.40 W			20	10	10
Sea Lion Rocks (Marmot)	GOA	58 20.53 N	151 48.83 W			10		
Marmot I.[8]	GOA	58 13.65 N	151 47.75 W	58 09.90 N	151 52.06 W	15, 20	10	10
Nagahut Rocks	GOA	59 06.00 N	151 46.30 W			10		
Perl	GOA	59 05.75 N	151 39.75 W			10		
Gore Point	GOA	59 12.00 N	150 58.00 W			10		
Outer (Pye) I.	GOA	59 20.50 N	150 23.00 W	59 21.00 N	150 24.50 W	20	10	10
Steep Point	GOA	59 29.05 N	150 15.40 W			10		

Column Number 1	2	3	4	5	6	7	8	9
Site name	Subarea	Boundaries from		Boundaries to [1]		Pacific Cod No Fishing Zones for Trawl Gear[2,3]	Pacific Cod No Fishing Zone for Hook-and-Line Gear[2,3]	Pacific Cod No Fishing Zone for Pot Gear[2,3]
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	(nm)	(nm)	(nm)
Seal Rocks (Kenai)	GOA	59 31.20 N	149 37.50 W			10		
Chiswell Islands	GOA	59 36.00 N	149 34.00 W			10		
Rugged Island	GOA	59 50.00 N	149 23.10 W	59 51.00 N	149 24.70 W	10		
Point Elrington[10,12]	GOA	59 56.00 N	148 15.20 W			20		
Perry I.[10]	GOA	60 44.00 N	147 54.60 W					
The Needle[10]	GOA	60 06.64 N	147 36.17 W					
Point Eleanor[10]	GOA	60 35.00 N	147 34.00 W					
Wooded I. (Fish I.)	GOA	59 52.90 N	147 20.65 W			20	3	3
Glacier Island[10]	GOA	60 51.30 N	147 14.50 W					
Seal Rocks (Cordova)[12]	GOA	60 09.78 N	146 50.30 W			20	3	3
Cape Hinchinbrook[12]	GOA	60 14.00 N	146 38.50 W			20		
Middleton I.	GOA	59 28.30 N	146 18.80 W			10		
Hook Point[12]	GOA	60 20.00 N	146 15.60 W			20		
Cape St. Elias	GOA	59 47.50 N	144 36.20 W			20		

BS = Bering Sea, AI = Aleutian Islands, GOA = Gulf of Alaska

[1]Where two sets of coordinates are given, the baseline extends in a clock-wise direction from the first set of geographic coordinates along the shoreline at mean lower-low water to the second set of coordinates. Where only one set of coordinates is listed, that location is the base point.

[2] Closures as stated in § 679.22(a)(11)(v), (a)(12)(iv), and (b)(3)(iii).

[3] No fishing zones are the waters between 0 nm and the nm specified in columns 7, 8, and 9 around each site and within the Bogoslof Area (BA) and the Seguam Foraging Area (SFA).

[4] Some or all of the restricted area is located in the SFA which is closed to all gears types. The SFA is established as all waters within the area between 52° N lat. and 53° N lat. and between 173°30' W long. and 172°30' W long.

[5]This site lies within the BA which is closed to all gear types. The BA consists of all waters of Area 518 as

Column Number 1	2	3	4	5	6	7	8	9
Site name	Subarea	Boundaries from		Boundaries to [1]		Pacific Cod No Fishing Zones for Trawl Gear[2,3]	Pacific Cod No Fishing Zone for Hook-and-Line Gear[2,3]	Pacific Cod No Fishing Zone for Pot Gear[2,3]
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	(nm)	(nm)	(nm)

described in Figure 1 of this part south of a straight line connecting 55°00'N/170°00'W, and 55°00' N/168°11'4.75" W.

[6]Hook-and-line no fishing zones apply only to vessels greater than or equal to 60 feet LOA in waters east of 167° W long. For Bishop Point the 10 nm closure west of 167° W. long. applies to all hook and line vessels.

[7]The trawl closure between 0 nm to 10 nm is effective from January 20 through June 10. Trawl closure between 0 nm to 3 nm is effective from September 1 through November 1.

[8] The trawl closure between 0 nm to 15 nm is effective from January 20 through June 10. Trawl closure between 0 nm to 20 nm is effective from September 1 through November 1.

[9]Restriction area includes only waters of the Gulf of Alaska Area.

[10]Contact the Alaska Department of Fish and Game for fishery restrictions at these sites.

[11]Trawling is prohibited 0 nm to 20 nm of rookeries and haulouts until the harvest limit area Atka mackerel fishery in the A or B season are completed. After closure of the Atka mackerel harvest limit area fishery, trawling is prohibited between 0 nm to 10 nm of rookeries and between 0 nm and 3 nm of haulouts.

[12] The 20 nm closure around this site is effective only in waters outside of the State of Alaska waters of Prince William Sound.

[13] See § 679.22(a)(11)(i)(C) for exemptions for catcher vessels less than 60 feet (18.3 m) LOA using jig or hook-and-line gear between Bishop Point and Emerald Island closure areas.

[14]Trawl closure around this site is limited to waters east of 170°0'00" W long.

Table 24 to 50 CFR Part 679 Steller Sea Lion Protection Areas Atka Mackerel Fisheries Restrictions

Column Number 1	2	3	4	5	6	7
Site name	Subarea	Boundaries from		Boundaries to [1]		Atka mackerel no fishing zone[2,3] (nm)
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	
St. Lawrence I./S Punuk I.	Bering Sea	63 04.00 N	168 51.00 W			20
St. Lawrence I./SW Cape	Bering Sea	63 18.00 N	171 26.00 W			20
Hall I.	Bering Sea	60 37.00 N	173 00.00 W			20
St Paul I./Sea Lion Rock	Bering Sea	57 06.00 N	170 17.50 W			20
St Paul I./NE Pt.	Bering Sea	57 15.00 N	170 06.50 W			20
Walrus I. (Pribilofs)	Bering Sea	57 11.00 N	169 56.00 W			20
St. George I./Dalnoi Pt.	Bering Sea	56 36.00 N	169 46.00 W			20
St. George I./S Rookery	Bering Sea	56 33.50 N	169 40.00 W			20
Cape Newenham	Bering Sea	58 39.00 N	162 10.50 W			20
Round (Walrus Islands)	Bering Sea	58 36.00 N	159 58.00 W			20
Attu I./Cape Wrangell	Aleutian Islands	52 54.60 N	172 27.90 E	52 55.40 N	172 27.20 E	10
Agattu I./Gillon Pt	Aleutian Islands	52 24.13 N	173 21.31 E			10
Attu I./Chirikof Pt.	Aleutian Islands	52 49.75 N	173 26.00 E			3
Agattu I./Cape Sabak	Aleutian Islands	52 22.50 N	173 43.30 E	52 21.80 N	173 41.40 E	10
Alaid I.	Aleutian Islands	52 46.50 N	173 51.50 E	52 45.00 N	173 56.50 E	3
Shemya I.	Aleutian Islands	52 44.00 N	174 08.70 E			3
Buldir I.	Aleutian Islands	52 20.25 N	175 54.03 E	52 20.38 N	175 53.85 E	15
Kiska I./Cape St. Stephen	Aleutian Islands	51 52.50 N	177 12.70 E	51 53.50 N	177 12.00 E	10

Column Number 1	2	3	4	5	6	7
Site name	Subarea	Boundaries from		Boundaries to [1]		Atka mackerel no fishing zone[2,3] (nm)
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	
Kiska I./Sobaka & Vega	Aleutian Islands	51 49.50 N	177 19.00 E	51 48.50 N	177 20.50 E	3
Kiska I./Lief Cove	Aleutian Islands	51 57.16 N	177 20.41 E	51 57.24 N	177 20.53 E	10
Kiska I./Sirius Pt.	Aleutian Islands	52 08.50 N	177 36.50 E			3
Tanadak I. (Kiska)	Aleutian Islands	51 56.80 N	177 46.80 E			3
Segula I.	Aleutian Islands	51 59.90 N	178 05.80 E	52 03.06 N	178 08.80 E	3
Ayugadak Point	Aleutian Islands	51 45.36 N	178 24.30 E			10
Rat I./Krysi Pt.	Aleutian Islands	51 49.98 N	178 12.35 E			3
Little Sitkin I.	Aleutian Islands	51 59.30 N	178 29.80 E			3
Amchitka I./Column Rocks	Aleutian Islands	51 32.32 N	178 49.28 E			10
Amchitka I./East Cape	Aleutian Islands	51 22.26 N	179 27.93 E	51 22.00 N	179 27.00 E	10
Amchitka I./Cape Ivakin	Aleutian Islands	51 24.46 N	179 24.21 E			3
Semisopochnoi/Petrel Pt.	Aleutian Islands	52 01.40 N	179 36.90 E	52 01.50 N	179 39.00 E	10
Semisopochnoi I./Pochnoi Pt.	Aleutian Islands	51 57.30 N	179 46.00 E			10
Amatignak I./Nitrof Pt.	Aleutian Islands	51 13.00 N	179 07.80 W			3
Unalga & Dinkum Rocks	Aleutian Islands	51 33.67 N	179 04.25 W	51 35.09 N	179 03.66 W	3
Ulak I./Hasgox Pt.	Aleutian Islands	51 18.90 N	178 58.90 W	51 18.70 N	178 59.60 W	10
Kavalga I.	Aleutian Islands	51 34.50 N	178 51.73 W	51 34.50 N	178 49.50 W	3
Tag I.	Aleutian Islands	51 33.50 N	178 34.50 W			10
Ugidak I.	Aleutian Islands	51 34.95 N	178 30.45 W			3
Gramp Rock	Aleutian Islands	51 28.87 N	178 20.58 W			10
Tanaga I./Bumpy Pt.[4]	Aleutian Islands	51 55.00 N	177 58.50 W	51 55.00 N	177 57.10 W	20
Bobrof I.	Aleutian Islands	51 54.00 N	177 27.00 W			20

Column Number 1	2	3	4	5	6	7
Site name	Subarea	Boundaries from		Boundaries to [1]		Atka mackerel no fishing zone[2,3] (nm)
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	
Kanaga I./Ship Rock	Aleutian Islands	51 46.70 N	177 20.72 W			20
Kanaga I./North Cape	Aleutian Islands	51 56.50 N	177 09.00 W			20
Adak I.	Aleutian Islands	51 35.50 N	176 57.10 W	51 37.40 N	176 59.60 W	20
Little Tanaga Strait	Aleutian Islands	51 49.09 N	176 13.90 W			20
Great Sitkin I.	Aleutian Islands	52 06.00 N	176 10.50 W	52 06.60 N	176 07.00 W	20
Anagaksik I.	Aleutian Islands	51 50.86 N	175 53.00 W			20
Kasatochi I.	Aleutian Islands	52 11.11 N	175 31.00 W			20
Atka I./N. Cape	Aleutian Islands	52 24.20 N	174 17.80 W			20
Amlia I./Sviech. Harbor[5]	Aleutian Islands	52 01.80 N	173 23.90 W			20
Sagigik I.[5]	Aleutian Islands	52 00.50 N	173 09.30 W			20
Amlia I./East[5]	Aleutian Islands	52 05.70 N	172 59.00 W	52 05.75 N	172 57.50 W	20
Tanadak I. (Amlia)[5]	Aleutian Islands	52 04.20 N	172 57.60 W			20
Agligadak I.[5]	Aleutian Islands	52 06.09 N	172 54.23 W			20
Seguam I./Saddleridge Pt.[5]	Aleutian Islands	52 21.05 N	172 34.40 W	52 21.02 N	172 33.60 W	20
Seguam I./Finch Pt.[5]	Aleutian Islands	52 23.40 N	172 27.70 W	52 23.25 N	172 24.30 W	20
Seguam I./South Side[5]	Aleutian Islands	52 21.60 N	172 19.30 W	52 15.55 N	172 31.22 W	20
Amukta I. & Rocks	Aleutian Islands	52 27.25 N	171 17.90 W			20
Chagulak I.	Aleutian Islands	52 34.00 N	171 10.50 W			20
Yunaska I.	Aleutian Islands	52 41.40 N	170 36.35 W			20
Uliaga[6]	Bering Sea	53 04.00 N	169 47.00 W	53 05.00 N	169 46.00 W	20
Kagamil[6]	Bering Sea	53 02.10 N	169 41.00 W			20
Adugak I.[6]	Bering Sea	52 54.70 N	169 10.50 W			20
Umnak I./Cape Aslik[6]	Bering Sea	53 25.00 N	168 24.50 W			BA
Bogoslof I./Fire Island[6]	Bering Sea	53 55.69 N	168 02.05 W			BA
Unalaska/Bishop Pt	Bering Sea	53 58.40 N	166 57.50 W			20

Column Number 1	2	3	4	5	6	7
Site name	Subarea	Boundaries from		Boundaries to [1]		Atka mackerel no fishing zone[2,3] (nm)
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	
Akutan I./Reef-lava	Bering Sea	54 08.10 N	166 06.19 W	54 09.10 N	166 05.50 W	20
Akun I./Billings Head	Bering Sea	54 17.62 N	165 32.06 W	54 17.57 N	165 31.71 W	20
Unimak/Cape Sarichef	Bering Sea	54 34.30 N	164 56.80 W			20
Sea Lion Rock (Amak)	Bering Sea	55 27.82 N	163 12.10 W			20
Amak I. and rocks	Bering Sea	55 24.20 N	163 09.60 W	55 26.15 N	163 08.50 W	20

[1] Where two sets of coordinates are given, the baseline extends in a clock-wise direction from the first set of geographic coordinates along the shoreline at mean lower-low water to the second set of coordinates. Where only one set of coordinates is listed, that location is the base point.

[2] Closures as stated in § 679.22 (a)(11)(vi) and (a)(12)(v).

[3] No fishing zones are the waters between 0 nm and the nm specified in column 7 around each site and within the Bogoslof Area (BA).

[4] The 20 nm Atka mackerel fishery closure around the Tanaga I./Bumpy Pt. Rookery is established only for that portion of the area east of 178° W longitude.

[5] Some or all of the restricted area is located in the Seguam Foraging Area (SFA) which is closed to all gears types. The SFA is established as all waters within the area between 52° N lat. and 53° N lat. and between 173°30' W long. and 172°30' W long.

[6] This site lies in the BA, closed to all gear types. The BA consists of all waters of Area 518 described in Figure 1 of this part south of a straight line connecting 55°00'N/170°00'W and 55°00'N/168°11'4.75" W.

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January 8, 2002

Part III

Department of Energy

Federal Energy Regulatory Commission

18 CFR Parts 101, 201, and 352

Accounting and Reporting of Financial Instruments, Comprehensive Income, Derivatives and Hedging Activities; Proposed Rule

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 101, 201, and 352

[Docket No. RM02–3–000]

Accounting and Reporting of Financial Instruments, Comprehensive Income, Derivatives and Hedging Activities; Notice of Proposed Rulemaking

December 20, 2001.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission proposes to revise its regulations to update the accounting and reporting requirements under its Uniform Systems of Accounts for jurisdictional public utilities, natural gas companies and oil pipelines. The Commission proposes to establish uniform accounting requirements and related accounts for the recognition of changes in the fair value of certain security investments, items of other comprehensive income, derivative instruments, and hedging activities. The Commission proposes to add new balance sheet accounts to the Uniform Systems of Accounts to record items of other comprehensive income and derivative instruments. The Commission also proposes to add new general instructions and revise certain account instructions to incorporate the above changes in the existing Uniform Systems of Accounts.

Additionally, the Commission proposes to revise the following Annual Reports: FERC Form No. 1, Annual Report of Major Public Utilities, Licensees and Others (Form 1); FERC Form No. 1–F, Annual Report of Nonmajor Public Utilities and Licensees (Form 1–F); FERC Form No. 2, Annual Report of Major Natural Gas Companies (Form 2); FERC Form No. 2–A, Annual Report of Nonmajor Natural Gas Companies (Form 2–A); and Form No. 6, Annual Report of Oil Pipeline Companies (Form 6) to include the new accounts and new schedules proposed by this rulemaking.

An important objective of the proposed rule is to provide sound and uniform accounting and financial reporting for the above types of transactions and events. The new instructions and accounts for recording the above transactions and events will result in improved, consistent and complete accounting and reporting. The addition of new accounts and new reporting schedule is intended to address and resolve the problems of lack of visibility, completeness and consistency of accounting and reporting changes in the fair value of certain financial instruments, items of other comprehensive income, derivative instruments and hedging activities, in the above mentioned FERC Forms.

DATES: Comments on the proposed rulemaking are due on or before March 11, 2002.

ADDRESSES: File written comments with the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC, 20426. Comments should reference Docket No. RM02–3–000. Comments may be filed electronically or by paper (an original and 14 copies, with an accompanying computer diskette in the prescribed format requested).

FOR FURTHER INFORMATION CONTACT:

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Julia A. Lake, (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 208–2019.

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Federal Energy Regulatory Commission

[Docket No. RM02–3–000]

Accounting and Reporting of Financial Instruments, Comprehensive Income, Derivatives and Hedging Activities; Notice of Proposed Rulemaking

December 20, 2001.

I. Introduction

In this notice of proposed rulemaking (NOPR), the Federal Energy Regulatory Commission (Commission) proposes to amend its Uniform Systems of Accounts [1] for public utilities and licensees [2] (public utilities), natural gas companies [3] (gas companies) and oil pipeline companies [4] (oil pipelines). Briefly, the Commission proposes to establish uniform accounting requirements for the recognition of changes in the fair value of certain security investments, items of other comprehensive income, derivative instruments, and hedging activities. The Commission proposes to add new balance sheet accounts to the Uniform Systems of Accounts to record items of other comprehensive income and changes in the fair value of derivative instruments. The Commission also proposes to add new general instructions for the accounting of derivative instruments and hedging activities along with new instructions for the accounting of items of other comprehensive income. Revisions to existing investment asset accounts and general instructions are proposed to incorporate fair value accounting for

[1] Section 301(a) of the Federal Power Act (FPA), 16 U.S.C. 825(a), section 8 of the Natural Gas Act (NGA), 15 U.S.C. 717g and section 20 of the Interstate Commerce Act (ICA), 49 App. U.S.C. 20 (1988), authorize the Commission to prescribe rules and regulations concerning accounts, records and memoranda as necessary or appropriate for the purposes of administering the FPA, NGA and the ICA. The Commission may prescribe a system of accounts for jurisdictional companies and, after notice and opportunity for hearing, may determine the accounts in which particular outlays and receipts will be entered, charged or credited.

[2] Part 101 Uniform System of Accounts Prescribed for Public Utilities and Licensees Subject to the Provisions of the Federal Power Act. 18 CFR part 101.

[3] Part 201 Uniform System of Accounts Prescribed for Natural Gas Companies Subject to the Provisions of the Natural Gas Act. 18 CFR part 201.

[4] Part 352 Uniform System of Accounts Prescribed for Oil Pipeline Companies Subject to the Provisions of the Interstate Commerce Act. 18 CFR part 352.

trading and available-for-sale type security investments.

Additionally, the Commission proposes to revise the following Annual Reports: FERC Form No. 1, Annual Report of Major Public Utilities, Licensees and Others (Form 1); FERC Form No. 1–F, Annual Report of Nonmajor Public Utilities and Licensees (Form 1–F); FERC Form No. 2, Annual Report of Major Natural Gas Companies (Form 2); FERC Form No. 2–A, Annual Report of Nonmajor Natural Gas Companies (Form 2–A); and Form No. 6, Annual Report of Oil Pipeline Companies (Form 6) to include the new accounts and a new schedule proposed by this rulemaking.[5]

The purpose of the proposed rule is to provide useful financial information to regulatory agencies and other users of the financial statements of public utilities, gas companies and oil pipelines by establishing uniform accounting and reporting requirements for items of other comprehensive income, changes in the fair value of investment securities, derivatives, and hedging activities. An important objective of the proposed rule is to provide sound and uniform accounting and financial reporting for the above types of transactions and events. The Commission is of the view that such requirements are needed at this time because these types of transactions and events are not specifically addressed in the existing Uniform Systems of Accounts or in FERC Forms 1, 1–F, 2, 2–A, and 6. This NOPR is part of the Commission's ongoing effort to address emerging accounting pronouncements within the context of the Uniform Systems of Accounts.[6]

There are, however, a number of entities with market-based rates that have been exempted from the Commission's Uniform System of Accounts, and thus would not be subject to the proposed rule. For instance, parts 41, 101, and 141 of the Commission's regulations prescribe certain informational requirements that focus on the assets that a public utility owns. For market-based applications, the Commission has taken the position that since a marketer does not own any electric power generation or transmission facilities, its jurisdictional facilities would be only corporate and documentary, its costs would be determined by utilities that sell power to it, and its earnings would not be defined and regulated in terms of an authorized return on invested capital, and that, accordingly, it would grant waivers to marketers of the requirements of these Parts. The Commission has also granted power marketers' requests for blanket approval under Part 34 of the Commission's regulations for all future issuances of securities and assumptions of liability, assuming that no party objects to such treatment during a notice period which the Commission provides.[7] The purpose of section 204 of the Federal Power Act, which Part 34 implements, is to ensure the financial viability of public utilities obligated to serve electric consumers. The Commission concluded that since marketers do not obligate themselves to serve electric consumers, the requirements are inapplicable.[8]

As the development of competitive wholesale power markets continues, however, independent and affiliated power marketers and power producers are playing more significant roles in the electric power industry. In light of the evolving nature of the electric power industry, the Commission seeks comment on the extent to which these entities should be required to follow the Uniform System of Accounts, what financial information, if any, should be reported by these entities, how frequently it should be reported, and, in particular, whether these exempted entities should be subject to reporting the information required in the proposed regulations. Furthermore, the Commission seeks comments on whether we should rescind the part 34 blanket authorizations granted to these entities and require these entities to comply with the filing requirement of part 34 for all future issuances of securities and assumptions of liabilities.

Finally, the proposed rule is not intended to prescribe the ratemaking treatment for items of other comprehensive income or for derivative instruments and hedging activities. The Commission's proposal does not bar regulatory commissions (including this Commission) from adopting any particular ratemaking treatment for these transactions.

II. Background

A. General

In recent years, fair value measurements have become useful in assisting investors, creditors and other users of the financial data in making rational investment, credit and similar decisions. The use of fair value as a measurement attribute for financial reporting has grown in importance and relevance. Despite this fact, the companies that this Commission regulates have had only a relatively small number of transactions for which fair value measurements would be appropriate. This however is changing. As the regulated industries restructure, fair value will provide a relevant measure of economic effects for a growing number of transactions and events. The potential usefulness of fair value information has resulted in the Financial Accounting Standards Board (FASB)[9] issuing new accounting pronouncements affecting the manner in which certain types of financial instruments, derivatives and hedging activities are measured and reported in the financial statements applicable to entities in general.[10]

The Commission considers the requirements contained in Financial Accounting Standards (FAS) 115, 130 and 133 to be an improvement in financial accounting and reporting practices if properly implemented. Also, as a general proposition, the Commission considers it desirable for its accounting requirements and those used for general purpose financial reporting to be consistent. While some companies have implemented certain aspects of these pronouncements, the implementation has not been uniform concerning the accounting and reporting

[5] The FERC Annual Reports bear the following OMB approvals: Form No. 1 has OMB approval number 1902–0021; Form No. 1–F has OMB approval number 1902–0029; Form No. 2 has OMB approval number 1902–0028; Form No. 2–A has OMB approval number 1902–0030; and Form No. 6 has OMB approval number 1902–0022.

[6] On August 10, 2001, the Commission's Chief Accountant issued interim accounting guidance on the proper accounting and reporting requirements for changes in the fair value of certain investments in marketable securities, items of other comprehensive income, and derivatives and hedging activities. *See,* All Jurisdictional Public Utilities, Licensees, Natural Gas Companies, and Oil Pipeline Companies, 96 FERC ¶ 62,147 (2001).

[7] We note that the Commission's jurisdiction over issuances of securities and assumptions of liabilities under section 204 of the FPA applies only to entities that are public utilities as defined in the FPA and only where the public utilities' security issues are not regulated by a State commission (see FPA section 204(f)).

[8] *See, e.g.,* St. Joe Minerals Corp, 21 FERC ¶ 61,323 (1982); Cliffs Electric Service Company, 32 FERC ¶ 61,372 (1985); Citizens Energy Corporation, 35 FERC ¶ 61,198 (1986); Howell Gas Management Company, 40 FERC ¶ 61,336 (1987); Citizens Power & Light Corporation, 48 FERC ¶ 61,210 (1989); National Electric Associates Limited Partnership, 50 FERC ¶ 61,378 (1990); and Nevada Sun-Peak Limited Partnership, 86 FERC ¶ 61,243 (1999).

[9] FASB and other accounting bodies are responsible for establishing and improving financial accounting and reporting standards for private sector companies.

[10] The accounting pronouncements issued by FASB were Financial Accounting Standards (FAS) 115, Accounting for Certain Investments in Debt and Equity Securities, 130, Reporting Comprehensive Income, and 133, Accounting for Derivative Instruments and Hedging Activities, as amended by 138, Accounting for Certain Derivative Instruments and Certain Hedging Activities. These accounting pronouncements may be obtained from FASB at (*http://accounting.rutgers.edu/raw/fasb/).*

to the Commission in the FERC Forms 1, 1–F, 2, 2–A, and 6. Therefore the Commission plans to implement the principles and concepts set forth in FAS 115, 130 and 133 for FERC accounting and reporting purposes effective upon the issuance of a final order in this proceeding. Consequently, the interim accounting and reporting guidance provided by the Chief Accountant on August 10, 2001, will be superceded with the issuance of the final rule in this proceeding.[11]

In summary, the Commission considers that the proposed accounting and reporting changes will provide consistent accounting and reporting of changes in the fair value of financial investments, derivatives and hedging activities. The proposed changes will also minimize the accounting and reporting burden on jurisdictional entities and assist the Commission in its analysis of profitability, efficiency, risk management, and in its overall monitoring effort.

In order to provide a context for the Commission's proposed changes the key aspects of the relevant FASB pronouncements are provided below.

B. Investments in Debt and Equity Securities

In May 1993, the FASB issued Financial Accounting Standard (FAS) 115, Accounting for Certain Investments in Debt and Equity Securities, effective for fiscal years beginning after December 15, 1993. This statement addresses the accounting and reporting for investments in equity securities that have readily determinable fair value and for all investments in debt securities.

This accounting pronouncement requires entities to classify investments in securities into one of three categories, held-to-maturity, trading, or available-for-sale.

The first category of investments, held-to-maturity, consists of debt securities that the entity has the intent and ability to hold to maturity. For debt securities held to maturity, the cost will be the amount realized when the entity redeems the security. Therefore, changes in the fair value of securities held to maturity are not recognized during the period the entity holds the security investment.

Securities that fall into the second category, trading type securities, reflect active and frequent buying and selling. They are held for short periods of time with the objective of generating profits from short term differences in price. Entities must recognize unrealized holding gains and losses on trading type securities in earnings when the fair value of security changes.

Securities that do not fall into the category of held-to-maturity or trading type securities are considered to be available-for-sale. Changes in the fair value of available for sale type securities are reflected in the financial statements in ''other comprehensive income'' rather than earnings. This accounting treatment results in unrealized holding gains and losses on debt and equity securities that are available for sale being reported outside of earnings because they are not actively managed in a trading account.

C. Other Comprehensive Income

In June 1997, the FASB issued FAS 130, Reporting Comprehensive Income. This statement established the standards for reporting comprehensive income in a full set of general-purpose financial statements effective for fiscal years beginning after December 15, 1997. Comprehensive income represents the change in equity of an entity during a period from transactions and other events and circumstances from nonowner sources. Comprehensive income is composed of traditional net income plus items of ''other comprehensive income.''[12]

Items of other comprehensive income are amounts under existing accounting standards that were permitted to bypass the income statement and be recorded directly in a separate section of equity. These amounts were required to be classified by their category and reported separately from retained earnings and additional paid-in capital. Under existing accounting standards other comprehensive income categories include, foreign currency items, minimum pension liability adjustments, unrealized gains and losses on certain investments in debt and equity securities, and cash flow hedge amounts.

Under the provision's of FAS 130, entities may report the categories of other comprehensive income using an income statement format or by showing the amounts as part of the Statement of Shareholders Equity. Entities may also report the amounts on a before-tax or after-tax basis provided that certain disclosures are made in the notes to the financial statements.

D. Derivative Instruments and Hedging Activities

1. General

In June 1998, the FASB issued FAS No. 133, Accounting for Derivative Instruments and Hedging Activities, as amended on June 2000, by FAS 138, Accounting for Certain Derivative Instruments and Certain Hedging Activities. This pronouncement was issued in a response to an increased use of derivatives and to resolve problems with the accounting and reporting practices for derivatives and hedging activities. These problems included incomplete and inconsistent accounting guidance on the effects of derivative transactions and hedging activities. The effects of derivatives were not transparent in the basic financial statements, and many derivative instruments were carried ''off-balance-sheet'' regardless of whether they were formally part of a hedging strategy. The FASB issued new accounting guidance to address these concerns.

2. Definition of a Derivative

A derivative instrument is defined for accounting purposes based on its distinguishing characteristics rather than by specific examples of derivative instruments such as futures or option contracts because the expansion of financial markets and other contracts could ultimately render obsolete a definition based solely on examples.

A derivative instrument is a financial instrument or other contract with all of the following characteristics:

First, the instrument has one or more underlyings. An underlying is a specified interest rate, security price, commodity price, foreign exchange rate, index of prices or rates, or other variable. An underlying may be a price or rate of an asset or liability but is not the asset or liability itself.

Second, the instrument must have one or more notional amounts or payment provisions. A notional amount represents quantity such as a number of currency units, shares, bushels, pounds or other units specified in a derivative instrument. Those terms determine the amount of the settlement or settlements, and, in some cases, whether or not a settlement is required.

Third, the instrument requires no initial net investment or an initial net investment that is smaller than would be required for other types of contracts that would be expected to have similar response to changes in market factors.

Finally, the instrument requires or permits net settlement. It can readily be settled net by a means outside the contract, or it provides for delivery of an

[11] *See* note 6.

[12] Comprehensive income is defined by FASB in Concepts Statement No. 6 as, ''the change in equity [net assets] of a business enterprise during a period from transactions and other events and circumstances from nonowner sources. It includes all changes in equity during a period except those resulting from investments by owners and distributions to owners.''

asset that puts the recipient in a position not substantially different from net settlement.

Certain types of contracts are exempted from the requirements of this statement. For example, normal purchases and normal sales contracts that provided for the purchase or sale of goods that will be delivered in quantities expected to be used or sold by the reporting entity over a reasonable period in the normal course of business are not considered derivative instruments. This exception is commonly referred to as the normal purchases and normal sales scope exception. The exception would include typical purchases and sales of inventory items, certain insurance contracts, and employee compensation agreements. Derivative instruments that do not qualify for the normal purchases and normal sales scope exception, or other exceptions provided for under the statement, are reflected in the financial statements. Consequently, most futures, forwards, swaps, and option contracts meet the definition of a derivative instrument and changes in their fair value would be reflected in the financial statements.

3. Accounting for a Derivative Instrument

Changes in the fair value of derivative instruments depends upon its intended use and designation. Essentially, entities recognize in earnings in the period of the change gains or losses on certain derivative instruments not designated as a hedge instrument. The change in the value of the derivative instrument is reflected on the balance sheet as an asset or liability with a corresponding amount recognized in earnings. This accounting effectively provides users of the financial statements with information concerning the value of the derivative instrument as if it had been settled in the market place.

4. Hedge Accounting

Providing certain criteria are met, a derivative may be specifically designated as a fair value or cash flow hedge. Entities hedge to manage risk to prices, interest rates, or foreign currency exposures. Under the rules for hedge accounting the changes in the fair value of the derivative are measured at fair value with adjustments made to the carrying amount of the items being hedged (as in a fair value hedge) or to other comprehensive income (as in a cash flow hedge) to the extent the hedge is effective.

a. Fair Value Hedge

In a fair value hedge a derivative instrument is designated as a hedge against exposure to changes in the fair value of a recognized asset, liability, or a firm commitment. A firm commitment is defined as an agreement with an unrelated party, binding on both parties and usually legally enforceable. The agreement specifies all significant terms, including the quantity to be exchanged, the fixed price, and the timing of the transaction. The fixed price may be expressed as a specified amount of an entity's functional currency or a foreign currency. It may also be expressed as a specified interest rate or specified effective yield.

In a fair value hedge, the change in value of the derivative instrument is recognized in earnings in the period of the change together with the offsetting gain or loss on the item being hedged. To the extent that a hedge is perfectly effective, it will produce the same offsetting amounts in earnings so that net income is not impacted by the hedge. However, amounts would be reflected in earnings to the extent that the hedge is not effective in offsetting the change in value of the item being hedged.

Additionally, fair value hedge accounting results in an adjustment of the carrying amount of the hedged asset or liability. In the case of a fair value hedge of a firm commitment, a new asset or liability is created. As a result of the hedge relationship, the new asset or liability ultimately becomes part of the carrying amount of the item being hedged.

b. Cash Flow Hedge

A cash flow hedge uses a derivative instrument to protect against the risk caused by variable prices or costs, that cause future cash flows to be uncertain. It is a hedge against an anticipated or forecasted transaction that is probable of occurring in the future but the amount of the transaction has not been fixed.

In a cash flow hedge, the effective portion of the derivative's gain or loss is initially reported as a component of other comprehensive income. The ineffective portion of the gain or loss is reported in earnings immediately. Amounts recorded in other comprehensive income are reclassified into earnings when the hedged item affects earnings.

c. Documentation of Hedge Relationship

Entities must keep extensive documentation of the hedge relationship. An entity that elects to apply the special hedge accounting is required to document at the inception of the hedge the risk management objective and strategy for undertaking the hedge, including the hedge instrument, the related transaction, the nature of the risk being hedged, and how hedge effectiveness will be determined.

The company's documentation of its overall risk management philosophy is essential in addressing the role that derivative instruments and hedging activities play in achieving the company's risk management objectives.

Concurrent designation and documentation of a hedge is critical because an entity could retroactively identify a transaction as a hedge or change a method of measuring effectiveness to achieve a desired outcome. At the inception of the hedge formal documentation is required that identifies the hedging instrument and specifically identifies the hedged item or transaction along with the nature of the risk being hedged. Entities are required to formally document how effectiveness will be assessed at the adoption of the hedge and on an ongoing basis.

III. Discussion

A. General

The Commission's existing Uniform Systems of Accounts for public utilities, gas companies and oil pipelines do not specifically address the proper accounting and reporting for changes in the fair value of certain investment securities, derivative instruments, and hedging activities. Additionally, the existing Uniform Systems of Accounts do not contain specific accounts to record amounts related to items of other comprehensive income or a format to display comprehensive income in the FERC Forms 1, 1–F, 2, 2–A, and 6.

Without specific instructions and accounts for recording and reporting the above transactions and events, inconsistent and incomplete accounting will result. For example, if the effects of certain derivative instruments and hedging activities are not properly reported to the Commission in the FERC Annual Reports, it will be difficult for the Commission and others to determine the extent and effects of derivatives on a jurisdictional entity's' financial statements and results of operations. The addition of new accounts and related general instructions is intended to improve the visibility, completeness and consistency of accounting and reporting of changes in the fair value of certain investment securities, items of other comprehensive income, derivatives and hedging activities.

Also, the addition of the proposed new accounts and related reporting requirements to the FERC Forms 1, 1–F, 2, 2A and 6 will reduce regulatory uncertainty as to the proper accounting and reporting for these items and

minimize regulatory burden by reducing the potential differences in the manner in which these amounts are reported to shareholders and to the Commission. Finally, the reporting of derivatives and hedging activities by jurisdictional entities will assist the Commission in its analysis of profitability, efficiency, risk and in its overall monitoring effort.

B. Proposed Accounting for Trading and Available-for-Sale Type Securities

Under the Commission's Uniforms Systems of Accounts for public utilities and gas companies, all types of securities are recorded at cost and subsequent changes in the fair value of security investments are not recognized in the financial statements. The Uniform System of Accounts for oil pipelines requires adjustments to the carrying value of security investments when certain conditions are met.

The Commission is of the view that fair value measurement of the trading and available-for-sale type securities presents relevant and useful information to existing and potential investors, creditors, regulators and others in making credit and other decisions. Fair value measurements will also provide useful information to the Commission concerning the status of certain amounts set aside to fund future obligations.

The Commission therefore proposes to add language to its security investment accounts for public utilities, gas companies, and oil pipelines to permit the recognition of changes in the fair value of trading and available-for-sale types of securities due to unrealized holding gains and losses.[13] The Commission also proposes amending its oil pipeline General Instruction 1–15, Accounting for marketable equity securities, and remove oil pipeline Accounts 23, 24, and 75.5 to conform the regulations to the proposed changes.

C. Proposed Accounting for Other Comprehensive Income

As part of the proposed rule, the Commission proposes to revise the Uniform Systems of Accounts for public utilities, gas companies and oil pipelines to provide accounting for items of other comprehensive income. As proposed, new equity Account 219, Accumulated other comprehensive income, would be created for public utilities and gas companies, and a new equity Account 77, Accumulated other comprehensive income, would be established for oil pipelines to include the accumulated balance for items of other comprehensive income. The accounts will require supporting records be maintained by each category of other comprehensive income for reporting the information in the FERC Form 1, 1F, 2, 2A, and 6.

As proposed, a new equity account entitled Account 219.1, Other comprehensive income, for public utilities and gas companies, and a new account entitled Account 77.1, Other comprehensive income, for oil pipeline companies, would be established to include amounts for items of other comprehensive income for the reporting year. The purpose of these accounts is to record the activity for items of other comprehensive income during the year. At year end, the amounts recorded in Account 219.1 and Account 77.1 would be transferred to the new equity Account 219 and Account 77, respectively. Consequently, Accounts 219.1 and 77.1 as proposed will always have a zero beginning and year end balance and therefore the Commission proposes not to include these accounts as part of the balance sheet schedules. Accounts 219.1 and 77.1 will capture activity during the year for items of other comprehensive income and the activity will be reported in a proposed new schedule entitled ''Statement of Comprehensive Income and Hedging Activities.''

The proposed instructions to the other comprehensive income accounts for all jurisdictional entities will require that supporting records be maintained by each category of other comprehensive income. This level of detail is required so that the entity is able to identify the amounts associated with the item when it enters into the determination of earnings in current or subsequent periods.

Finally, reclassification adjustments are required to be made for items of other comprehensive income to avoid double counting an item in net income and other comprehensive income. The proposed instructions to Accounts 219 and 219.1 for public utilities and natural gas companies, and the proposed instructions to Accounts 77 and 77.1 for oil pipeline companies will require that reclassification adjustments be made directly to these accounts as appropriate. This proposed accounting treatment for reclassification adjustments will minimize the need for creating a new account to capture amounts solely related to reclassification adjustments.

D. Proposed Accounting for Derivatives and Hedging Activities

1. General

The Commission's existing Uniform Systems of Accounts for public utilities, natural gas companies and oil pipelines do not contain specific accounts to record changes in the fair value of derivative instruments used in hedging and non-hedging activities. The Commission considers that the addition of new accounts and instructions will provide improved visibility, and completeness of accounting and reporting of derivatives and hedging activities by jurisdictional entities. As part of the proposed rule, the Commission proposes to revise the Uniform Systems of Accounts to provide accounting for derivatives and hedging activities.

2. Proposed General Instructions for Fair Value and Cash Flow Hedges

The Commission proposes to add a new general instruction that would require public utilities, natural gas companies, and oil pipelines to record changes in the fair value of the derivative instrument designated as a cash flow hedge to other comprehensive income. The ineffective portion of the cash flow hedge will be charged to the same income or expense account that would have been used if the hedged item had been disposed of, or otherwise settled.

The proposed instructions would also require jurisdictional entities to record changes in the fair value of a derivative instrument designated as a fair value hedge in this account with a concurrent charge to a subaccount of the asset or liability that carries the item being hedged. The ineffective portion of the fair value hedge would be charged to the same income or expense account that would have been used if the hedged item had been disposed of, or otherwise settled.

3. Proposed Changes to General Instruction 21. Allowances

The Commission is also proposing to make technical changes to its existing general instructions concerning the accounting for hedge transactions related to exchange traded allowance future contracts. General Instruction No. 21. Allowances, of Part 101, directs public utilities to defer in Account 186, Miscellaneous deferred debits, or Account 253, Other deferred credits, the costs and benefits from hedging transactions associated with exchange

[13] The security investment accounts for public utilities and gas pipeline companies are: Account 124, Other investments; Account 125, Sinking funds (Major only); Account 126, Depreciation fund (Major only); Account 127, Amortization fund (Major only); Account 128, Other special funds (Major only); and Account 129, Special funds (Nonmajor only). The security investment asset accounts for oil pipelines are Account 11, Temporary investments; Account 21, Other investments; and Account 22, Sinking and other funds.

traded allowance future contracts. The Commission is proposing to delete paragraph I to be consistent with proposed accounting for derivatives. The accounting framework proposed for derivatives would also include exchange traded future allowances.

4. Proposed Accounting for Derivative Assets and Liabilities

As proposed, two new asset and two new liability accounts would be established to include amounts related to the changes in the fair value of derivative instruments not designated as a cash flow or fair value hedges. The two new asset accounts are Account 175, Derivative instrument assets, for public utilities and natural gas companies, and Account 46, Derivative instrument assets, for oil pipeline companies. The two new liability accounts are Account 244, Derivative instrument liabilities, for public utilities and natural gas companies, and Account 65, Derivative instrument liabilities, for oil pipeline companies.

Public utilities and natural gas companies would charge Account 421, Miscellaneous nonoperating income, with the corresponding amount of the change in the fair value of the derivative instruments. Oil pipelines would charge Account 660, Miscellaneous income charges, with the corresponding amount of the change in the fair value of the derivative instruments.

The Commission recognizes that under certain circumstances rate regulators may include all or part of a derivative instruments change in value in the development of rates even though the derivative instrument is not part of a fair value or cash flow hedge. The Commission therefore proposes where regulators explicitly approve the inclusion of the changes in fair value of derivative instruments in the development of rates, company's will reclassify those amounts from Account 421 or Account 660 to the appropriate utility operating revenue or expense account that will be charged with the transaction when it settles.

The Commission also recognizes that companies are required to classify derivative asset and liabilities as current or long-term on their balance sheets. In order to facilitate reporting derivative asset and liabilities to shareholders in general purpose financial statements, companies may create current and long-term subaccounts associated with the proposed new derivative balance sheet accounts.

Finally, if the derivative instrument does not qualify for hedge accounting, but it is probable that the rate regulator will include the changes in the fair value of the derivative instrument in the future development of rates, the entity must follow the Commission's existing accounting regulations for the recognition of regulatory assets and regulatory liabilities.

5. Proposed Accounting for Fair Value and Cash Flow Hedges

As proposed, two new asset and two new liability accounts would be established to include amounts related to the changes in the fair value of derivative instruments designated as a cash flow or fair value hedges. The two new asset accounts are Account 176, Derivative instrument assets-Hedges, for public utilities and natural gas companies, and Account 47, Derivative instrument assets-Hedges, for oil pipelines. The two new liability accounts are Account 245, Derivative instrument liabilities-Hedges, for public utilities and natural gas companies, and Account 66, Derivative instrument liabilities-Hedges, for oil pipelines.

E. Proposed Changes to the FERC Annual Reports Forms

The proposed accounting changes, if adopted, will require one new schedule and changes to existing balance sheet schedules in the FERC Forms 1, 1–F, 2, 2–A, and 6 filed with the Commission by public utilities, gas companies, and oil pipelines. The proposed new schedule is attached in Appendix A and the proposed changes to the FERC Forms are discussed below.

As previously mentioned, entities have a choice of formats for their general purpose financial statements along with a choice of reporting certain items net of reclassification adjustments and a choice of reporting these amounts on a net-of-tax or pre-tax basis provided that certain footnote disclosure requirements are met. In order to provide consistent accounting and reporting of items of other comprehensive income the Commission is adding a new schedule entitled ''Statement of Comprehensive Income and Hedging Activities'' with instructions on the proper footnote disclosures for the FERC Forms 1, 1–F, 2, 2–A, and 6.

This proposed new schedule is modeled after an income statement approach which provides the most transparency for the components of other comprehensive income and is more consistent with the overall framework of the FASB Concepts Statements. The proposed income statement format would also avoid duplication of data already reported on other schedules. This new schedule will show the components of other comprehensive income and require:

(1) The reporting of categories of other comprehensive income on a net-of-tax basis, where appropriate, along with the reporting of the related tax effects allocated to each component, in a footnote to the schedule.

(2) The reporting of accumulated other comprehensive income balances at year end by category, in a footnote to the schedule.

(3) The reporting of fair value hedge balances at year end by category, in a footnote to the schedule.

The Commission concludes that the above reporting requirements would not be a significant reporting burden to industry since the information is already being captured by their accounting systems for internal and external reporting as needed.

IV. Regulatory Flexibility Act Statement

The Regulatory Flexibility Act (RFA) requires agencies to prepare certain statements, descriptions, and analyses of proposed rules that will have a significant economic impact on a substantial number of small entities.[14] The Commission is not required to make such analyses if a rule would not have such an effect.

The Commission concludes that this rule would not have such an impact on small entities. Most filing companies regulated by the Commission do not fall within the RFA's definition of a small entity.[15] As previously mentioned, the Commission concludes that this reporting would not be a significant burden to industry since the information is already being captured by their accounting systems and generally being reported to shareholders and others at a company, or at a consolidated business level.

However, if the reporting requirements represent an undue burden on small businesses, the entity affected may seek a waiver of the disclosure requirements from the Commission.

V. Environmental Impact Statement

The Commission excludes certain actions not having a significant effect on the human environment from the requirement to prepare an environmental assessment or an environmental impact statement.[16] No

[14] 5 U.S.C. 601–612.

[15] 5 U.S.C. 601(3), citing to section 3 of the Small Business Act, 15 U.S.C. 632. Section 3 of the Small Business Act defines a ''small-business concern'' as a business which is independently owned and operated and which is not dominant in its field of operation.

[16] 18 CFR 380.4.

environmental consideration is raised by the promulgation of a rule that is procedural or does not substantially change the effect of legislation or regulations being amended.[17] The proposed rule updates the Parts 101, 201 and 352 of the Commission's regulations, and does not substantially change the effect of the underlying legislation or the regulations being revised or eliminated. Accordingly, no environmental consideration is necessary.

VI. Information Collection Statement and Public Reporting Burden

The following collections of information contained in this proposed rule have been submitted to the Office of Management and Budget (OMB) for review under § 3507(d) of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507(d). Comments are solicited on the Commission's need for this information, whether the information will have practical utility, the accuracy of provided burden estimates, ways to enhance the quality, utility, and clarity of the information to be collected, and any suggested methods for minimizing respondent's burden, including the use of automated information techniques.

Estimated Annual Burden: The Commission estimates that on average it will take respondents 2 hours to comply with the proposed requirements. This will result in total hours for the following collections of information:

Data collection	Number of respondents	Number of responses	Total annual hours
FERC-Form 1	210	210	420
FERC Form 1–F	7	7	14
FERC Form 2	57	57	114
FERC Form 2–A	57	57	114
FERC Form 6	159	159	318
Totals			980

Total Annual Hours for Collection: (Reporting + Recordkeeping, (if appropriate)) = 980 + 470 hours* (recordkeeping) = 1,450 hours.

*This estimate is based on an average of 3 hours per respondent for recordkeeping purposes.

Information Collection Costs: The Commission seeks comments on the costs to comply with these requirements. It has projected the cost for complying to be the following: 1,450 hours ÷ 2,080 × $117,041 = $81,596.

Annualized Capital/Startup Costs—$0
Annualized Costs (Operations & Maintenance)—$81,596
Total Annualized Costs—$81,596

OMB's regulations require it to approve certain information collection requirements imposed by agency rule. The Commission is submitting notification of this proposed rule to OMB.[18]

Title: FERC Form 1 Annual Report of Major Electric Utilities, Licensees and Others;

FERC Form 1–F Annual Report For Non-Major Public Utilities and Licensees;

FERC Form 2 Annual Report for Major Natural Gas Companies;

FERC Form 2–A Annual Report for Nonmajor natural gas companies;

FERC Form No. 6 Annual Report of Oil Pipeline Companies.

Action: Proposed Collections.

OMB Control No: 1902–0021; 1902–0029; 1902–0028; 1902–0030; and 1902–0022.

Respondents: Business or other for profit.

Frequency of Responses: Annual.

Necessity of the Information: The Commission's existing Uniform Systems of Accounts do not specifically address the proper accounting and reporting for changes in fair value of certain investment securities, and derivative instruments and hedging activities. Additionally, the existing Uniform Systems of Accounts do not contain specific accounts to record amounts related to items of other comprehensive income in its annual financial reports.

Without specific instructions and accounts for recording and reporting the above transactions and events, inconsistent and incomplete accounting will result. The addition of new accounts and related general instructions is intended to improve the visibility, completeness and consistency of accounting practices for derivative instruments and hedging activities, and items of other comprehensive income.

As these derivative instruments are risk-shifting devices, it is important to identify and fully comprehend the risks being assumed, evaluate those risks and continuously monitor and manage those risks. Part of the risk identification process is a determination of the monetary exposure of the parties under the terms of the derivative instrument. In a derivative situation, performance of the other party's obligations is highly dependent on the strength of its balance sheet.

Internal Review: The Commission has reviewed the requirements pertaining to the Uniform Systems of Accounts and to the financial reports it prescribes and determined the proposed revisions are necessary because the Commission needs to establish uniform accounting and reporting requirements for items of other comprehensive income, changes in the fair value of investment securities and derivatives, and hedging activities.

These requirements conform to the Commission's plan for efficient information collection, communication, and management within the electric, natural gas and oil pipeline industries. The Commission has assured itself, by means of internal review, that there is specific, objective support for the burden estimates associated with the information requirements.

Interested persons may obtain information on the reporting requirements by contacting the following: Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, [Attention: Michael Miller, Office of the Chief Information Officer, Phone: (202) 208–1415, fax: (202) 208–2425, e-mail: *mike.miller@ferc.fed.us*]

For submitting comments concerning the collections of information and the associated burden estimate(s), please send your comments to the contact listed above and to the Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20503 [Attention: Desk Officer for the Federal Energy Regulatory Commission, phone (202) 395–7318, fax: (202) 395–7285].

[17] 18 CFR 380.4(a)(2)(ii).

[18] 5 CFR 1320.11.

VII. Public Comment Procedures

The Commission invites all interested persons to submit comments on this NOPR.

To facilitate the Commission's review of comments, commenters are requested to provide an executive summary of their position on the issues raised in the NOPR. Commenters are requested to identify each specific question posed by the NOPR that their discussion addresses and to use appropriate heading. Additional issues the commenters wish to raise should be identified separately. The commenters should double space their comments.

Comments may be filed paper or electronically via the Internet and must be received by the Commission within 60 days after publication in the **Federal Register**. Those filing electronically do not need to make a paper filing. For paper filings, the original and 14 copies of such comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 and should refer to Docket No. RM02–3–000.

Comments filed via the Internet must be prepared in WordPerfect, MS Word, Portable Document Format, or ASCII format. To file the document, access the Commission's Web site at *www.ferc.gov* and click on ''e-Filing,'' and then follow the instructions on each screen. First time users will have to establish a user name and password. The Commission will send an automatic acknowledgment to the sender's E-Mail address upon receipt of comments.

User assistance for electronic filing is available at 202–208–0258 or by e-mail to efiling@ferc.fed.us. Comments should not be submitted to the e-mail address. All comments will be placed in the Commission's public files and will be available for inspection in the Commission's Public Reference Room at 888 First Street, NE., Washington DC 20426, during regular business hours. Additionally, all comments may be viewed, printed, or downloaded remotely via the Internet through FERC's Homespage using the RIMS link. User assistance for RIMS is available at 202–208–2222, or by e-mail to RimsMaster@ferc.fed.us.

VIII. Document Availability

In addition to publishing the full text of this document in the **Federal Register**, the Commission also 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.fed.gov*) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5 p.m. Eastern time) at 888 First Street, NE., Room 2A, Washington, DC 20426.

From FERC's 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 text 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.

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List of Subjects

18 CFR Part 101

Electric power, Electric utilities, Reporting and recordkeeping requirements, Uniform System of Accounts.

18 CFR Part 201

Natural gas, Reporting and recordkeeping requirements, Uniform System of Accounts.

18 CFR Part 352

Pipelines, Reporting and recordkeeping requirements, Uniform System of Accounts.

By direction of the Commission.

Linwood A. Watson, Jr.,

Acting Secretary.

In consideration of the foregoing, the Commission proposes to amend Parts 101, 201, and 352, Title 18 of the Code of Federal Regulations, as follows:

PART 101—UNIFORM SYSTEM OF ACCOUNTS PRESCRIBED FOR PUBLIC UTILITIES AND LICENSEES SUBJECT TO THE PROVISIONS OF THE FEDERAL POWER ACT

1. The authority citation for part 101 continues to read as follows:

Authority: 16 U.S.C. 791a–825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352, 7651–7651o.

2. In part 101, General Instructions, section 21. Allowances, paragraph I is removed, and sections 23. Accounting for other comprehensive income, and 24. Accounting for derivative instruments and hedging activities, are added to read as follows:

General Instructions

* * * * *

23. *Accounting for other comprehensive income.*

(A) Utilities will record items of other comprehensive income in account 219.1, Other comprehensive income. Amounts included in this account will be maintained by each category of other comprehensive income. Examples of categories of other comprehensive income include, foreign currency items, minimum pension liability adjustments, unrealized gains and losses on available-for-sale type securities and cash flow hedge amounts.

(B) At year end, amounts recorded in account 219.1, Other comprehensive income, will be transferred to account 219, Accumulated other comprehensive income. Supporting records will be maintained for account 219 so that the company can readily identify the cumulative amount of other comprehensive income for each item included in this account.

(C) When an item of other comprehensive income enters into the determination of earnings in the current or subsequent periods, a reclassification adjustment will be recorded in accounts 219 or 219.1 to avoid double counting of that amount.

* * * * *

24. *Accounting for derivative instruments and hedging activities.*

A. Utilities will recognize derivative instruments as either assets or liabilities in the financial statements and measure those instruments at fair value. A derivative instrument is a financial

instrument or other contract with all of the following characteristics:

(1) It has one or more underlyings and a notional amount or payment provision. Those terms determine the amount of the settlement or settlements, and, in some cases, whether or not a settlement is required.

(2) It requires no initial net investment or an initial net investment that is smaller than would be required for other types of contracts that would be expected to have a similar response to changes in market factors.

(3) Its terms require or permit net settlement, can readily be settled net by a means outside the contract, or provides for delivery of an asset that puts the recipient in a position not substantially different from net settlement.

B. The accounting for the changes in the fair value of derivative instruments depends upon their intended use and designation. Changes in the fair value of derivative instruments not designated as fair value or cash flow hedges will be recorded in account 175, Derivative instrument assets, or account 244, Derivative instrument liabilities, as appropriate, with the gains or losses charged to earnings in account 421, Miscellaneous nonoperating income.

C. A derivative instrument may be specifically designated as a fair value or cash flow hedge. A hedge is used to manage risk to price, interest rates, or foreign currency transactions. A company will maintain documentation of the hedge relationship at the inception of the hedge that details the risk management objective and strategy for undertaking the hedge, the nature of the risk being hedged, and how hedge effectiveness will be determined.

D. If the utility designates the derivative instrument as a fair value hedge against exposure to changes in the fair value of a recognized asset, liability, or a firm commitment, it will record the change in fair value of the derivative instrument to account 176, Derivative instrument assets-Hedges, or account 245, Derivative instrument liabilities-Hedges, as appropriate, with a corresponding adjustment to the subaccount of the item being hedged. The ineffective portion of the hedge transaction will be reflected in the same income or expense account that would have been used if the hedged item had been disposed of or settled. In the case of a fair value hedge of a firm commitment a new asset or liability is created. As a result of the hedge relationship, the new asset or liability will become part of the carrying amount of the item being hedged.

E. If the utility designates the derivative instrument as a cash flow hedge against exposure to variable cash flows of a probable forecasted transaction, it will record changes in the fair value of the derivative instrument in account 176, Derivative instrument assets-Hedges, or account 245, Derivative instrument liabilities-Hedges, as appropriate, with a corresponding amount in account 219.1, Other comprehensive income, for the effective portion of the hedge. The ineffective portion of the hedge transaction will be reflected in the same income or expense account that would have been used if the hedged item had been disposed of or settled. Amounts recorded in other comprehensive income will be reclassified into earnings in the same period or periods that the hedged forecasted item affects earnings.

3. In part 101, Balance Sheet Accounts, accounts 124, paragraph A, 125, 126, 127, 128 introductory text preceding the Note, and 129 introductory text preceding the Note, are revised, and Accounts 175, 176, 219, 219.1, 244 and 245 are added to read as follows:

Balance Sheet Accounts

* * * * *

124 Other investments.

A. This account shall include the book cost of investments in securities issued or assumed by nonassociated companies, investment advances to such companies, and any investments not accounted for elsewhere. This account shall also include unrealized holding gains and losses on trading and available-for-sale types of security investments. Include also the offsetting entry to the recording of amortization of discount or premium on interest bearing investments. (See account 419, Interest and dividend income.)

* * * * *

125 Sinking funds (Major only).

This account shall include the amount of cash and book cost of investments held in sinking funds. This account shall also include unrealized holding gains and losses on trading and available-for-sale types of security investments. A separate account, with appropriate title, shall be kept for each sinking fund. Transfers from this account to special deposit accounts may be made as necessary for the purpose of paying matured sinking-fund obligations, or obligations called for redemption but not presented, or the interest thereon.

126 Depreciation fund (Major only).

This account shall include the amount of cash and book cost of investments which have been segregated in a special fund for the purpose of indentifying such assets with the accumulated provisions for depreciation. This account shall also include unrealized holding gains and losses on trading and available-for-sale types of security investments.

127 Amortization fund—Federal (Major only).

This account shall include the amount of cash and book cost of investments of any investments of any fund maintained pursuant to the requirements of a federal regulatory body, as the cash and investments segregated for the purpose of identifying the specific assets associated with account 215.1, Appropriated retained earnings—Amortization reserve, Federal. This account shall also include unrealized holding gains and losses on trading and available-for-sale types of security investments.

128 Other special funds (Major only).

This account shall include the amount of cash and book cost of investments which have been segregated in special funds for insurance, employee pensions, savings, relief, hospital, and other purposes not provided for elsewhere. This account shall also include unrealized holding gains and losses on trading and available-for-sale types of security investments. A separate account with appropriate title, shall be kept for each fund.

* * * * *

129 Special funds (Nonmajor only).

This account shall include the amount of cash and book cost of investments which have been segregated in special funds for bond retirements, property additions and replacements, insurance, employees' pensions, savings, relief, hospital, and other purposes not provided for elsewhere. This account shall also include unrealized holding gains and losses on trading and available-for-sale types of security investments. A separate account, with appropriate title, shall be kept for each fund.

* * * * *

175 Derivative instrument assets.

This account shall include the amounts paid for derivative instruments, and the change in the fair value of all derivative instrument assets not designated as cash flow or fair value hedges. Account 421, Miscellaneous

nonoperating income, will be charged with the corresponding amount of the change in the fair value of the derivative instrument.

176 Derivative instrument assets-Hedges.

A. This account shall include the amounts paid for derivative instruments, and the change in the fair value of derivative instrument assets designated by the utility as cash flow or fair value hedges.

B. When a utility designates a derivative instrument asset as a cash flow hedge it will record the change in the fair value of the derivative instrument in this account with a concurrent charge to account 219.1, Other comprehensive income, with the effective portion of the derivative's gain or loss. The ineffective portion of the cash flow hedge will be charged to the same income or expense account that would have been used if the hedged item had been disposed of or otherwise settled.

C. When a utility designates a derivative instrument as a fair value hedge it will record the change in the fair of the derivative instrument in this account with a concurrent charge to a subaccount of the asset or liability that carries the item being hedged. The ineffective portion of the fair value hedge will be charged to the same income or expense account that would have been used if the hedged item had been disposed of or otherwise settled.

* * * * *

219 Accumulated other comprehensive income.

A. This account shall include amounts of other comprehensive income transferred from account 219.1, Other comprehensive income. Records supporting the entries to this account shall be maintained so that the utility can furnish the amount of other comprehensive income for each item included in this account.

B. This account shall also be debited or credited, as appropriate, with amounts of accumulated other comprehensive income that have been included in the determination of net income during the period and in accumulated other comprehensive income in prior periods. Separate records for each category of items will be maintained to identify the amount of the reclassification adjustments from accumulated other comprehensive income to earnings made during the period.

219.1 Other comprehensive income.

A. This account shall include revenues, expenses, gains, and losses that are appropriately includable in other comprehensive income during the period. At year end the total of other comprehensive income will be transferred to account 219, Accumulated other comprehensive income.

B. This account shall also be debited or credited, as appropriate, with amounts of other comprehensive income that have been included in the determination of net income in the same period. Separate records will be maintained to identify the amount of the reclassification adjustments to earnings during the period.

C. Examples of items of other comprehensive income include foreign currency items, minimum pension liability adjustments, unrealized gains and losses on certain investments in debt and equity securities, and cash flow hedges. Records supporting the entries to this account shall be maintained so that the utility can furnish the amount of other comprehensive income for each item included in this account.

* * * * *

244 Derivative instrument liabilities.

This account shall include the change in the fair value of all derivative instrument liabilities not designated as cash flow or fair value hedges. Account 421, Miscellaneous nonoperating income, will be charged with the corresponding amount of the change in the fair value of the derivative instrument.

245 Derivative instrument liabilities-Hedges.

A. This account shall include the change in the fair value of derivative instrument liabilities designated by the utility as cash flow or fair value hedges.

B. A utility will record the change in the fair value of a derivative instrument liability related to a cash flow hedge in this account, with a concurrent charge to account 219.1, Other comprehensive income, with the effective portion of the derivative's gain or loss. The ineffective portion of the cash flow hedge will be charged to the same income or expense account that would have been used if the hedged item had been disposed of or otherwise settled.

C. A utility will record the change in the fair of a derivative instrument liability related to a fair value hedge in this account, with a concurrent charge to a subaccount of the asset or liability that carries the item being hedged. The ineffective portion of the fair value hedge will be charged to the same income or expense account that would have been used if the hedged item had been disposed of or otherwise settled.

* * * * *

PART 201—UNIFORM SYSTEM OF ACCOUNTS PRESCRIBED FOR NATURAL GAS COMPANIES SUBJECT TO THE PROVISIONS OF THE NATURAL GAS ACT

4. The authority citation for part 201 continues to read as follows:

Authority: 15 U.S.C. 717–717w, 3301–3432; 42 U.S.C. 7101–7352, 7651–7651o.

5. In part 201, General Instructions, sections 22. Accounting for other comprehensive income, and 23. Accounting for derivative instruments and hedging activities, are added to read as follows:

General Instructions.

* * * * *

22. *Accounting for other comprehensive income.*

A. Utilities will record items of other comprehensive income in account 219.1, Other comprehensive income. Amounts included in this account will be classified by their nature and supporting records will be maintained by each category of other comprehensive income. Examples of categories of other comprehensive income include, foreign currency items, minimum pension liability adjustments, unrealized gains and losses on available-for-sale type securities and cash flow hedge amounts.

B. At year end, amounts recorded in account 219.1, Other comprehensive income, will be transferred to account 219, Accumulated other comprehensive income. Supporting records will be maintained for account 219 so that the company can readily identify the cumulative amount of other comprehensive income for each item included in this account.

C. When an item of other comprehensive income enters into the determination of earnings in the current or subsequent periods a reclassification adjustment will be recorded in accounts 219 or 219.1 to avoid double counting of when an item included in net income was also included in other comprehensive income in the same or prior period.

23. *Accounting for derivative instruments and hedging activities.*

A. Utilities will recognize derivative instruments as either assets or liabilities in the financial statements and measure those instruments at fair value. A derivative instrument is a financial

instrument or other contract with all three of the following characteristics:

(1) It has one or more underlyings and a notional amount or payment provision. Those terms determine the amount of the settlement or settlements, and, in some cases, whether or not a settlement is required.

(2) It requires no initial net investment or an initial net investment that is smaller than would be required for other types of contracts that would be expected to have similar response to changes in market factors.

(3) Its terms require or permit net settlement, can readily be settled net by a means outside the contract, or provides for delivery of an asset that puts the recipient in a position not substantially different from net settlement.

B. The accounting for the changes in the fair value of derivative instruments depends upon their intended use and designation. Changes in the fair value of derivative instruments not designated as fair value or cash flow hedges will be recorded in account 175, Derivative instrument assets, or account 244, Derivative instrument liabilities, as appropriate, with the gains or losses charged to earnings in account 421, Miscellaneous nonoperating income.

C. A derivative instrument may be specifically designated as a fair value or cash flow hedge. A hedge may be used to manage risk to price, interest rates, or foreign currency transactions. Utilities will maintain documentation of the hedge relationship at the inception of the hedge that details the risk management objective and strategy for undertaking the hedge, the nature of the risk being hedged, and how hedge effectiveness will be determined.

D. If the utility designates the derivative instrument as a fair value hedge against exposure to changes in the fair value of a recognized asset, liability, or a firm commitment, it will record the change in fair value of the derivative instrument to account 176, Derivative instrument assets-Hedges, or account 245, Derivative instrument liabilities-Hedges, as appropriate, with a corresponding adjustment to the subaccount of the item being hedged. The ineffective portion of the hedge transaction will be reflected in the same income or expense account that would have been used if the hedged item had been disposed of or settled. In the case of a fair value hedge of a firm commitment a new asset or liability is created. As a result of the hedge relationship, the new asset or liability will become part of the carrying amount of the item being hedged.

E. If the utility designates the derivative instrument as a cash flow hedge against exposure to variable cash flows of a probable forecasted transaction, it will record changes in the fair value of the derivative instrument in account 176, Derivative instrument assets-Hedges, or account 245, Derivative instrument liabilities-Hedges, as appropriate, with a corresponding amount in Account 219.1, Other comprehensive income, for the effective portion of the hedge. The ineffective portion of the hedge transaction will be reflected in the same income or expense account that would have been used if the hedged item had been disposed of or settled. Amounts recorded in other comprehensive income will be reclassified into earnings in the same period or periods that the hedged forecasted item affects earnings.

* * * * *

6. In part 201, Balance Sheet Accounts, Accounts 124, paragraph A, 125, 126, and 128, introductory text preceding the Note, are revised, and Accounts 175, 176, 219, 219.1, 244 and 245 are added to read as follows:

Balance Sheet Accounts

* * * * *

124 Other investments.

A. This account shall include the book cost of investments in securities issued or assumed by nonassociated companies, investment advances to such companies, and any investments not accounted for elsewhere. This account shall also include unrealized holding gains and losses on trading and available-for-sale types of security investments. Include also the offsetting entry to the recording of amortization of discount or premium on interest bearing investments. (See account 419, interest and dividend income.)

* * * * *

125 Sinking funds.

This account shall include the amount of cash and book cost of investments held in sinking funds. This account shall also include unrealized holding gains and losses on trading and available-for-sale types of security investments. A separate account, with appropriate title, shall be kept for each sinking fund. Transfers from this account to special deposit accounts may be made as necessary for the purpose of paying matured sinking-fund obligations, or obligations called for redemption but not presented, or the interest thereon.

126 Depreciation fund.

This account shall include the amount of cash and book cost of investments which have been segregated in a special fund for the purpose of indentifying such assets with the accumulated provisions for depreciation. This account shall also include unrealized holding gains and losses on trading and available-for-sale types of security investments.

* * * * *

128 Other special funds.

This account shall include the amount of cash and book cost of investments which have been segregated in special funds for insurance, employee pensions, savings, relief, hospital, and other purposes not provided for elsewhere. This account shall also include unrealized holding gains and losses on trading and available-for-sale types of security investments. A separate account with appropriate title, shall be kept for each fund.

* * * * *

175 Derivative instrument assets.

This account shall include the amounts paid for derivative instruments, and the change in the fair value of all derivative instrument assets not designated as cash flow or fair value hedges. Account 421, Miscellaneous nonoperating income, will be charged with the corresponding amount of the change in the fair value of the derivative instrument.

176 Derivative instrument assets-Hedges.

A. This account shall include the amounts paid for derivative instruments, and the change in the fair value of derivative instrument assets designated by the utility as cash flow or fair value hedges.

B. When a utility designates a derivative instrument asset as a cash flow hedge it will record the change in the fair value of the derivative instrument in this account with a concurrent charge to account 219.1, Other comprehensive income, with the effective portion of the derivative's gain or loss. The ineffective portion of the cash flow hedge will be charged to the same income or expense account that would have been used if the hedged item had been disposed of or otherwise settled.

C. When a utility designates a derivative instrument asset as a fair value hedge it will record the change in the fair value of the derivative instrument in this account with a concurrent charge to a subaccount of the

asset or liability that carries the item being hedged. The ineffective portion of the fair value hedge will be charged to the same income or expense account that would have been used if the hedged item had been disposed of or otherwise settled.

* * * * *

219 Accumulated other comprehensive income.

A. This account shall include amounts of other comprehensive income transferred from account 219.1, Other comprehensive income. Records supporting the entries to this account shall be maintained so that the utility can furnish the amount of other comprehensive income for each item included in this account.

B. This account shall also be debited or credited, as appropriate, with amounts of accumulated other comprehensive income that have been included in the determination of net income during the period and in accumulated other comprehensive income in prior periods. Separate records for each category of items will be maintained to identify the amount of the reclassification adjustments from accumulated other comprehensive income to earnings made during the period.

219.1 Other comprehensive income.

A. This account shall include revenues, expenses, gains, and losses that are properly includable in other comprehensive income during the period. At year end the total of other comprehensive income will be transferred to account 219, Accumulated other comprehensive income.

B. This account shall also be debited or credited, as appropriate, with amounts of other comprehensive income that have been included in the determination of net income in the same period. Separate records will be maintained to identify the amount of the reclassification adjustments to earnings during the period.

C. Examples of items of other comprehensive income include foreign currency items, minimum pension liability adjustments, unrealized gains and losses on certain investments in debt and equity securities, and cash flow hedges. Records supporting the entries to this account shall be maintained so that the utility can furnish the amount of other comprehensive income for each item included in this account.

* * * * *

244 Derivative instrument liabilities.

This account shall include the change in the fair value of all derivative instrument liabilities not designated as cash flow or fair value hedges. Account 421, Miscellaneous nonoperating income, will be charged with the corresponding amount of the change in the fair value of the derivative instrument.

245 Derivative instrument liabilities-Hedges.

A. This account shall include the change in the fair value of derivative instrument liabilities designated by the utility as cash flow or fair value hedges.

B. A utility will record the change in the fair value of a derivative liability related to a cash flow hedge in this account, with a concurrent charge to account 219.1, Other comprehensive income, with the effective portion of the derivative's gain or loss. The ineffective portion of the cash flow hedge will be charged to the same income or expense account that would have been used if the hedged item had been disposed of or otherwise settled.

C. A will record the change in the fair of a derivative instrument liability related to a fair value hedge in this account, with a concurrent charge to a subaccount of the asset or liability that carries the item being hedged. The ineffective portion of the fair value hedge will be charged to the same income or expense account that would have been used if the hedged item had been disposed of or otherwise settled.

* * * * *

PART 352—UNIFORM SYSTEMS OF ACCOUNTS PRESCRIBED FOR OIL PIPELINE COMPANIES SUBJECT TO THE PROVISIONS OF THE INTERSTATE COMMERCE ACT

7. The authority citation for part 352 continues to read as follows:

Authority: 49 U.S.C. 60502; 49 App. U.S.C. 1–85 (1988).

* * * * *

8. In part 352, List of Instructions and Accounts, Definitions, paragraph 35(d) is revised to read as follows:

Definitions.

* * * * *

35. * * *

(d) *Cost*, as applied to a marketable equity security, refers to the original cost as adjusted for unrealized holding gains and losses.

* * * * *

9. In part 352, General Instructions, paragraph 1–15(a), (b) and (c) are revised, (d) and (e) are removed, and General Instructions paragraphs 1–17 and 1–18 are added to read as follows:

General Instructions

* * * * *

1–15 *Accounting for marketable securities owned.* (a) Accounts 11 ''Temporary investments,'' 20 ''Investments in affiliated companies,'' and 21 ''Other investments'' shall be maintained in such a manner as to reflect the marketable equity portion (see definition 35) and other securities or investments

(b) For the purpose of determining net ledger value, the marketable equity securities in account 11 shall be considered the current portfolio and the marketable equity securities in accounts 20 and 21 (combined) shall be considered the noncurrent portfolio.

(c) Carriers will categorize their security investments as held-to-maturity, trading, or available-for-sale. Unrealized holding gains and losses on trading type investment securities will be recorded in account 660, Miscellaneous income charges. Unrealized holding gains and losses on available-for-sale type investment securities will be recorded in account 77.1, Other comprehensive income.

* * * * *

1–17 *Accounting for other comprehensive income.*

(a) Carriers will record items of other comprehensive income in account 77.1, Other comprehensive income. Amounts included in this account will be maintained by each category of other comprehensive income. Examples of categories of other comprehensive income include, foreign currency items, minimum pension liability adjustments, unrealized gains and losses on available-for-sale type securities and cash flow hedge amounts.

(b) At year end, amounts recorded in account 77.1, Other comprehensive income, will be transferred to account 77, Accumulated other comprehensive income. Supporting records will be maintained for account 77 so that the carrier can readily identify the cumulative amount of other comprehensive income for each item included in this account.

(c) When an item of other comprehensive income enters into the determination of earnings in the current or subsequent periods a reclassification adjustment will be recorded in accounts 77 or 77.1 to avoid double counting of when an item included in net income was also included in other comprehensive income in the same or prior period.

* * * * *

1–18 *Accounting for derivative instruments and hedging activities.*

(a) A carrier will recognize derivative instruments as either assets or liabilities in the financial statements and measure those instruments at fair value. A derivative instrument is a financial instrument or other contract with all three of the following characteristics:

(1) It has one or more underlyings and a notional amount or payment provision. Those terms determine the amount of the settlement or settlements, and, in some cases, whether or not a settlement is required.

(2) It requires no initial net investment or an initial net investment that is smaller than would be required for other types of contracts that would be expected to have similar response to changes in market factors.

(3) Its terms require or permit net settlement, can readily be settled net by a means outside the contract, or provides for delivery of an asset that puts the recipient in a position not substantially different from net settlement.

(b) The accounting for the changes in the fair value of derivative instruments depends upon their intended use and designation. Changes in the fair value of derivative instruments not designated as fair value or cash flow hedges will be recorded in account 46, Derivative instrument assets, or account 65, derivative instrument liabilities, as appropriate, with the gains or losses charged to earnings in account 660, Miscellaneous income charges.

(c) A derivative instrument may be specifically designated as a fair value or cash flow hedge. A hedge may be used to manage risk to price, interest rates, or foreign currency transactions. An entity will maintain documentation of the hedge relationship at the inception of the hedge that details the risk management objective and strategy for undertaking the hedge, the nature of the risk being hedged, and how hedge effectiveness will be determined.

(d) If the carrier designates the derivative instrument as a fair value hedge against exposure to changes in the fair value of a recognized asset, liability, or a firm commitment, it will record the change in fair value of the derivative instrument designated as a fair value hedge to account 47, Derivative instrument assets-Hedges, or account 66, Derivative instrument liabilities-Hedges, as appropriate, with a corresponding adjustment to the subaccount of the item being hedged. The ineffective portion of the hedge transaction will be reflected in the same income or expense account that would have been used if the hedged item had been disposed of or settled. In the case of a fair value hedge of a firm commitment, a new asset or liability is created. As a result of the hedge relationship, the new asset or liability will become part of the carrying amount of the item being hedged.

(e) If the carrier designates the derivative instrument as a cash flow hedge against exposure to variable cash flows of a probable forecasted transaction it will record changes in the fair value of the derivative instrument in account 47, Derivative instrument assets-Hedges, or account 66, Derivative instrument liabilities-Hedges, as appropriate, with a corresponding amount in account 77.1, Other comprehensive income, for the effective portion of the hedge. The ineffective portion of the hedge transaction will be reflected in the same income or expense account that would have been used if the hedged item had been disposed of or settled. Amounts recorded in other comprehensive income will be reclassified into earnings in the same period or periods that the hedged forecasted item affects earnings.

* * * * *

10. In part 352, Balance Sheet Accounts, Accounts 11, 21, and 22 are revised, Accounts 23, 24, and 75.5 are removed, and Accounts 46, 47, 65, 66, 77 and 77.1 are added to read as follows:

Balance Sheet Accounts

* * * * *

11 Temporary investments.

(a) This account shall include the cost of securities and other collectible obligations acquired for the purpose of temporarily investing cash, such as United States Treasury certificates, marketable securities, time drafts receivable, demand loans, time deposits with banks and trust companies, and other similar investments of a temporary character. This account shall also include unrealized holding gains and losses on trading and available-for-sale types of security investments.

(b) This account shall be subdivided to reflect the marketable equity securities' portion and other temporary investments. (See Instruction 1–15).

* * * * *

21 Other investments.

This account shall include the cost of investments in securities of (other than securities held in special funds) and advances made to other than affiliated companies. This account shall also include unrealized holding gains and losses on trading and available-for-sale types of security investments. Separate records shall be maintained to show the securities pledged and the following classes of investments in each nonaffiliated company:

(a) Stocks.
(b) Bonds.
(c) Other secured obligations.
(d) Unsecured notes.
(e) Investment advances.

22 Sinking and other funds.

(a) This account shall include cash and cost of investments in securities and other assets, trusteed or otherwise restricted, that have been segregated in distinct funds for purposes of redeeming outstanding obligations; purchasing or replacing assets; paying pensions, relief, hospitalization, and other similar items. This account shall also include unrealized holding gains and losses on trading and available-for-sale types of security investments. The cash value of life insurance policies on the lives of employees and officers to the extent that the carrier is the beneficiary of such policies shall also be included in this account. Separate subsidiary records shall be maintained for each distinct fund.

23 and 24 [Removed]

* * * * *

46 Derivative instrument assets.

This account shall include the amounts paid for derivative instruments, and the change in the fair value of all derivative instrument assets not designated as cash flow or fair value hedges. Account 660, Miscellaneous income charges, will be charged with the corresponding amount of the change in the fair value of the derivative instrument.

47 Derivative instrument assets—Hedges.

(a) This account shall include the amounts paid for derivative instruments, and the change in the fair value of derivative instrument assets designated by the utility as cash flow or fair value hedges.

(b) When a carrier designates a derivative instrument asset as a cash flow hedge, it will record the change in the fair value of the derivative instrument in this account with a concurrent charge to account 77.1, Other comprehensive income, with the effective portion of the derivative's gain or loss. The ineffective portion of the cash flow hedge will be charged to the same income or expense account that would have been used if the hedged item had been disposed of or otherwise settled.

(c) When a carrier designates a derivative instrument as a fair value

hedge, it will record the change in the fair of the derivative instrument in this account with a concurrent charge to a subaccount of the asset or liability that carries the item being hedged. The ineffective portion of the fair value hedge will be charged to the same income or expense account that would have been used if the hedged item had been disposed of or otherwise settled.

* * * * *

65 Derivative instrument liabilities.

This account shall include the change in the fair value of all derivative instrument liabilities not designated as cash flow or fair value hedges. Account 660, Miscellaneous income charges, will be charged with the corresponding amount of the change in the fair value of the derivative instrument.

* * * * *

66 Derivative instrument liabilities—Hedges.

(a) This account shall include the change in the fair value of derivative instrument liabilities designated by the carrier as cash flow or fair value hedges.

(b) A carrier will record the change in the fair value of a derivative instrument liability related to a cash flow hedge in this account, with a concurrent charge to account 77.1, Other comprehensive income, with the effective portion of the derivative's gain or loss. The ineffective portion of the cash flow hedge will be charged to the same income or expense account that would have been used if the hedged item had been disposed of or otherwise settled.

(c) A carrier will record the change in the fair of a derivative instrument liability related to a fair value hedge in this account, with a concurrent charge to a subaccount of the asset or liability that carries the item being hedged. The ineffective portion of the fair value hedge will be charged to the same income or expense account that would have been used if the hedged item had been disposed of or otherwise settled.

* * * * *

75.5 [Removed]

* * * * *

77 Accumulated other comprehensive income.

(a) This account shall include amounts of other comprehensive income transferred from account 77.1, Other comprehensive income. Records supporting the entries to this account shall be maintained so that the utility can furnish the amount of other comprehensive income for each item included in this account.

(b) This account shall also be debited or credited, as appropriate, with amounts of accumulated other comprehensive income that have been included in the determination of net income during the period and in accumulated other comprehensive income in prior periods. Separate records for each category of items will be maintained to identify the amount of the reclassification adjustments from accumulated other comprehensive income to earnings made during the period.

* * * * *

77.1 Other comprehensive income.

(a) This account shall include revenues, expenses, gains, and losses that are properly includable in other comprehensive income during the period. At year end, the total of other comprehensive income will be transferred to account 77, Accumulated other comprehensive income.

(b) This account shall also be debited or credited, as appropriate, with amounts of other comprehensive income that have been included in the determination of net income in the same period. Separate records will be maintained to identify the amount of the reclassification adjustments to earnings during the period.

(c) Examples of items of other comprehensive income include foreign currency items, minimum pension liability adjustments, unrealized gains and losses on certain investments in debt and equity securities, and cash flow hedges. Records supporting the entries to this account shall be maintained so that the carrier can furnish the amount of other comprehensive income for each item included in this account.

* * * * *

Note: The following Appendix A will not appear in the Code of Federal Regulations:

BILLING CODE 6717–01–P

Appendix A Proposed Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -1-

Name of Respondent	This Form is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

List of Schedules

Enter in column (c) the terms "none", "not applicable or "NA" as appropriate, where no information or amounts have been reported for certain pages. Omit pages where the respondents are "none," "not applicable," or "NA"

Title of Schedule (a)	Reference Page No. (b)	Remarks (c)
GENERAL CORPORATE INFORMATION AND FINANCIAL STATEMENTS		
General Information	101	
Control Over Respondent	102	
Corporations Controlled by Respondent	103	
Officers	104	
Directors	105	
Security Holders and Voting Powers	106-107	
Important Changes During the Year	108-109	
Comparative Balance Sheet	110-113	
Statement of Income for the Year	114-117	
Statement of Retained Earnings for the Year	118-119	
Statement of Cash Flows	120-121	
Statement of Comprehensive Income and Hedging Activities	122	
Notes to Financial Statements	123	
BALANCE SHEET SUPPORTING SCHEDULES (Assets and Other Debits)		
Summary of Utility Plant and Accumulated Provisions for Depreciation, Amortization, and Depletion	200-201	
Nuclear Fuel Materials	202-203	
Electric Plant in Service	204-207	
Electric Plant Leased to Others	213	
Electric Plant Held for Future Use	214	
Construction Work in Progress -- Electric	216	
Construction Overheads -- Electric	217	
General Description of Construction Overhead Procedure	218	
Accumulated Provision for Depreciation of Electric Utility Plant	219	
Nonutility Property	221	
Investment in Subsidiary Companies	224-225	
Materials and Supplies	227	
Allowances	228-229	
Extraordinary Property Losses	230	
Unrecovered Plant and Regulatory Study Costs	230	
Other Regulatory Assets	232	
Miscellaneous Deferred Debits	233	
Accumulated Deferred Income Taxes (Account 190)	234	
BALANCE SHEET SUPPORTING SCHEDULES (Liabilities and Other Credits)		
Capital Stock	250-251	
Capital Stock Subscribed, Capital Stock Liability for Conversion, Premium on Capital Stock, and installments Received on Capital Stock	252	
Other Paid-in Capital	253	
Discount on Capital Stock	254	
Capital Stock Expense	254	
Long-Term Debt	256-257	

Appendix A Proposed Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -2-

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

COMPARATIVE BALANCE SHEET (ASSETS AND OTHER DEBITS)

Line No	Title of Account (a)	Ref. Page No. (b)	Balance at Beginning of year (c)	Balance at End of Year (d)
1	UTILITY PLANT			
2	Utility Plant (101)-106, 114)	200-201		
3	Construction Work in Progress (107)	200-201		
4	TOTAL UTILITY PLANT (Enter Total of Lines 2 and 3)			
5	(Less) Accum. Prov. For Depr. Amort. Depl. (108, 111, 115)	200-201		
6	Net Utility Plant (Enter Total of Line 4 less 5)	-		
7	Nuclear Fuel (120.1-120.4, 120.6)	202-203		
8	(Less) Accum. Prov. For Amort. Of Nucl. Fuel Assemblies (120.5)	202-203		
9	Net Nuclear Fuel (Enter Total of Lines 7 Less 8)	-		
10	Net Utility Plant (Enter Total of Line 6 and 9)	-		
11	Utility Plant Adjustments (116)	122		
12	Gas Stored Underground-Noncurrent (117)	-		
13	OTHER PROPERTY AND INVESTMENTS			
14	Nonutility Property (121)	221		
15	(Less) Accum. Prov. For Depr. And Amort. (122)	-		
16	Investments in Associated Companies (123)	-		
17	Investment in Subsidiary Companies (123.1)	224-225		
18	(For Cost of Account 123.1, See Footnote Page 224, Line 42)	-		
19	Noncurrent Portion of Allowances	228-229		
20	Other Investments (124)	-		
21	Special Funds (125-128)	-		
22	TOTAL Other Property and Investments (Total of Lines 14--17, 19--21)			
23	CURRENT AND ACCRUED ASSETS			
24	Cash (131)	-		
25	Special Deposits (132-134)	-		
26	Working Fund (135)	-		
27	Temporary Cash Investments (136)	-		
28	Notes Receivable (141)	-		
29	Customer Accounts Receivable (142)	-		
30	Other Accounts Receivable (143)	-		
31	(Less) Accum. Prov. For Uncollectible Acct. - Credit (144)	-		
32	Notes Receivable from Associated Companies (145)	-		
33	Accounts Receivable from Assoc. Companies (146)	-		
34	Fuel Stock (151)	227		
35	Fuel Stock Expenses Undistributed (152)	227		
36	Residuals (Elec) and Extracted Products (153)	227		
37	Plant Materials and Operating Supplies (154)	227		
38	Merchandise (155)	227		
39	Other Material and Supplies (156)	227		
40	Nuclear Materials held for Sale (157)	202-203/227		
41	Allowances (158.1 and 158.2)	228-229		
42	(Less) Noncurrent Portion of Allowances	228-229		
43	Stores Expenses Undistributed (163)	-		
44	Gas Stored Underground-Current (164.1)	-		
45	Liquefied Natural Gas Stored and Held for Processing (164.2-164.3)	-		
46	Prepayments (165)	-		
47	Advances for Gas (166-167)	-		
48	Interest and Dividends Receivable (171)	-		
49	Rents Receivable (172)	-		
50	Accrued Utility Revenues (173)	-		
51	Miscellaneous Current and Accrued Assets (174)	-		

Appendix A Proposed Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -3-

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, ____

COMPARATIVE BALANCE SHEET (ASSETS AND OTHER DEBITS) (Continued)

Line No.	Title of Account (a)	Ref Page No. (b)	Balance at Beginning of Year (c)	Balance at End of Year (d)
52	Derivative Instrument Assets (175)			
53	Derivative Instrument Assets - Hedges (176)			
54	TOTAL Current and Accrued Assets (Enter Total of Lines 24 thru 53)			
55	DEFERRED DEBITS			
56	Unamortized Debt Expenses (181)	-		
57	Extraordinary Property Losses (182.1)	230		
58	U n recovered Plant and Regulatory Study Costs (182.2)	230		
59	Other Regulatory Assets (182.3)	232		
60	Prelim. Survey and Investigation Charges (Elec) (183)	231		
61	Prelim. Sur. and Invest. Charges (Gas) (183.1, 183.2)	-		
62	Clearing Accounts (184)	-		
63	Temporary Facilities (185)	-		
64	Miscellaneous Deferred Debits (186)	233		
65	Def.-Losses from Disposition of Utility Plant (187)	-		
66	Research, Devel. and Demonstration Expend. (188)	352-353		
67	Unamortized Loss on Reacquired Debt (189)	-		
68	Accumulated Deferred Income Taxes (190)	234		
69	Unrecovered Purchased Gas Costs (191)	-		
70	TOTAL Deferred Debits (Enter Total of Lines 56 thru 69)			
71	TOTAL Assets and Other Debits *(Enter Total of Lines 10, 11, 12, 22, 54, and 70)*			

Appendix A Proposed Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -4-

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, ____

COMPARATIVE BALANCE SHEET (LIABILITIES AND OTHER CREDITS)

Line No.	Title of Account (a)	Ref Page No. (b)	Balance at Beginning of Year (c)	Balance at End of Year (d)
1	PROPRIETARY CAPITAL			
2	Common Stock Issued (201)	250-251		
3	Preferred Stock Issued (204)	250-251		
4	Capital Stocked Subscribed (202, 205)	252		
5	Stock Liability for Conversion (203, 206)	252		
6	Premium on Capital Stock (207)	252		
7	Other Paid-In Capital (208-211)	253		
8	Installments Received on Capital Stock (212)	252		
9	(Less) Discount on Capital Stock (213)	254		
10	(Less) Capital Stock Expense (214)	254		
11	Retained Earnings (215, 215.1, 216)	118-119		
12	Unappropriated Undistributed Subsidiary Earnings (216.1)	118-119		
13	(Less) Reacquired Capital Stock (217)	250-251		
14	Accumulated Other Comprehensive Income (219)	122		
15	TOTAL PROPRIETARY CAPITAL *(Enter Total of lines 2 thru 14)*			
16	LONG-TERM DEBT			
17	Bonds (221)	256-257		
18	(Less) Reacquired Bonds (222)	256-257		
19	Advances from Associated Companies (223)	256-257		
20	Other Long-term Debt (224)	256-257		
21	Unamortized Premium on Long-Term Debt (225)	-		
22	(Less) Unamortized Discount on Long-Term Debt - Debit (226)	-		
23	TOTAL Long-Term Debt (Enter Total of Lines 17 thru 22)			
24	OTHER NONCURRENT LIABILITIES			
25	Obligations Under Capital Leases - Noncurrent (227)	-		
26	Accumulated Provision for Property Insurance (228.1)	-		
27	Accumulated Provision for Injuries and Damages (228.2)	-		
28	Accumulated Provision for Pensions and Benefits (228.3)	-		
29	Accumulated Miscellaneous Operating Provisions (228.4)	-		
30	Accumulated Provision for Rate Refunds (229)	-		
31	TOTAL OTHER NONCURRENT LIABILITIES *(Enter Total of lines 25 thru 30)*			
32	CURRENT AND ACCRUED LIABILITIES			
33	Notes Payable (231)	-		
34	Accounts Payable (232)	-		
35	Notes Payable to Associated Companies (233)	-		
36	Accounts Payable to Associated Companies (234)	262-263		
37	Customer Deposits (235)	-		
38	Taxes Accrued (236)	-		
39	Interest Accrued (237)	-		
40	Dividends Declared (238)	-		
41	Matured Long-Term Debt (239)	-		
42	Matured Interest (240)	-		
43	Tax Collections Payable (241)	-		
44	Miscellaneous Current and Accrued Liabilities (242)	-		
45	Obligations under Capital Leases - Current (243)	-		
46	Derivative Instrument Liabilities (244)			
47	Derivative Instrument Liabilities-Hedges (245)			
48	TOTAL CURRENT & ACCRUED LIABILITIES (Enter Total of Lines 33-47)	-		

Appendix A Proposed Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -5-

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, ____

COMPARATIVE BALANCE SHEET (LIABILITIES AND OTHER CREDITS) (Continued)

Line No.	Title of Account (a)	Ref. Page No. (b)	Balance at Beginning of Year (c)	Balance at End of Year (d)
49	DEFERRED CREDITS			
50	Customer Advances for Construction (252)			
51	Accumulated Deferred Investment Tax Credits (255)	266-267		
52	Deferred Gains from Disposition of Utility Plant (256)			
53	Other Deferred Credits (253)	269		
54	Other Regulatory Liabilities (254)	278		
55	Unamortized Gain on Reacquired Debt (257)	-		
56	Accumulated Deferred Income Taxes (281-283)	272-277		
57	TOTAL DEFERRED CREDITS *(Enter Total of lines 50 thru 56)*			
58				
59				
60				
61				
62				
63				
64				
65				
66				
67				
68				
69				
70				
71	TOTAL Liabilities and Other Credits *(Enter Total of lines 15, 23, 31, 48 and 57)*			

Appendix A Proposed Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -6-

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

STATEMENT OF COMPREHENSIVE INCOME AND HEDGING ACTIVITIES

1 Report in columns (b) and (c) the amounts of other comprehensive income items listed below in column (a).

2. Report amounts related to categories of other comprehensive income on a net-of-tax basis, where appropriate, and report the related tax effects allocated to each category in a footnote.

3. Report in a footnote, the accumulated other comprehensive income balances at year end, by category.

4. Report in a footnote, the fair value hedge balances at year end, by category.

Line No.	Item (a)	Total Current Year (in dollars) (b)	Total Prior Year (in dollars) (c)
1	Net Income (Carried forward from page 117, Line 72)		
2	CATEGORIES OF OTHER COMPREHENSIVE INCOME		
3	Unrealized gains and losses on available-for-sale type securities		
4	Minimum pension liability adjustment (net amount)		
5	Cash Flow Hedge Components		
6	Foreign currency hedges		
7	Other cash flow hedges		
8			
9			
10			
11			
12			
13			
14			
15	RECLASSIFICATION ADJUSTMENTS		
16	Unrealized gains and losses on available-for-sale type securities		
17	Cash Flow Hedge Components		
18	Foreign currency hedges		
19	Other cash flow hedges		
20			
21			
22			
23			
24			
25			
26			
27	Total Categories of Other Comprehensive Income (lines 3 through 26)		
28	Comprehensive Income (line 1 plus line 27)		
29			
30			
31			

Appendix A Proposed Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -8-

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III	Comparative Balance Sheet (110-113)
IV	Statement of Income for the Year (114-117)
V	Statement of Retained Earnings for the Year (118-119)
XXI	Summary of Utility Plant and Accumulated Provisions for Depreciation, Amortization and Depletion (200-201, 204-207)
XIII	Accumulated Provision for Depreciation of Electric Utility Plant (219)
XVII	Electric Operating Revenues (300-301)
XIX	Sales for Resale (310-311)
XVIII	Electric Operation and Maintenance Expenses (320-323)
XX	Purchased Power (326-327)

INSTRUCTIONS FOR FILING FERC Form No. 1-F

GENERAL INFORMATION

1. Purpose

This form is a regulatory requirement (18 CFR 141.2). It is designed to collect financial information from privately owned electric utilities and licensees who have generation, transmission, distribution and sales of electric energy, however produced throughout the United States and its possessions, subject to the jurisdiction of the Federal Energy Regulatory Commission.

II. Who Must Submit

Each Nonmajor Public Utility or Licensee, as classified in the Commission's Uniform System of Accounts Prescribed for Public Utilities and Licensees Subject to the Provisions of the Federal Power Act (18 CFR 101 (US of A.) must submit this form.

Each Nonmajor public utility or licensee classified as Class C or Class D prior to January 1, 1984, may continue to file only the basic financial statements -Parts 111, IV and V.

Note: Nonmajor means having total annual sales of 10,000 megawatt hours or more in the previous calendar year and not classified as "Major."

Appendix A Proposed Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -9-

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, ____

PART III: COMPARATIVE BALANCE SHEET

	Assets and Other Debits (a)	Balance at Beginning of year (b)	Balance at End of Year (c)
01	Utility plant *(101 - 107, 114, 118)*		
02	Accumulated Provision for Depreciation and Amortization *(110, 119)*		
03	NET UTILITY PLANT *(Enter total of line 01 less 02)*		
04	Utility Plant Adjustments *(116)*		
05	Gas Stored Underground - Noncurrent		
06	Nonutility Property *(121)*		
07	Accumulated Provision For Depreciation and Amortization - Credit *(122)*		
08	Noncurrent Portion of Allowances		
09	Other Investments and Special Funds *(124-129)*		
10	CURRENT AND ACCRUED ASSETS:		
11	Cash and Working Funds *(130)*		
12	Temporary Cash Investments *(136)*		
13	Notes and Accounts Receivable *(141, 142, 143, 145, 146)(Report amounts applicable to associated companies in a footnote)*		
14	Accumulated provision for Uncollectible Accounts - Credit *(144)*		
15	Plant Materials and Operating Supplies *(154)*		
16	Allowances *(158.1 and 158.2)*		
17	(Less) Noncurrent Portion of Allowances		
18	Gas Stored *(164.1, 164.2)*		
19	Prepayments *(165)*		
20	Miscellaneous Current and Accrued Assets *(174)*		
21	Derivative Instrument Assets (175)		
22	Derivative Instruments Assets - Hedges (176)		
23	TOTAL CURRENT AND ACCRUED ASSETS *(Enter total of lines 11 thru 22)*		
24	DEFERRED DEBITS:		
25	Unamortized Debt Expense *(181)*		
26	Extraordinary Property Losses *(182.1)*		
27	Unrecovered Plant and Regulatory Study Costs *(182.2)*		
28	Other Regulatory sets *(182.3)*		
29	Miscellaneous Deferred Debits *(186)*		
30	Deferred Losses from Disposition of Utility Plant *(187)*		
31	Unamortized Loss on Reacquired Debt *(189)*		
32	Accumulated Deferred Income Taxes *(190)*		
33	Unrecovered Purchased Gas Costs *(191)*		
34	TOTAL DEFERRED DEBITS *(Enter total of Lies 25 thru 33)*		
35	TOTAL ASSETS AND OTHER DEBITS *(Enter total lines 03 thru 09, 23 and 34)*		

Appendix A Proposed Revised Schedules for FERC Forms 1, 1-F 2, 2-A, and 6 -10-

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

PART III: COMPARATIVE BALANCE SHEET (Continued)

	Liabilities and Other Credits (a)	Balance at Beginning of year (b)	Balance at End of Year (c)
01	Common Stock Issued (201)		
02	Preferred Stock Issued (204)		
03	Miscellaneous Paid-in Capital (211)		
04	Installments Received on Capital Stock (212)		
05	Discount on Capital Stock (213)		
06	Capital Stock Expenses - Debit (214)		
07	Retained Earnings (215-216)		
08	Reacquired Capital Stock - Debit (217)		
09	Noncorporate Proprietorshi[p (218)		
10	Accumulated Other Comprehensive Income (219)		
11	TOTAL PROPRIETORSHIP CAPITAL (Enter Total of Lines 01 thru 10)		
12	Bonds (221)		
13	Advances from Associated Companies (223)		
14	Other Long-term Debt (Specify in footnote) (224)		
15	Unamortized Premium on Long-term Debt (225)		
16	Unamortized Discount on Long-term Debt - Debit (226)		
17	TOTAL LONG-TERM DEBT (Enter Total of Lines 12 thru 16)		
18	OTHER NONCURRENT LIABILITIES:		
19	Obligations Under Capital Leases - Noncurrent (227)		
20	Accumulated Provision for Property Insurance (228.1)		
21	Accumulated Provision for Injuries and Damages (228.2)		
22	Accumulated Provision for Pensions and Benefits (228.3)		
23	Accumulated Miscellaneous Operating Provisions (228.4)		
24	Accumulated Provision for Rate Refunds (229)		
25	TOTAL OTHER NONCURRENT LIABILITIES (Enter Total of Lines 19 thru 24)		
26	CURRENT AND ACCRUED LIABILITIES:		
27	Notes and Accounts Payable (Report amounts applicable to associated companies in a footnote) (231 to 234)		
28	Customer Deposits (235)		
29	Taxes Accrued (236)		
30	Interest Accrued (237)		
31	Miscellaneous Current and Accrued Liabilities (242)		
32	Obligations Under Capital Leases - Current (243)		
33	Derivative Instrument Liabilities (244)		
34	Derivative Instrument Liabilities - Hedges (245)		
35	TOTAL CURRENT AND ACCRUED LIABILITIES (Enter Total of Lines 27 thru 34)		
36	DEFERRED CREDITS:		
37	Customer Advances for Construction (252)		
38	Other Deferred Credits (253)		
39	Other Regulatory Liabilities (254)		
40	Accumulated Deferred Investment Tax Credits (255)		
41	Deferred Gains from Disposition of Utility Plant (256)		
42	Unamortized Gain on on Reacquired Debt (257)		
43	Accumulated Deferred Income Taxes (281-283)		
44	TOTAL DEFERRED CREDITS (Enter Total of Lines 37 thru 43)		
45	TOTAL LIABILITIES AND OTHER CREDITS (Enter Total of Lines 11, 17, 25, 35 and 44)		

Appendix A Proposed Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -11-

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

STATEMENT OF COMPREHENSIVE INCOME AND HEDGING ACTIVITIES

1. Report in columns (b) and (c) the amounts of other comprehensive income items listed below in column (a).
2. Report amounts related to categories of other comprehensive income on a net-of-tax basis, where appropriate, and report the related tax effects allocated to each category in a footnote.
3. Report in a footnote, the accumulated other comprehensive income balances at year end, by category.
4. Report in a footnote, the fair value hedge balances at year end, by category.

Line No.	Item (a)	Total Current Year (in dollars) (b)	Total Prior Year (in dollars) (c)
1	Net Income (Carried forward from page 8, Line 63)		
2	COMPONENTS OF OTHER COMPREHENSIVE INCOME		
3	Unrealized gains and losses on available-for-sale type securities		
4	Minimum pension liability adjustment (net amount)		
5	Cash Flow Hedge Components		
6	Foreign currency hedges		
7	Other cash flow hedges		
8			
9			
10			
11			
12			
13			
14			
15	RECLASSIFICATION ADJUSTMENTS		
16	Unrealized gains and losses on available-for-sale type securities		
17	Cash Flow Hedge Components		
18	Foreign currency hedges		
19	Other cash flow hedges		
20			
21			
22			
23			
24			
25			
26			
27	Total Categories of Other Comprehensive Income (lines 3 through 26)		
27	Comprehensive Income (line 1 plus line 27)		
28			
29			
31			

Appendix A Proposed Revised Schedules for FERC Forms 1, 1-F 2, 2-A, and 6 -12-

Name of Respondent	This Report is: ☐ An Original ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

List of Schedules

Enter in column (d) the terms "none," "not applicable," or "NA" as appropriate, where no information or amounts have been reported for certain pages Omit pages where the responses are "none," "not applicable," or "NA

Line No.	Title of Schedule (a)	Reference Page No. (b)	Date Revised (c)	Remarks (d)
	GENERAL CORPORATE INFORMATION AND FINANCIAL STATEMENTS			
1	General Information	101		
2	Control over Respondent	102		
3	Corporations Controlled by Respondent	103		
4	Security Holders and Voting Powers	107		
5	Important Changes During the Year	108		
6	Comparative Balance Sheet	110-113		
7	Statement of Income for the Year	114-116		
8	Statement of Comprehensive Income and Hedging Activities	117		
9	Statement of Retained Earnings for the Year	118-119		
10	Statement of Cash Flows	120-121		
11	Notes to the Financial Statements	122		
	BALANCE SHEET SUPPORTING SCHEDULES (Assets and Other Debits)			
12	Summary of Utility Plant and Accumulated Provisions for Depreciation, Amortization, and Depletion	200-201		
13	Gas Plant in Service	204-209		
14	Gas Property and Capacity Leased from Others	212		
15	Gas Property and Capacity Leased to Others	213		
16	Gas Plant Held for Future Use	214		
17	Construction Work in Progress - Gas	216		
18	General Description of Construction Overhead Procedure	218		
19	Accumulated Provision for Depreciation of Gas Utility Plant	219		
20	Gas Stored	220		
21	Investments	222-223		
22	Investments in Subsidiary Companies	224-225		
23	Prepayment	230		
24	Extraordinary Property Losses	230		
25	Unrecovered Plant and Regulatory Study Costs	230		
26	Other Regulatory Assets	232		
27	Miscellaneous Deferred Debits	233		
28	Accumulated Deferred Income Taxes	234-235		
	BALANCE SHEET SUPPORTING SCHEDULES (Liabilities and Other Credits)			
29	Capital Stock	250-251		
30	Capital Stock Subscribed, Capital Stock Liability for Conversion, Premium on Capital Stock, and Installments Received on Capital Stock	252		
31	Other Paid-in Capital	253		
32	Discount on Capital Stock	254		
33	Capital Stock Expense	254		
34	Securities Issued or Assumed and Securities Refunded or Retired During the Year	255		
35	Long-Term Debt	256-257		
36	Unamortized Debt Expense, Premium, and Discount on Long-Term Debt	258-259		
37	Unamortized Loss and Gain on Reacquired Debt	260		
38	Reconciliation of Reported Net Income with Taxable Income for Federal Income Taxes	261		

Appendix A Proposed Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -13-

Name of Respondent	This Report is: ☐ An Original ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

LIST OF SCHEDULES (Natural Gas Company)

Enter in column (d) the terms "none," "not applicable," or "NA" as appropriate, where no information or amount have been reported for certain pages Omit pages where the responses are "none," "not applicable," or "NA

Line No.	Title of Schedule (a)	Reference Page No. (b)	Date Received (c)	Remarks
	BALANCE SHEET SUPPORTING SCHEDULES (Liabilities and Other Credits) (Continued)			
39	Taxes Accrued, Prepaid, and Charged During Year	262-263		
40	Miscellaneous Current and Accrued Liabilities	268		
41	Other Deferred Credits	269		
42	Accumulated Deferred Income Taxes-Other Property	274-275		
43	Accumulated Deferred Income Taxes-Other	276-277		
44	Other Regulatory Liabilities	278		
	INCOME ACCOUNT SUPPORTING SCHEDULES			
45	Gas Operating Revenues	300-301		
46	Revenues from Transportation of Gas of Others Through Gathering Facilities	302-303		
47	Revenues from Transportation of Gas of Others Through Transmission Facilities	304-305		
48	Revenues from Storage Gas of Others	306-307		
49	Other Gas Revenues	308		
50	Gas Operation and Maintenance Expenses	317-325		
51	Exchange and Imbalance Transactions	328		
52	Gas Used in Utility Operations	331		
53	Transmission and Compression of Gas by Others	332		
54	Other Gas Supply Expenses	334		
55	Miscellaneous General Expenses-Gas	335		
56	Depreciation, Depletion, and Amortization of Gas Plant	336-338		
57	Particulars Concerning Certain income Deduction and Interest Charges Accounts	340		
	COMMON SECTION			
58	Regulatory Commission Expenses	350-351		
59	Distribution of Salaries and Wages	354-355		
60	Charges for Outside Professional and Other Consultative Services	357		
	GAS PLANT STATISTICAL DATA			
61	Compressor Stations	508-509		
62	Gas Storage Projects	512-513		
63	Transmission Lines	514		
64	Transmission System Peak Deliveries	518		
65	Auxiliary Peaking Facilities	519		
66	Gas Account-Natural Gas	520		
67	System Map	522		
68	Footnote Reference	551		
69	Footnote Text	552		
70	Stockholders' Reports (check appropriate box)			

☐ Four copies will be submitted
☐ No annual report to stockholders is prepared

Appendix A Proposed Revised Schedules for FERC Forms 1, 1-F 2, 2-A, and 6 -14-

Name of Respondent	This Report is: ☐ An Original ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

COMPARATIVE BALANCE SHEET (ASSETS AND OTHER DEBITS) (Continued)

Line No.	Title of Account (a)	Reference Page Number (b)	Balance at End of Current Year (in dollars) (c)	Balance at End of Previous Year (in dollars) (d)
44	Allowances (158 1 and 158 2)			
45	*(Less)* Noncurrent Portion of Allowances			
46	Stores Expenses Undistributed (163)			
47	Gas Stored Underground - Current (164 1)	220		
48	Liquefied Natural Gas stored and Held for Processing (164 2 thru 164 3)	220		
49	Prepayments (165)	230		
50	Advances for Gas (166 and 167)			
51	Interest and Dividends Receivable (171)			
52	Rents Receivable (172)			
53	Accrued Utility Revenues (173)			
54	Miscellaneous Current and Accrued Assets (174)			
55	Derivative Instrument Assets (175)			
56	Derivative Instrument Assets - Hedges (176)			
57	TOTAL Current and Accrued Assets (Total of lines 27 thru 56)			
58	DEFERRED DEBITS			
59	Unamortized Debt Expense (181)			
60	Extraordinary Property Losses (182 1)	230		
61	Unrecovered Plant and Regulatory Study Costs (182 2)	230		
62	Other Regulatory Assets (182 3)	232		
63	Preliminary Survey and Investigation Charges (Electric) (183)			
64	Preliminary Survey and Investigation Charges (Gas) (183 1 and 183 2)			
65	Clearing Accounts (184)			
66	Temporary Facilities (185)			
67	Miscellaneous Deferred Debits (186)	233		
68	Deferred Losses from Disposition of Utility Plant (187)			
69	Research, Development, and Demonstration Expend (188)			
70	Unamortized Loss on Reacquired Debt (189)			
71	Accumulated Deferred Income Taxes (190)	234-235		
72	Unrecovered Purchased Gas Costs (191)			
73	TOTAL Deferred Debits (Total of lines 59 thru 72)			
74	TOTAL Assets and Other Debits (Total of lines 10-15, 25, 57 and 73)			

Appendix A Proposed Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -15-

Name of Respondent	This Report is: ☐ An Original ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

COMPARATIVE BALANCE SHEET (LIABILITIES AND OTHER CREDITS)

Line No.	Title of Account (a)	Reference Page Number (b)	Balance at End of Current Year (in dollars) (c)	Balance at End of Previous Year (in dollars) (d)
1	PROPRIETARY CAPITAL			
2	Common Stock Issued (201)	250-251		
3	Preferred Stock Issued (204)	250-251		
4	Capital Stock Subscribed (202, 205)	252		
5	Stock Liability for Conversion (203, 206)	252		
6	Premium on Capital Stock (207)	252		
7	Other Paid-In Capital (208-211)	253		
8	Installments Received on Capital Stock (212)	252		
9	*(Less)* Discount on Capital Stock (213)	254		
10	*(Less)* Capital Stock Expense (214)	254		
11	Retained Earnings (215, 215 1, 216)	118-119		
12	Unappropriated Undistributed Subsidiary Earnings (216 1)	118-119		
13	*(Less)* Reacquired Capital Stock (217)	250-251		
14	Accumulated Other Comprehensive Income (219)	117		
15	TOTAL Proprietary Capital (Total of line 2 thru 14)			
16	LONG TERM DEBT			
17	Bonds (221)	256-257		
18	*(Less)* Reacquired Bonds (222)	256-257		
19	Advances from Associated Companies (223)	256-257		
20	Other Long-Term Debt (224)	256-257		
21	Unamortized Premium on Long-Term Debt (225)	258-259		
22	(Less) Unamortized Discount on Long-Term Debt-Dr (226)	258-259		
23	(Less) Current Portion of Long-Term Debt			
24	TOTAL Long-Term Debt (Total of lines 17 thru 23)			
25	OTHER NONCURRENT LIABILITIES			
26	Obligations Under Capital Leases -- Noncurrent (227)			
27	Accumulated Provision for Property Insurance (228 1)			
28	Accumulated Provision for Injuries and Damages (228 2)			
29	Accumulated Provision for Pensions and Benefits (228 3)			
30	Accumulated Miscellaneous Operating Provision (228 4)			
31	Accumulated Provision for Rate Refunds (229)			
32	TOTAL Other Noncurrent Liabilities (total of lines 26 thru 31)			

Appendix A Proposed Revised Schedules for FERC Forms 1, 1-F 2, 2-A, and 6 -16-

Name of Respondent	This Report is: ☐ An Original ☐ A Resubmission	Date of Report (Mo Da, Yr)	Year of Report Dec 31, _____

COMPARATIVE BALANCE SHEET (LIABILITIES AND OTHER CREDITS) (Continued)

Line No.	Title of Account (a)	Reference Page Number (b)	Balance at End of Current Year (in dollars) (c)	Balance at End of Previous Year (in dollars) (d)
33	CURRENT AND ACCRUED LIABILITIES			
34	Current Portion of Long-Term Debt			
35	Notes Payable (231)			
36	Accounts Payable (232)			
37	Notes Payable to Associated Companies (233)			
38	Accounts Payable to Associated Companies (234)			
39	Customer Deposits (235)			
40	Taxes Accrued (236)	262-263		
41	Interest Accrued (237)			
42	Dividends Declared (238)			
43	Matured Long-Term Debt (239)			
44	Matured Interest (240)			
45	Tax Collections Payable (241)			
46	Miscellaneous Current and Accrued Liabilities (242)	268		
47	Obligations Under Capital Leases -- Current (243)			
48	Derivative Instrument Liabilities (244)			
49	Derivative Instrument Liabilities - Hedges (245)			
50	TOTAL Current and Accrued Liabilities (Total of lines 34 thru 49)			
51	DEFERRED CREDITS			
52	Customer Advances for Construction (252)			
53	Accumulated Deferred Investment Tax Credits (255)			
54	Deferred Gains from Disposition of Utility Plant (256)			
55	Other Deferred Credits (253)	269		
56	Other Regulatory Liabilities (254)	278		
57	Unamortized Gain on Reacquired Debt (257)	260		
58	Accumulated Deferred Income Taxes (281-283)			
59	TOTAL Deferred Credits (Total of lines 52 thru 58)			
60	TOTAL Liabilities and Other Credits (Total of lines 15, 24, 32, 50, and 59)			

Appendix A Proposed Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -17-

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

STATEMENT OF COMPREHENSIVE INCOME AND HEDGING ACTIVITIES

1. Report in columns (b) and (c) the amounts of other comprehensive income items listed below in column (a).
2. Report amounts related to categories of other comprehensive income on a net-of-tax basis, where appropriate, and report the related tax effects allocated to each category in a footnote.
3. Report in a footnote, the accumulated other comprehensive income balances at year end, by category.
4. Report in a footnote, the fair value hedge balances at year end, by category.

Line No.	Item (a)	Total Current Year (in dollars) (b)	Total Prior Year (in dollars) (c)
1	Net Income (Carried forward from page 116, Line 72)		
2	CATEGORIES OF OTHER COMPREHENSIVE INCOME		
3	Unrealized gains and losses on available-for-sale type securities		
4	Minimum pension liability adjustment (net amount)		
5	Cash Flow Hedge Components		
6	Foreign currency hedges		
7	Other cash flow hedges		
8			
9			
10			
11			
12			
13			
14			
15	RECLASSIFICATION ADJUSTMENTS		
16	Unrealized gains and losses on available-for-sale type securities		
17	Cash Flow Hedge Components		
18	Foreign Currency hedges		
19	Other cash flow hedges		
20			
21			
22			
23			
24			
25			
26			
27	Total Categories of Other Comprehensive Income (lines 3 through 26)		
28	Comprehensive Income (line 1 plus line 27)		
29			
30			
31			

Appendix A Proposed Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -18-

Name of Respondent	This Report is: ☐ An Original ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, ____

LIST OF SCHEDULES (Natural Gas Company)

Enter in column (d) the terms "none," "not applicable," or "NA" as appropriate, where no information or amounts have been reported for certain pages Omit pages where the responses are "none," "not applicable," or "NA

Line No	Title of Schedule (a)	Reference Page No (b)	Date Revised (c)	Remarks (d)
	GENERAL CORPORATE INFORMATION AND FINANCIAL STATEMENTS			
1	Security Holders and Voting Powers	107		
2	Comparative Balance Sheet	110-113		
3	Statement of Income for the Year	114-116		
4	Statement of Comprehensive Income and Hedging Activities	117		
5	Statement of Retained Earnings for the Year	118-119		
6	Statements of Cash Flows	120-121		
7	Notes to Financial Statements	122		
	BALANCE SHEET SUPPORTING SCHEDULES (Assets and Other Debits)			
8	Gas Plant in Service	204-209		
9	General Information on Plant and Operations	211		
10	Gas Property and Capacity Leased From and to Others	212-213		
11	Accumulated Provision for depreciation of Gas Utility Plant	219		
12	Other Regulatory Assets - Gas	232		
	BALANCE SHEET SUPPORTING SCHEDULES (Liabilities and Other Credits)			
13	Capital Stock and Long-Term Debt Data	250		
14	Other Regulatory Liabilities	278		
	INCOME ACCOUNT SUPPORTING SCHEDULES			
15	Gas Operating Revenues	300-301		
16	Gas Operation and Maintenance Expenses	317-325		
	GAS PLANT STATISTICAL DATA			
17	Gas Account-Natural Gas	520		
18	Footnote Reference	551		
19	Footnote Text	552		

Appendix A Proposed Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -19-

Name of Respondent	This Report is: ☐ An Original ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

COMPARATIVE BALANCE SHEET (ASSETS AND OTHER DEBITS) (Continued)

Line No.	Title of Account (a)	Reference Page Number (b)	Balance at End of Current Year (in dollars) (c)	Balance at End of Previous Year (in dollars) (d)
44	Allowances (158 1 and 158 2)			
45	*(Less)* Noncurrent Portion of Allowances			
46	Stores Expenses Undistributed (163)			
47	Gas Stored Underground - Current (164 1)	220		
48	Liquefied Natural Gas stored and Held for Processing (164 2 thru 164 3)	220		
49	Prepayments (165)	230		
50	Advances for Gas (166 and 167)			
51	Interest and Dividends Receivable (171)			
52	Rents Receivable (172)			
53	Accrued Utility Revenues (173)			
54	Miscellaneous Current and Accrued Assets (174)			
55	Derivative Instrument Assets (175)			
56	Derivative Instrument Assets - Hedges (176)			
57	TOTAL Current and Accrued Assets (Total of lines 27 thru 56)			
58	DEFERRED DEBITS			
59	Unamortized Debt Expense (181)			
60	Extraordinary Property Losses (182 1)	230		
61	Unrecovered Plant and Regulatory Study Costs (182 2)	230		
62	Other Regulatory Assets (182 3)	232		
63	Preliminary Survey and Investigation Charges (Electric) (183)			
64	Preliminary Survey and Investigation Charges (Gas) (183 1 and 183 2)			
65	Clearing Accounts (184)			
66	Temporary Facilities (185)			
67	Miscellaneous Deferred Debits (186)	233		
68	Deferred Losses from Disposition of Utility Plant (187)			
69	Research, Development, and Demonstration Expend (188)			
70	Unamortized Loss on Reacquired Debt (189)			
71	Accumulated Deferred Income Taxes (190)	234-235		
72	Unrecovered Purchased Gas Costs (191)			
73	TOTAL Deferred Debits (Total of lines 59 thru 72)			
74	TOTAL Assets and Other Debits (Total of lines 10-15, 25, 57 and 73)			

Appendix A Proposed Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -20-

Name of Respondent	This Report is: ☐ An Original ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

COMPARATIVE BALANCE SHEET (LIABILITIES AND OTHER CREDITS)

Line No.	Title of Account (a)	Reference Page Number (b)	Balance at End of Current Year (in dollars) (c)	Balance at End of Previous Year (in dollars) (d)
1	PROPRIETARY CAPITAL			
2	Common Stock Issued (201)	250-251		
3	Preferred Stock Issued (204)	250-251		
4	Capital Stock Subscribed (202, 205)	252		
5	Stock Liability for Conversion (203, 206)	252		
6	Premium on Capital Stock (207)	252		
7	Other Paid-In Capital (208-211)	253		
8	Installments Received on Capital Stock (212)	252		
9	*(Less)* Discount on Capital Stock (213)	254		
10	*(Less)* Capital Stock Expense (214)	254		
11	Retained Earnings (215, 215 1, 216)	118-119		
12	Unappropriated Undistributed Subsidiary Earnings (216 1)	118-119		
13	*(Less)* Reacquired Capital Stock (217)	250-251		
14	Accumulated Other Comprehensive Income (219)	117		
15	TOTAL Proprietary Capital (Total of line 2 thru 14)			
16	LONG TERM DEBT			
17	Bonds (221)	256-257		
18	*(Less)* Reacquired Bonds (222)	256-257		
19	Advances from Associated Companies (223)	256-257		
20	Other Long-Term Debt (224)	256-257		
21	Unamortized Premium on Long-Term Debt (225)	258-259		
22	(Less) Unamortized Discount on Long-Term Debt-Dr (226)	258-259		
23	(Less) Current Portion of Long-Term Debt			
24	TOTAL Long-Term Debt (Total of lines 17 thru 23)			
25	OTHER NONCURRENT LIABILITIES			
26	Obligations Under Capital Leases – Noncurrent (227)			
27	Accumulated Provision for Property Insurance (228 1)			
28	Accumulated Provision for Injuries and Damages (228 2)			
29	Accumulated Provision for Pensions and Benefits (228 3)			
30	Accumulated Miscellaneous Operating Provision (228 4)			
31	Accumulated Provision for Rate Refunds (229)			
32	TOTAL Other Noncurrent Liabilities (total of lines 26 thru 31)			

Appendix A Proposed Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -21-

Name of Respondent	This Report is: ☐ An Original ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

COMPARATIVE BALANCE SHEET (LIABILITIES AND OTHER CREDITS) (Continued)

Line No.	Title of Account (a)	Reference Page Number (b)	Balance at End of Current Year (in dollars) (c)	Balance at End of Previous Year (in dollars) (d)
33	CURRENT AND ACCRUED LIABILITIES			
34	Current Portion of Long-Term Debt			
35	Notes Payable (231)			
36	Accounts Payable (232)			
37	Notes Payable to Associated Companies (233)			
38	Accounts Payable to Associated Companies (234)			
39	Customer Deposits (235)			
40	Taxes Accrued (236)	262-263		
41	Interest Accrued (237)			
42	Dividends Declared (238)			
43	Matured Long-Term Debt (239)			
44	Matured Interest (240)			
45	Tax Collections Payable (241)			
46	Miscellaneous Current and Accrued Liabilities (242)	268		
47	Obligations Under Capital Leases – Current (243)			
48	Derivative Instrument Liabilities (244)			
49	Derivative Instrument Liabilities - Hedges (245)			
50	TOTAL Current and Accrued Liabilities (Total of lines 34 thru 49)			
51	DEFERRED CREDITS			
52	Customer Advances for Construction (252)			
53	Accumulated Deferred Investment Tax Credits (255)			
54	Deferred Gains from Disposition of Utility Plant (256)			
55	Other Deferred Credits (253)	269		
56	Other Regulatory Liabilities (254)	278		
57	Unamortized Gain on Reacquired Debt (257)	260		
58	Accumulated Deferred Income Taxes (281-283)			
59	TOTAL Deferred Credits (Total of lines 52 thru 58)			
60	TOTAL Liabilities and Other Credits (Total of lines 15, 24, 32, 50, and 59)			

Appendix A Proposed Revised Schedules for FERC Forms 1, 1-F 2, 2-A, and 6 -22-

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

STATEMENT OF COMPREHENSIVE INCOME AND HEDGING ACTIVITIES

1. Report in columns (b) and (c) the amounts of other comprehensive income items listed below in column (a).

2. Report amounts related to categories of other comprehensive income on a net-of-tax basis, where appropriate, and report the related tax effects allocated to each category in a footnote.

3. Report in a footnote, the accumulated other comprehensive income balances at year end, by category.

4. Report in a footnote, the fair value hedge balances at year end, by category.

Line No.	Item (a)	Total Current Year (in dollars) (b)	Total Prior Year (in dollars) (c)
1	Net Income (Carried forward from page 116, Line 63)		
2	CATEGORIES OF OTHER COMPREHENSIVE INCOME		
3	Unrealized gains and losses on available-for-sale type securities		
4	Minimum pension liability adjustment (net amount)		
5	Cash Flow Hedge Components		
6	Foreign currency hedges		
7	Other cash flow hedges		
8			
9			
10			
11			
12			
13			
14			
15	RECLASSIFICATION ADJUSTMENTS		
16	Unrealized gains and losses on available-for-sale type securities		
17	Cash Flow Hedge Components		
18	Foreign currency hedges		
19	Other cash flow hedges		
20			
21			
22			
23			
24			
25			
26			
27	Total Categories of Other Comprehensive Income (lines 3 through 26)		
27	Comprehensive Income (line 1 plus line 27)		
28			
29			
31			

Appendix A Proposed Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -23-

Name of Respondent	This Report Is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec. 31, 20___

LIST OF SCHEDULES

Enter in column (d) the terms "none," "not applicable," or "NA," as appropriate, where no information or amounts have been reported for certain pages. Omit pages where the responses are "none," "not applicable," or "NA."

Title of Schedule (a)	Reference Page No. (b)	Date Revised (c)	Remarks (d)
GENERAL CORPORATE INFORMATION AND FINANCIAL STATEMENTS			
General Information	101	ED 12-91	
Control Over Respondent	102	REV 12-95	
Companies Controlled by Respondent	103	NEW 12-95	
Principal General Officers	104	ED 12-91	
Directors	105	REV 12-95	
Important Changes During the Year	108-109	REV 12-95	
Comparative Balance Sheet Statement	110-113	REV 12-01	
Income Statement	114	ED 12-96	
Statement of Comprehensive Income and Hedging Activities	115	NEW 12-01	
Appropriated Retained Income	118	REV 12-95	
Unappropriated Retained Income Statement	119	REV 12-95	
Dividend Appropriations of Retained Income	119	REV 12-95	
Statement of Cash Flows	120-121	REV 12-95	
Notes to Financial Statements	122-123	REV 12-95	
BALANCE SHEET SUPPORTING SCHEDULES (Assets and Other Debts)			
Receivables From Affiliated Companies	200	REV 12-00	
General Instructions Concerning Schedules 202 thru 205	201	REV 12-95	
Investments in Affiliated Companies	202-203	ED 12-91	
Investments in Common Stocks of Affiliated Companies	204-205	ED 12-91	
Companies Controlled Directly by Respondent Other Than Through Title to Securities	204-205	ED 12-91	
Instructions for Schedules 212 Thru 217	211	REV 12-00	
Carrier Property	212-213	REV 12-00	
Undivided Joint Interest Property	214-215	REV 12-00	
Accrued Depreciation-Carrier Property	216	REV 12-00	
Accrued Depreciation-Undivided Joint Interest Property	217	REV 12-00	
Amortization Base and Reserve	218-219	REV 12-95	
Noncarrier Property	220	REV 12-00	
Other Deferred Charges	221	REV 12-00	
BALANCE SHEET SUPPORTING SCHEDULES (Liabilities and Other Credits)			
Payables to Affiliated Companies	225	REV 12-00	
Long-Term Debt	226-227	ED 12-00	
Analysis of Federal Income and Other Taxes Deferred	230-231	REV 12-00	
Capital Stock	250-251	REV 12-95	
Capital Stock Changes During the Year	252-253	ED 12-91	
Additional Paid-in Capital	254	ED 12-87	

Appendix A Proposed Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -24-

Name of Respondent	This Report Is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec. 31, 20___

COMPARATIVE BALANCE SHEET STATEMENT - ASSETS

For instructions covering this schedule, see the text and instructions pertaining to Balance Sheet Accounts in the USofA. The entries in this balance sheet should be consistent with those in the supporting schedules on the pages indicated.

Line No.	Item (a)	Reference Page No. (b)	Balance at End of Current Year (In dollars) (c)	Balance at End of Previous Year (In dollars) (d)
	CURRENT ASSETS			
1	Cash (10)			
2	Special Deposits (10-5)			
3	Temporary Investments (11)			
4	Notes Receivable (12)			
5	Receivables from Affiliated Companies (13)	200		
6	Accounts Receivable (14)			
7	Accumulated Provision For Uncollectible Accounts (14-5)			
8	Interest and Dividends Receivable (15)			
9	Oil Inventory (16)			
10	Material and Supplies (17)			
11	Prepayment (18)			
12	Other Current Assets (19)			
13	Deferred Income Tax Assets (19-5)	230-231		
14	TOTAL Current Assets *(Total of lines 1 thru 13)*			
	INVESTMENTS AND SPECIAL FUNDS			
	Investments in Affiliated Companies (20):			
15	Stocks	202-203		
16	Bonds	202-203		
17	Other Secured Obligations	202-203		
18	Unsecured Notes	202-203		
19	Investment Advances	202-203		
20	20 Undistributed Earnings from Certain Invest. in Acct.	204		
	Other Investments (21):			
21	Stocks			
22	Bonds			
23	Other Secured Obligations			
24	Unsecured Notes			
25	Investment Advances			
26	Sinking and Other Funds (22)			
27	TOTAL Investment and Special Funds *(Total lines 15 thru 26)*			

Appendix A Proposed Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -25-

Name of Respondent	This Report Is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec. 31, 20__

COMPARATIVE BALANCE SHEET STATEMENT - ASSETS (Continued)

1.) For instructions covering this schedule, see the text and instructions pertaining to Balance Sheet Accounts in the USofA. The entries in this balance sheet should be consistent with those in the supporting schedules on the pages indicated.

2.) On line 30, include depreciation applicable to investment in property.

Line No.	Item (a)	Reference Page No. (b)	Balance at End of Current Year (In dollars) (c)	Balance at End of Previous Year (In dollars) (d)
	TANGIBLE PROPERTY			
28	Carrier Property (30)	212-215		
29	(Less) Accrued Depreciation - Carrier Property (31)	216-217		
30	(Less) Accrued Amortization - Carrier Property (32)	218-219		
31	Net Carrier Property *(Line 28 less 29 and 30)*			
32	Operating Oil Supply (33)			
33	Noncarrier Property (34)	220		
34	Less Accrued Depreciation - Noncarrier Property			
35	Net Noncarrier Property *(Line 35 less 36)*			
36	TOTAL Tangible Property *(Total of lines 31, 32 and 35)*			
	OTHER ASSETS AND DEFERRED CHARGES			
37	Organization Costs and Other Intangibles (40)			
38	(Less) Accrued Amortization of Intangibles (41)			
39	Reserved			
40	Miscellaneous Other Assets (43)			
41	Other Deferred Charges (44)	221		
42	Accumulated Deferred Income Tax Assets (45)	230-231		
43	Derivative Instrument Assets (46)			
44	Derivative Instrument Assets - Hedges (47)			
45	TOTAL Other Assets and Deferred Charges *(37 thru 44)*			
46	TOTAL Assets *(Total of lines 14, 27, 36 and 45)*			

Appendix A Proposed Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -26-

Name of Respondent	This Report Is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec. 31, 20___

COMPARATIVE BALANCE SHEET STATEMENT - LIABILITIES (Continued)

For instructions covering this schedule, see the text and instructions pertaining to Balance Sheet Accounts in the USofA. The entries in this balance sheet should be consistent with those in the supporting schedules on the pages indicated.

Line No.	Item (a)	Reference Page No. (b)	Balance at End of Current Year (In dollars) (c)	Balance at End of Previous Year (In dollars) (d)
	CURRENT LIABILITIES			
47	Notes Payable (50)			
48	Payables to Affiliated Companies (51)			
49	Accounts Payable (52)			
50	Salaries and Wages Payable (53)			
51	Interest Payable (54)			
52	Dividends Payable (55)			
53	Taxes Payable (56)			
54	Long - Term Debt - Payable Within One Year (57)	226-227		
55	Other Current Liabilities (58)			
56	Deferred Income Tax Liabilities (59)	230-231		
57	TOTAL Current Liabilities *(Total of lines 47 thru 56)*			
	NONCURRENT LIABILITIES			
58	Long-Term Debt - Payable After One Year (60)	226-227		
59	Unamortized Premium on Long-Term Debt (61)			
60	(Less) Unamortized Discount on Long-Term Debt-Dr. (62)			
61	Other Noncurrent Liabilities (63)			
62	Accumulated Deferred Income Tax Liabilities (64)	230-231		
63	Derivative Instrument Liabilities (65)			
64	Derivative Instrument Liabilities - Hedges (66)			
65	TOTAL Noncurrent Liabilities *(Total of lines 58 thru 64)*			
66	TOTAL Liabilities *(Total of lines 57 and 65)*			
	STOCKHOLDERS' EQUITY			
67	Capital Stock (70)	250-251		
68	Premiums on Capital Stock (71)			
69	Capital Stock Subscriptions (72)			
70	Additional Paid-In Capital (73)	254		
71	Appropriated Retained Income (74)	118		
72	Unappropriated Retained Income (75)	119		
73	(Less) Treasury Stock (76)			
74	Accumulated Other Comprehensive Income (77)	115		
75	TOTAL Stockholders' Equity *(Total of lines 67 thru 74)*			
76	TOTAL Liabilities and Stockholders' Equity *(Total of lines 66 and 75)*			

Appendix A Proposed Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -27-

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

STATEMENT OF COMPREHENSIVE INCOME AND HEDGING ACTIVITIES

1 Report in columns (b) and (c) the amounts of Other Comprehensive Income items listed below in column (a)

2. Report amounts related to categories of other comprehensive income on a net-of-tax basis, where appropriate, and report the related tax effects allocated to each category in a footnote.

3. Report in a footnote, the accumulated other comprehensive income balances at year end, by category.

4. Report in a footnote, the fair value hedge balances at year end, by category.

Line No.	Item (a)	Total Current Year (In dollars) (b)	Total Prior Year (In dollars) (c)
1	Net Income (Carried forward from page 114, Line 29)		
2	CATEGORIES OF OTHER COMPREHENSIVE INCOME		
3	Unrealized gains and losses on available-for-sale type securities		
4	Minimum pension liability adjustment (net amount)		
5	Cash Flow Hedge Components		
6	Foreign currency hedges		
7	Other cash flow hedges		
8			
9			
10			
11			
12			
13			
14			
15	RECLASSIFICATION ADJUSTMENTS		
16	Unrealized gains and losses on available-for-sale type securities		
17	Cash Flow Hedge Components		
18	Foreign currency hedges		
19	Other cash flow hedges		
20			
21			
22			
23			
24			
25			
26			
27	Total Categories of Other Comprehensive Income (lines 3 through 26)		
28	Comprehensive Income (line 1 plus line 27)		
29			
30			
31			

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Tuesday,
January 8, 2002

Part III

Department of Energy

Federal Energy Regulatory Commission

18 CFR Parts 101, 201, and 352

Accounting and Reporting of Financial Instruments, Comprehensive Income, Derivatives and Hedging Activities; Proposed Rule

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 101, 201, and 352

[Docket No. RM02–3–000]

Accounting and Reporting of Financial Instruments, Comprehensive Income, Derivatives and Hedging Activities; Notice of Proposed Rulemaking

December 20, 2001.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission proposes to revise its regulations to update the accounting and reporting requirements under its Uniform Systems of Accounts for jurisdictional public utilities, natural gas companies and oil pipelines. The Commission proposes to establish uniform accounting requirements and related accounts for the recognition of changes in the fair value of certain security investments, items of other comprehensive income, derivative instruments, and hedging activities. The Commission proposes to add new balance sheet accounts to the Uniform Systems of Accounts to record items of other comprehensive income and derivative instruments. The Commission also proposes to add new general instructions and revise certain account instructions to incorporate the above changes in the existing Uniform Systems of Accounts.

Additionally, the Commission proposes to revise the following Annual Reports: FERC Form No. 1, Annual Report of Major Public Utilities, Licensees and Others (Form 1); FERC Form No. 1–F, Annual Report of Nonmajor Public Utilities and Licensees (Form 1–F); FERC Form No. 2, Annual Report of Major Natural Gas Companies (Form 2); FERC Form No. 2–A, Annual Report of Nonmajor Natural Gas Companies (Form 2–A); and Form No. 6, Annual Report of Oil Pipeline Companies (Form 6) to include the new accounts and new schedules proposed by this rulemaking.

An important objective of the proposed rule is to provide sound and uniform accounting and financial reporting for the above types of transactions and events. The new instructions and accounts for recording the above transactions and events will result in improved, consistent and complete accounting and reporting. The addition of new accounts and new reporting schedule is intended to address and resolve the problems of lack of visibility, completeness and consistency of accounting and reporting changes in the fair value of certain financial instruments, items of other comprehensive income, derivative instruments and hedging activities, in the above mentioned FERC Forms.

DATES: Comments on the proposed rulemaking are due on or before March 11, 2002.

ADDRESSES: File written comments with the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC, 20426. Comments should reference Docket No. RM02–3–000. Comments may be filed electronically or by paper (an original and 14 copies, with an accompanying computer diskette in the prescribed format requested).

FOR FURTHER INFORMATION CONTACT:

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Julia A. Lake, (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 208–2019.

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Federal Energy Regulatory Commission

[Docket No. RM02–3–000]

Accounting and Reporting of Financial Instruments, Comprehensive Income, Derivatives and Hedging Activities; Notice of Proposed Rulemaking

December 20, 2001.

I. Introduction

In this notice of proposed rulemaking (NOPR), the Federal Energy Regulatory Commission (Commission) proposes to amend its Uniform Systems of Accounts [1] for public utilities and licensees [2] (public utilities), natural gas companies [3] (gas companies) and oil pipeline companies [4] (oil pipelines). Briefly, the Commission proposes to establish uniform accounting requirements for the recognition of changes in the fair value of certain security investments, items of other comprehensive income, derivative instruments, and hedging activities. The Commission proposes to add new balance sheet accounts to the Uniform Systems of Accounts to record items of other comprehensive income and changes in the fair value of derivative instruments. The Commission also proposes to add new general instructions for the accounting of derivative instruments and hedging activities along with new instructions for the accounting of items of other comprehensive income. Revisions to existing investment asset accounts and general instructions are proposed to incorporate fair value accounting for

[1] Section 301(a) of the Federal Power Act (FPA), 16 U.S.C. 825(a), section 8 of the Natural Gas Act (NGA), 15 U.S.C. 717g and section 20 of the Interstate Commerce Act (ICA), 49 App. U.S.C. 20 (1988), authorize the Commission to prescribe rules and regulations concerning accounts, records and memoranda as necessary or appropriate for the purposes of administering the FPA, NGA and the ICA. The Commission may prescribe a system of accounts for jurisdictional companies and, after notice and opportunity for hearing, may determine the accounts in which particular outlays and receipts will be entered, charged or credited.

[2] Part 101 Uniform System of Accounts Prescribed for Public Utilities and Licensees Subject to the Provisions of the Federal Power Act. 18 CFR part 101.

[3] Part 201 Uniform System of Accounts Prescribed for Natural Gas Companies Subject to the Provisions of the Natural Gas Act. 18 CFR part 201.

[4] Part 352 Uniform System of Accounts Prescribed for Oil Pipeline Companies Subject to the Provisions of the Interstate Commerce Act. 18 CFR part 352.

trading and available-for-sale type security investments.

Additionally, the Commission proposes to revise the following Annual Reports: FERC Form No. 1, Annual Report of Major Public Utilities, Licensees and Others (Form 1); FERC Form No. 1–F, Annual Report of Nonmajor Public Utilities and Licensees (Form 1–F); FERC Form No. 2, Annual Report of Major Natural Gas Companies (Form 2); FERC Form No. 2–A, Annual Report of Nonmajor Natural Gas Companies (Form 2–A); and Form No. 6, Annual Report of Oil Pipeline Companies (Form 6) to include the new accounts and a new schedule proposed by this rulemaking.[5]

The purpose of the proposed rule is to provide useful financial information to regulatory agencies and other users of the financial statements of public utilities, gas companies and oil pipelines by establishing uniform accounting and reporting requirements for items of other comprehensive income, changes in the fair value of investment securities, derivatives, and hedging activities. An important objective of the proposed rule is to provide sound and uniform accounting and financial reporting for the above types of transactions and events. The Commission is of the view that such requirements are needed at this time because these types of transactions and events are not specifically addressed in the existing Uniform Systems of Accounts or in FERC Forms 1, 1–F, 2, 2–A, and 6. This NOPR is part of the Commission's ongoing effort to address emerging accounting pronouncements within the context of the Uniform Systems of Accounts.[6]

There are, however, a number of entities with market-based rates that have been exempted from the Commission's Uniform System of Accounts, and thus would not be subject to the proposed rule. For instance, parts 41, 101, and 141 of the Commission's regulations prescribe certain informational requirements that focus on the assets that a public utility owns. For market-based applications, the Commission has taken the position that since a marketer does not own any electric power generation or transmission facilities, its jurisdictional facilities would be only corporate and documentary, its costs would be determined by utilities that sell power to it, and its earnings would not be defined and regulated in terms of an authorized return on invested capital, and that, accordingly, it would grant waivers to marketers of the requirements of these Parts. The Commission has also granted power marketers' requests for blanket approval under Part 34 of the Commission's regulations for all future issuances of securities and assumptions of liability, assuming that no party objects to such treatment during a notice period which the Commission provides.[7] The purpose of section 204 of the Federal Power Act, which Part 34 implements, is to ensure the financial viability of public utilities obligated to serve electric consumers. The Commission concluded that since marketers do not obligate themselves to serve electric consumers, the requirements are inapplicable.[8]

As the development of competitive wholesale power markets continues, however, independent and affiliated power marketers and power producers are playing more significant roles in the electric power industry. In light of the evolving nature of the electric power industry, the Commission seeks comment on the extent to which these entities should be required to follow the Uniform System of Accounts, what financial information, if any, should be reported by these entities, how frequently it should be reported, and, in particular, whether these exempted entities should be subject to reporting the information required in the proposed regulations. Furthermore, the Commission seeks comments on whether we should rescind the part 34 blanket authorizations granted to these entities and require these entities to comply with the filing requirement of part 34 for all future issuances of securities and assumptions of liabilities.

Finally, the proposed rule is not intended to prescribe the ratemaking treatment for items of other comprehensive income or for derivative instruments and hedging activities. The Commission's proposal does not bar regulatory commissions (including this Commission) from adopting any particular ratemaking treatment for these transactions.

II. Background

A. General

In recent years, fair value measurements have become useful in assisting investors, creditors and other users of the financial data in making rational investment, credit and similar decisions. The use of fair value as a measurement attribute for financial reporting has grown in importance and relevance. Despite this fact, the companies that this Commission regulates have had only a relatively small number of transactions for which fair value measurements would be appropriate. This however is changing. As the regulated industries restructure, fair value will provide a relevant measure of economic effects for a growing number of transactions and events. The potential usefulness of fair value information has resulted in the Financial Accounting Standards Board (FASB)[9] issuing new accounting pronouncements affecting the manner in which certain types of financial instruments, derivatives and hedging activities are measured and reported in the financial statements applicable to entities in general.[10]

The Commission considers the requirements contained in Financial Accounting Standards (FAS) 115, 130 and 133 to be an improvement in financial accounting and reporting practices if properly implemented. Also, as a general proposition, the Commission considers it desirable for its accounting requirements and those used for general purpose financial reporting to be consistent. While some companies have implemented certain aspects of these pronouncements, the implementation has not been uniform concerning the accounting and reporting

[5] The FERC Annual Reports bear the following OMB approvals: Form No. 1 has OMB approval number 1902–0021; Form No. 1–F has OMB approval number 1902–0029; Form No. 2 has OMB approval number 1902–0028; Form No. 2–A has OMB approval number 1902–0030; and Form No. 6 has OMB approval number 1902–0022.

[6] On August 10, 2001, the Commission's Chief Accountant issued interim accounting guidance on the proper accounting and reporting requirements for changes in the fair value of certain investments in marketable securities, items of other comprehensive income, and derivatives and hedging activities. *See,* All Jurisdictional Public Utilities, Licensees, Natural Gas Companies, and Oil Pipeline Companies, 96 FERC ¶ 62,147 (2001).

[7] We note that the Commission's jurisdiction over issuances of securities and assumptions of liabilities under section 204 of the FPA applies only to entities that are public utilities as defined in the FPA and only where the public utilities' security issues are not regulated by a State commission (see FPA section 204(f)).

[8] *See, e.g.,* St. Joe Minerals Corp, 21 FERC ¶ 61,323 (1982); Cliffs Electric Service Company, 32 FERC ¶ 61,372 (1985); Citizens Energy Corporation, 35 FERC ¶ 61,198 (1986); Howell Gas Management Company, 40 FERC ¶ 61,336 (1987); Citizens Power & Light Corporation, 48 FERC ¶ 61,210 (1989); National Electric Associates Limited Partnership, 50 FERC ¶ 61,378 (1990); and Nevada Sun-Peak Limited Partnership, 86 FERC ¶ 61,243 (1999).

[9] FASB and other accounting bodies are responsible for establishing and improving financial accounting and reporting standards for private sector companies.

[10] The accounting pronouncements issued by FASB were Financial Accounting Standards (FAS) 115, Accounting for Certain Investments in Debt and Equity Securities, 130, Reporting Comprehensive Income, and 133, Accounting for Derivative Instruments and Hedging Activities, as amended by 138, Accounting for Certain Derivative Instruments and Certain Hedging Activities. These accounting pronouncements may be obtained from FASB at (*http://accounting.rutgers.edu/raw/fasb/).*

to the Commission in the FERC Forms 1, 1–F, 2, 2–A, and 6. Therefore the Commission plans to implement the principles and concepts set forth in FAS 115, 130 and 133 for FERC accounting and reporting purposes effective upon the issuance of a final order in this proceeding. Consequently, the interim accounting and reporting guidance provided by the Chief Accountant on August 10, 2001, will be superceded with the issuance of the final rule in this proceeding.[11]

In summary, the Commission considers that the proposed accounting and reporting changes will provide consistent accounting and reporting of changes in the fair value of financial investments, derivatives and hedging activities. The proposed changes will also minimize the accounting and reporting burden on jurisdictional entities and assist the Commission in its analysis of profitability, efficiency, risk management, and in its overall monitoring effort.

In order to provide a context for the Commission's proposed changes the key aspects of the relevant FASB pronouncements are provided below.

B. Investments in Debt and Equity Securities

In May 1993, the FASB issued Financial Accounting Standard (FAS) 115, Accounting for Certain Investments in Debt and Equity Securities, effective for fiscal years beginning after December 15, 1993. This statement addresses the accounting and reporting for investments in equity securities that have readily determinable fair value and for all investments in debt securities.

This accounting pronouncement requires entities to classify investments in securities into one of three categories, held-to-maturity, trading, or available-for-sale.

The first category of investments, held-to-maturity, consists of debt securities that the entity has the intent and ability to hold to maturity. For debt securities held to maturity, the cost will be the amount realized when the entity redeems the security. Therefore, changes in the fair value of securities held to maturity are not recognized during the period the entity holds the security investment.

Securities that fall into the second category, trading type securities, reflect active and frequent buying and selling. They are held for short periods of time with the objective of generating profits from short term differences in price. Entities must recognize unrealized holding gains and losses on trading type securities in earnings when the fair value of security changes.

Securities that do not fall into the category of held-to-maturity or trading type securities are considered to be available-for-sale. Changes in the fair value of available for sale type securities are reflected in the financial statements in ''other comprehensive income'' rather than earnings. This accounting treatment results in unrealized holding gains and losses on debt and equity securities that are available for sale being reported outside of earnings because they are not actively managed in a trading account.

C. Other Comprehensive Income

In June 1997, the FASB issued FAS 130, Reporting Comprehensive Income. This statement established the standards for reporting comprehensive income in a full set of general-purpose financial statements effective for fiscal years beginning after December 15, 1997. Comprehensive income represents the change in equity of an entity during a period from transactions and other events and circumstances from nonowner sources. Comprehensive income is composed of traditional net income plus items of ''other comprehensive income.''[12]

Items of other comprehensive income are amounts under existing accounting standards that were permitted to bypass the income statement and be recorded directly in a separate section of equity. These amounts were required to be classified by their category and reported separately from retained earnings and additional paid-in capital. Under existing accounting standards other comprehensive income categories include, foreign currency items, minimum pension liability adjustments, unrealized gains and losses on certain investments in debt and equity securities, and cash flow hedge amounts.

Under the provision's of FAS 130, entities may report the categories of other comprehensive income using an income statement format or by showing the amounts as part of the Statement of Shareholders Equity. Entities may also report the amounts on a before-tax or after-tax basis provided that certain disclosures are made in the notes to the financial statements.

D. Derivative Instruments and Hedging Activities

1. General

In June 1998, the FASB issued FAS No. 133, Accounting for Derivative Instruments and Hedging Activities, as amended on June 2000, by FAS 138, Accounting for Certain Derivative Instruments and Certain Hedging Activities. This pronouncement was issued in a response to an increased use of derivatives and to resolve problems with the accounting and reporting practices for derivatives and hedging activities. These problems included incomplete and inconsistent accounting guidance on the effects of derivative transactions and hedging activities. The effects of derivatives were not transparent in the basic financial statements, and many derivative instruments were carried ''off-balance-sheet'' regardless of whether they were formally part of a hedging strategy. The FASB issued new accounting guidance to address these concerns.

2. Definition of a Derivative

A derivative instrument is defined for accounting purposes based on its distinguishing characteristics rather than by specific examples of derivative instruments such as futures or option contracts because the expansion of financial markets and other contracts could ultimately render obsolete a definition based solely on examples.

A derivative instrument is a financial instrument or other contract with all of the following characteristics:

First, the instrument has one or more underlyings. An underlying is a specified interest rate, security price, commodity price, foreign exchange rate, index of prices or rates, or other variable. An underlying may be a price or rate of an asset or liability but is not the asset or liability itself.

Second, the instrument must have one or more notional amounts or payment provisions. A notional amount represents quantity such as a number of currency units, shares, bushels, pounds or other units specified in a derivative instrument. Those terms determine the amount of the settlement or settlements, and, in some cases, whether or not a settlement is required.

Third, the instrument requires no initial net investment or an initial net investment that is smaller than would be required for other types of contracts that would be expected to have similar response to changes in market factors.

Finally, the instrument requires or permits net settlement. It can readily be settled net by a means outside the contract, or it provides for delivery of an

[11] *See* note 6.

[12] Comprehensive income is defined by FASB in Concepts Statement No. 6 as, ''the change in equity [net assets] of a business enterprise during a period from transactions and other events and circumstances from nonowner sources. It includes all changes in equity during a period except those resulting from investments by owners and distributions to owners.''

asset that puts the recipient in a position not substantially different from net settlement.

Certain types of contracts are exempted from the requirements of this statement. For example, normal purchases and normal sales contracts that provided for the purchase or sale of goods that will be delivered in quantities expected to be used or sold by the reporting entity over a reasonable period in the normal course of business are not considered derivative instruments. This exception is commonly referred to as the normal purchases and normal sales scope exception. The exception would include typical purchases and sales of inventory items, certain insurance contracts, and employee compensation agreements. Derivative instruments that do not qualify for the normal purchases and normal sales scope exception, or other exceptions provided for under the statement, are reflected in the financial statements. Consequently, most futures, forwards, swaps, and option contracts meet the definition of a derivative instrument and changes in their fair value would be reflected in the financial statements.

3. Accounting for a Derivative Instrument

Changes in the fair value of derivative instruments depends upon its intended use and designation. Essentially, entities recognize in earnings in the period of the change gains or losses on certain derivative instruments not designated as a hedge instrument. The change in the value of the derivative instrument is reflected on the balance sheet as an asset or liability with a corresponding amount recognized in earnings. This accounting effectively provides users of the financial statements with information concerning the value of the derivative instrument as if it had been settled in the market place.

4. Hedge Accounting

Providing certain criteria are met, a derivative may be specifically designated as a fair value or cash flow hedge. Entities hedge to manage risk to prices, interest rates, or foreign currency exposures. Under the rules for hedge accounting the changes in the fair value of the derivative are measured at fair value with adjustments made to the carrying amount of the items being hedged (as in a fair value hedge) or to other comprehensive income (as in a cash flow hedge) to the extent the hedge is effective.

a. Fair Value Hedge

In a fair value hedge a derivative instrument is designated as a hedge against exposure to changes in the fair value of a recognized asset, liability, or a firm commitment. A firm commitment is defined as an agreement with an unrelated party, binding on both parties and usually legally enforceable. The agreement specifies all significant terms, including the quantity to be exchanged, the fixed price, and the timing of the transaction. The fixed price may be expressed as a specified amount of an entity's functional currency or a foreign currency. It may also be expressed as a specified interest rate or specified effective yield.

In a fair value hedge, the change in value of the derivative instrument is recognized in earnings in the period of the change together with the offsetting gain or loss on the item being hedged. To the extent that a hedge is perfectly effective, it will produce the same offsetting amounts in earnings so that net income is not impacted by the hedge. However, amounts would be reflected in earnings to the extent that the hedge is not effective in offsetting the change in value of the item being hedged.

Additionally, fair value hedge accounting results in an adjustment of the carrying amount of the hedged asset or liability. In the case of a fair value hedge of a firm commitment, a new asset or liability is created. As a result of the hedge relationship, the new asset or liability ultimately becomes part of the carrying amount of the item being hedged.

b. Cash Flow Hedge

A cash flow hedge uses a derivative instrument to protect against the risk caused by variable prices or costs, that cause future cash flows to be uncertain. It is a hedge against an anticipated or forecasted transaction that is probable of occurring in the future but the amount of the transaction has not been fixed.

In a cash flow hedge, the effective portion of the derivative's gain or loss is initially reported as a component of other comprehensive income. The ineffective portion of the gain or loss is reported in earnings immediately. Amounts recorded in other comprehensive income are reclassified into earnings when the hedged item affects earnings.

c. Documentation of Hedge Relationship

Entities must keep extensive documentation of the hedge relationship. An entity that elects to apply the special hedge accounting is required to document at the inception of the hedge the risk management objective and strategy for undertaking the hedge, including the hedge instrument, the related transaction, the nature of the risk being hedged, and how hedge effectiveness will be determined.

The company's documentation of its overall risk management philosophy is essential in addressing the role that derivative instruments and hedging activities play in achieving the company's risk management objectives.

Concurrent designation and documentation of a hedge is critical because an entity could retroactively identify a transaction as a hedge or change a method of measuring effectiveness to achieve a desired outcome. At the inception of the hedge formal documentation is required that identifies the hedging instrument and specifically identifies the hedged item or transaction along with the nature of the risk being hedged. Entities are required to formally document how effectiveness will be assessed at the adoption of the hedge and on an ongoing basis.

III. Discussion

A. General

The Commission's existing Uniform Systems of Accounts for public utilities, gas companies and oil pipelines do not specifically address the proper accounting and reporting for changes in the fair value of certain investment securities, derivative instruments, and hedging activities. Additionally, the existing Uniform Systems of Accounts do not contain specific accounts to record amounts related to items of other comprehensive income or a format to display comprehensive income in the FERC Forms 1, 1–F, 2, 2–A, and 6.

Without specific instructions and accounts for recording and reporting the above transactions and events, inconsistent and incomplete accounting will result. For example, if the effects of certain derivative instruments and hedging activities are not properly reported to the Commission in the FERC Annual Reports, it will be difficult for the Commission and others to determine the extent and effects of derivatives on a jurisdictional entity's' financial statements and results of operations. The addition of new accounts and related general instructions is intended to improve the visibility, completeness and consistency of accounting and reporting of changes in the fair value of certain investment securities, items of other comprehensive income, derivatives and hedging activities.

Also, the addition of the proposed new accounts and related reporting requirements to the FERC Forms 1, 1–F, 2, 2A and 6 will reduce regulatory uncertainty as to the proper accounting and reporting for these items and

minimize regulatory burden by reducing the potential differences in the manner in which these amounts are reported to shareholders and to the Commission. Finally, the reporting of derivatives and hedging activities by jurisdictional entities will assist the Commission in its analysis of profitability, efficiency, risk and in its overall monitoring effort.

B. Proposed Accounting for Trading and Available-for-Sale Type Securities

Under the Commission's Uniforms Systems of Accounts for public utilities and gas companies, all types of securities are recorded at cost and subsequent changes in the fair value of security investments are not recognized in the financial statements. The Uniform System of Accounts for oil pipelines requires adjustments to the carrying value of security investments when certain conditions are met.

The Commission is of the view that fair value measurement of the trading and available-for-sale type securities presents relevant and useful information to existing and potential investors, creditors, regulators and others in making credit and other decisions. Fair value measurements will also provide useful information to the Commission concerning the status of certain amounts set aside to fund future obligations.

The Commission therefore proposes to add language to its security investment accounts for public utilities, gas companies, and oil pipelines to permit the recognition of changes in the fair value of trading and available-for-sale types of securities due to unrealized holding gains and losses.[13] The Commission also proposes amending its oil pipeline General Instruction 1–15, Accounting for marketable equity securities, and remove oil pipeline Accounts 23, 24, and 75.5 to conform the regulations to the proposed changes.

C. Proposed Accounting for Other Comprehensive Income

As part of the proposed rule, the Commission proposes to revise the Uniform Systems of Accounts for public utilities, gas companies and oil pipelines to provide accounting for items of other comprehensive income. As proposed, new equity Account 219, Accumulated other comprehensive income, would be created for public utilities and gas companies, and a new equity Account 77, Accumulated other comprehensive income, would be established for oil pipelines to include the accumulated balance for items of other comprehensive income. The accounts will require supporting records be maintained by each category of other comprehensive income for reporting the information in the FERC Form 1, 1F, 2, 2A, and 6.

As proposed, a new equity account entitled Account 219.1, Other comprehensive income, for public utilities and gas companies, and a new account entitled Account 77.1, Other comprehensive income, for oil pipeline companies, would be established to include amounts for items of other comprehensive income for the reporting year. The purpose of these accounts is to record the activity for items of other comprehensive income during the year. At year end, the amounts recorded in Account 219.1 and Account 77.1 would be transferred to the new equity Account 219 and Account 77, respectively. Consequently, Accounts 219.1 and 77.1 as proposed will always have a zero beginning and year end balance and therefore the Commission proposes not to include these accounts as part of the balance sheet schedules. Accounts 219.1 and 77.1 will capture activity during the year for items of other comprehensive income and the activity will be reported in a proposed new schedule entitled ''Statement of Comprehensive Income and Hedging Activities.''

The proposed instructions to the other comprehensive income accounts for all jurisdictional entities will require that supporting records be maintained by each category of other comprehensive income. This level of detail is required so that the entity is able to identify the amounts associated with the item when it enters into the determination of earnings in current or subsequent periods.

Finally, reclassification adjustments are required to be made for items of other comprehensive income to avoid double counting an item in net income and other comprehensive income. The proposed instructions to Accounts 219 and 219.1 for public utilities and natural gas companies, and the proposed instructions to Accounts 77 and 77.1 for oil pipeline companies will require that reclassification adjustments be made directly to these accounts as appropriate. This proposed accounting treatment for reclassification adjustments will minimize the need for creating a new account to capture amounts solely related to reclassification adjustments.

D. Proposed Accounting for Derivatives and Hedging Activities

1. General

The Commission's existing Uniform Systems of Accounts for public utilities, natural gas companies and oil pipelines do not contain specific accounts to record changes in the fair value of derivative instruments used in hedging and non-hedging activities. The Commission considers that the addition of new accounts and instructions will provide improved visibility, and completeness of accounting and reporting of derivatives and hedging activities by jurisdictional entities. As part of the proposed rule, the Commission proposes to revise the Uniform Systems of Accounts to provide accounting for derivatives and hedging activities.

2. Proposed General Instructions for Fair Value and Cash Flow Hedges

The Commission proposes to add a new general instruction that would require public utilities, natural gas companies, and oil pipelines to record changes in the fair value of the derivative instrument designated as a cash flow hedge to other comprehensive income. The ineffective portion of the cash flow hedge will be charged to the same income or expense account that would have been used if the hedged item had been disposed of, or otherwise settled.

The proposed instructions would also require jurisdictional entities to record changes in the fair value of a derivative instrument designated as a fair value hedge in this account with a concurrent charge to a subaccount of the asset or liability that carries the item being hedged. The ineffective portion of the fair value hedge would be charged to the same income or expense account that would have been used if the hedged item had been disposed of, or otherwise settled.

3. Proposed Changes to General Instruction 21. Allowances

The Commission is also proposing to make technical changes to its existing general instructions concerning the accounting for hedge transactions related to exchange traded allowance future contracts. General Instruction No. 21. Allowances, of Part 101, directs public utilities to defer in Account 186, Miscellaneous deferred debits, or Account 253, Other deferred credits, the costs and benefits from hedging transactions associated with exchange

[13] The security investment accounts for public utilities and gas pipeline companies are: Account 124, Other investments; Account 125, Sinking funds (Major only); Account 126, Depreciation fund (Major only); Account 127, Amortization fund (Major only); Account 128, Other special funds (Major only); and Account 129, Special funds (Nonmajor only). The security investment asset accounts for oil pipelines are Account 11, Temporary investments; Account 21, Other investments; and Account 22, Sinking and other funds.

traded allowance future contracts. The Commission is proposing to delete paragraph I to be consistent with proposed accounting for derivatives. The accounting framework proposed for derivatives would also include exchange traded future allowances.

4. Proposed Accounting for Derivative Assets and Liabilities

As proposed, two new asset and two new liability accounts would be established to include amounts related to the changes in the fair value of derivative instruments not designated as a cash flow or fair value hedges. The two new asset accounts are Account 175, Derivative instrument assets, for public utilities and natural gas companies, and Account 46, Derivative instrument assets, for oil pipeline companies. The two new liability accounts are Account 244, Derivative instrument liabilities, for public utilities and natural gas companies, and Account 65, Derivative instrument liabilities, for oil pipeline companies.

Public utilities and natural gas companies would charge Account 421, Miscellaneous nonoperating income, with the corresponding amount of the change in the fair value of the derivative instruments. Oil pipelines would charge Account 660, Miscellaneous income charges, with the corresponding amount of the change in the fair value of the derivative instruments.

The Commission recognizes that under certain circumstances rate regulators may include all or part of a derivative instruments change in value in the development of rates even though the derivative instrument is not part of a fair value or cash flow hedge. The Commission therefore proposes where regulators explicitly approve the inclusion of the changes in fair value of derivative instruments in the development of rates, company's will reclassify those amounts from Account 421 or Account 660 to the appropriate utility operating revenue or expense account that will be charged with the transaction when it settles.

The Commission also recognizes that companies are required to classify derivative asset and liabilities as current or long-term on their balance sheets. In order to facilitate reporting derivative asset and liabilities to shareholders in general purpose financial statements, companies may create current and long-term subaccounts associated with the proposed new derivative balance sheet accounts.

Finally, if the derivative instrument does not qualify for hedge accounting, but it is probable that the rate regulator will include the changes in the fair value of the derivative instrument in the future development of rates, the entity must follow the Commission's existing accounting regulations for the recognition of regulatory assets and regulatory liabilities.

5. Proposed Accounting for Fair Value and Cash Flow Hedges

As proposed, two new asset and two new liability accounts would be established to include amounts related to the changes in the fair value of derivative instruments designated as a cash flow or fair value hedges. The two new asset accounts are Account 176, Derivative instrument assets-Hedges, for public utilities and natural gas companies, and Account 47, Derivative instrument assets-Hedges, for oil pipelines. The two new liability accounts are Account 245, Derivative instrument liabilities-Hedges, for public utilities and natural gas companies, and Account 66, Derivative instrument liabilities-Hedges, for oil pipelines.

E. Proposed Changes to the FERC Annual Reports Forms

The proposed accounting changes, if adopted, will require one new schedule and changes to existing balance sheet schedules in the FERC Forms 1, 1–F, 2, 2–A, and 6 filed with the Commission by public utilities, gas companies, and oil pipelines. The proposed new schedule is attached in Appendix A and the proposed changes to the FERC Forms are discussed below.

As previously mentioned, entities have a choice of formats for their general purpose financial statements along with a choice of reporting certain items net of reclassification adjustments and a choice of reporting these amounts on a net-of-tax or pre-tax basis provided that certain footnote disclosure requirements are met. In order to provide consistent accounting and reporting of items of other comprehensive income the Commission is adding a new schedule entitled ''Statement of Comprehensive Income and Hedging Activities'' with instructions on the proper footnote disclosures for the FERC Forms 1, 1–F, 2, 2–A, and 6.

This proposed new schedule is modeled after an income statement approach which provides the most transparency for the components of other comprehensive income and is more consistent with the overall framework of the FASB Concepts Statements. The proposed income statement format would also avoid duplication of data already reported on other schedules. This new schedule will show the components of other comprehensive income and require:

(1) The reporting of categories of other comprehensive income on a net-of-tax basis, where appropriate, along with the reporting of the related tax effects allocated to each component, in a footnote to the schedule.

(2) The reporting of accumulated other comprehensive income balances at year end by category, in a footnote to the schedule.

(3) The reporting of fair value hedge balances at year end by category, in a footnote to the schedule.

The Commission concludes that the above reporting requirements would not be a significant reporting burden to industry since the information is already being captured by their accounting systems for internal and external reporting as needed.

IV. Regulatory Flexibility Act Statement

The Regulatory Flexibility Act (RFA) requires agencies to prepare certain statements, descriptions, and analyses of proposed rules that will have a significant economic impact on a substantial number of small entities.[14] The Commission is not required to make such analyses if a rule would not have such an effect.

The Commission concludes that this rule would not have such an impact on small entities. Most filing companies regulated by the Commission do not fall within the RFA's definition of a small entity.[15] As previously mentioned, the Commission concludes that this reporting would not be a significant burden to industry since the information is already being captured by their accounting systems and generally being reported to shareholders and others at a company, or at a consolidated business level.

However, if the reporting requirements represent an undue burden on small businesses, the entity affected may seek a waiver of the disclosure requirements from the Commission.

V. Environmental Impact Statement

The Commission excludes certain actions not having a significant effect on the human environment from the requirement to prepare an environmental assessment or an environmental impact statement.[16] No

[14] 5 U.S.C. 601–612.

[15] 5 U.S.C. 601(3), citing to section 3 of the Small Business Act, 15 U.S.C. 632. Section 3 of the Small Business Act defines a ''small-business concern'' as a business which is independently owned and operated and which is not dominant in its field of operation.

[16] 18 CFR 380.4.

environmental consideration is raised by the promulgation of a rule that is procedural or does not substantially change the effect of legislation or regulations being amended.[17] The proposed rule updates the Parts 101, 201 and 352 of the Commission's regulations, and does not substantially change the effect of the underlying legislation or the regulations being revised or eliminated. Accordingly, no environmental consideration is necessary.

VI. Information Collection Statement and Public Reporting Burden

The following collections of information contained in this proposed rule have been submitted to the Office of Management and Budget (OMB) for review under § 3507(d) of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507(d). Comments are solicited on the Commission's need for this information, whether the information will have practical utility, the accuracy of provided burden estimates, ways to enhance the quality, utility, and clarity of the information to be collected, and any suggested methods for minimizing respondent's burden, including the use of automated information techniques.

Estimated Annual Burden: The Commission estimates that on average it will take respondents 2 hours to comply with the proposed requirements. This will result in total hours for the following collections of information:

Data collection	Number of respondents	Number of responses	Total annual hours
FERC-Form 1	210	210	420
FERC Form 1–F	7	7	14
FERC Form 2	57	57	114
FERC Form 2–A	57	57	114
FERC Form 6	159	159	318
Totals			980

Total Annual Hours for Collection: (Reporting + Recordkeeping, (if appropriate)) = 980 + 470 hours* (recordkeeping) = 1,450 hours.

*This estimate is based on an average of 3 hours per respondent for recordkeeping purposes.

Information Collection Costs: The Commission seeks comments on the costs to comply with these requirements. It has projected the cost for complying to be the following: 1,450 hours ÷ 2,080 × $117,041 = $81,596.

Annualized Capital/Startup Costs—$0
Annualized Costs (Operations & Maintenance)—$81,596
Total Annualized Costs—$81,596

OMB's regulations require it to approve certain information collection requirements imposed by agency rule. The Commission is submitting notification of this proposed rule to OMB.[18]

Title: FERC Form 1 Annual Report of Major Electric Utilities, Licensees and Others;

FERC Form 1–F Annual Report For Non-Major Public Utilities and Licensees;

FERC Form 2 Annual Report for Major Natural Gas Companies;

FERC Form 2–A Annual Report for Nonmajor natural gas companies;

FERC Form No. 6 Annual Report of Oil Pipeline Companies.

Action: Proposed Collections.

OMB Control No: 1902–0021; 1902–0029; 1902–0028; 1902–0030; and 1902–0022.

Respondents: Business or other for profit.

Frequency of Responses: Annual.

Necessity of the Information: The Commission's existing Uniform Systems of Accounts do not specifically address the proper accounting and reporting for changes in fair value of certain investment securities, and derivative instruments and hedging activities. Additionally, the existing Uniform Systems of Accounts do not contain specific accounts to record amounts related to items of other comprehensive income in its annual financial reports.

Without specific instructions and accounts for recording and reporting the above transactions and events, inconsistent and incomplete accounting will result. The addition of new accounts and related general instructions is intended to improve the visibility, completeness and consistency of accounting practices for derivative instruments and hedging activities, and items of other comprehensive income.

As these derivative instruments are risk-shifting devices, it is important to identify and fully comprehend the risks being assumed, evaluate those risks and continuously monitor and manage those risks. Part of the risk identification process is a determination of the monetary exposure of the parties under the terms of the derivative instrument. In a derivative situation, performance of the other party's obligations is highly dependent on the strength of its balance sheet.

Internal Review: The Commission has reviewed the requirements pertaining to the Uniform Systems of Accounts and to the financial reports it prescribes and determined the proposed revisions are necessary because the Commission needs to establish uniform accounting and reporting requirements for items of other comprehensive income, changes in the fair value of investment securities and derivatives, and hedging activities.

These requirements conform to the Commission's plan for efficient information collection, communication, and management within the electric, natural gas and oil pipeline industries. The Commission has assured itself, by means of internal review, that there is specific, objective support for the burden estimates associated with the information requirements.

Interested persons may obtain information on the reporting requirements by contacting the following: Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, [Attention: Michael Miller, Office of the Chief Information Officer, Phone: (202) 208–1415, fax: (202) 208–2425, e-mail: *mike.miller@ferc.fed.us*]

For submitting comments concerning the collections of information and the associated burden estimate(s), please send your comments to the contact listed above and to the Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20503 [Attention: Desk Officer for the Federal Energy Regulatory Commission, phone (202) 395–7318, fax: (202) 395–7285].

[17] 18 CFR 380.4(a)(2)(ii).

[18] 5 CFR 1320.11.

VII. Public Comment Procedures

The Commission invites all interested persons to submit comments on this NOPR.

To facilitate the Commission's review of comments, commenters are requested to provide an executive summary of their position on the issues raised in the NOPR. Commenters are requested to identify each specific question posed by the NOPR that their discussion addresses and to use appropriate heading. Additional issues the commenters wish to raise should be identified separately. The commenters should double space their comments.

Comments may be filed paper or electronically via the Internet and must be received by the Commission within 60 days after publication in the **Federal Register**. Those filing electronically do not need to make a paper filing. For paper filings, the original and 14 copies of such comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 and should refer to Docket No. RM02–3–000.

Comments filed via the Internet must be prepared in WordPerfect, MS Word, Portable Document Format, or ASCII format. To file the document, access the Commission's Web site at *www.ferc.gov* and click on ''e-Filing,'' and then follow the instructions on each screen. First time users will have to establish a user name and password. The Commission will send an automatic acknowledgment to the sender's E-Mail address upon receipt of comments.

User assistance for electronic filing is available at 202–208–0258 or by e-mail to efiling@ferc.fed.us. Comments should not be submitted to the e-mail address. All comments will be placed in the Commission's public files and will be available for inspection in the Commission's Public Reference Room at 888 First Street, NE., Washington DC 20426, during regular business hours. Additionally, all comments may be viewed, printed, or downloaded remotely via the Internet through FERC's Homespage using the RIMS link. User assistance for RIMS is available at 202–208–2222, or by e-mail to RimsMaster@ferc.fed.us.

VIII. Document Availability

In addition to publishing the full text of this document in the **Federal Register**, the Commission also 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.fed.gov*) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5 p.m. Eastern time) at 888 First Street, NE., Room 2A, Washington, DC 20426.

From FERC's 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 text 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; request 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 Room 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 FERC Web site are available. User assistance is also available.

List of Subjects

18 CFR Part 101

Electric power, Electric utilities, Reporting and recordkeeping requirements, Uniform System of Accounts.

18 CFR Part 201

Natural gas, Reporting and recordkeeping requirements, Uniform System of Accounts.

18 CFR Part 352

Pipelines, Reporting and recordkeeping requirements, Uniform System of Accounts.

By direction of the Commission.

Linwood A. Watson, Jr.,

Acting Secretary.

In consideration of the foregoing, the Commission proposes to amend Parts 101, 201, and 352, Title 18 of the Code of Federal Regulations, as follows:

PART 101—UNIFORM SYSTEM OF ACCOUNTS PRESCRIBED FOR PUBLIC UTILITIES AND LICENSEES SUBJECT TO THE PROVISIONS OF THE FEDERAL POWER ACT

1. The authority citation for part 101 continues to read as follows:

Authority: 16 U.S.C. 791a–825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352, 7651–7651o.

2. In part 101, General Instructions, section 21. Allowances, paragraph I is removed, and sections 23. Accounting for other comprehensive income, and 24. Accounting for derivative instruments and hedging activities, are added to read as follows:

General Instructions

* * * * *

23. *Accounting for other comprehensive income.*

(A) Utilities will record items of other comprehensive income in account 219.1, Other comprehensive income. Amounts included in this account will be maintained by each category of other comprehensive income. Examples of categories of other comprehensive income include, foreign currency items, minimum pension liability adjustments, unrealized gains and losses on available-for-sale type securities and cash flow hedge amounts.

(B) At year end, amounts recorded in account 219.1, Other comprehensive income, will be transferred to account 219, Accumulated other comprehensive income. Supporting records will be maintained for account 219 so that the company can readily identify the cumulative amount of other comprehensive income for each item included in this account.

(C) When an item of other comprehensive income enters into the determination of earnings in the current or subsequent periods, a reclassification adjustment will be recorded in accounts 219 or 219.1 to avoid double counting of that amount.

* * * * *

24. *Accounting for derivative instruments and hedging activities.*

A. Utilities will recognize derivative instruments as either assets or liabilities in the financial statements and measure those instruments at fair value. A derivative instrument is a financial

instrument or other contract with all of the following characteristics:

(1) It has one or more underlyings and a notional amount or payment provision. Those terms determine the amount of the settlement or settlements, and, in some cases, whether or not a settlement is required.

(2) It requires no initial net investment or an initial net investment that is smaller than would be required for other types of contracts that would be expected to have a similar response to changes in market factors.

(3) Its terms require or permit net settlement, can readily be settled net by a means outside the contract, or provides for delivery of an asset that puts the recipient in a position not substantially different from net settlement.

B. The accounting for the changes in the fair value of derivative instruments depends upon their intended use and designation. Changes in the fair value of derivative instruments not designated as fair value or cash flow hedges will be recorded in account 175, Derivative instrument assets, or account 244, Derivative instrument liabilities, as appropriate, with the gains or losses charged to earnings in account 421, Miscellaneous nonoperating income.

C. A derivative instrument may be specifically designated as a fair value or cash flow hedge. A hedge is used to manage risk to price, interest rates, or foreign currency transactions. A company will maintain documentation of the hedge relationship at the inception of the hedge that details the risk management objective and strategy for undertaking the hedge, the nature of the risk being hedged, and how hedge effectiveness will be determined.

D. If the utility designates the derivative instrument as a fair value hedge against exposure to changes in the fair value of a recognized asset, liability, or a firm commitment, it will record the change in fair value of the derivative instrument to account 176, Derivative instrument assets-Hedges, or account 245, Derivative instrument liabilities-Hedges, as appropriate, with a corresponding adjustment to the subaccount of the item being hedged. The ineffective portion of the hedge transaction will be reflected in the same income or expense account that would have been used if the hedged item had been disposed of or settled. In the case of a fair value hedge of a firm commitment a new asset or liability is created. As a result of the hedge relationship, the new asset or liability will become part of the carrying amount of the item being hedged.

E. If the utility designates the derivative instrument as a cash flow hedge against exposure to variable cash flows of a probable forecasted transaction, it will record changes in the fair value of the derivative instrument in account 176, Derivative instrument assets-Hedges, or account 245, Derivative instrument liabilities-Hedges, as appropriate, with a corresponding amount in account 219.1, Other comprehensive income, for the effective portion of the hedge. The ineffective portion of the hedge transaction will be reflected in the same income or expense account that would have been used if the hedged item had been disposed of or settled. Amounts recorded in other comprehensive income will be reclassified into earnings in the same period or periods that the hedged forecasted item affects earnings.

3. In part 101, Balance Sheet Accounts, accounts 124, paragraph A, 125, 126, 127, 128 introductory text preceding the Note, and 129 introductory text preceding the Note, are revised, and Accounts 175, 176, 219, 219.1, 244 and 245 are added to read as follows:

Balance Sheet Accounts

* * * * *

124 Other investments.

A. This account shall include the book cost of investments in securities issued or assumed by nonassociated companies, investment advances to such companies, and any investments not accounted for elsewhere. This account shall also include unrealized holding gains and losses on trading and available-for-sale types of security investments. Include also the offsetting entry to the recording of amortization of discount or premium on interest bearing investments. (See account 419, Interest and dividend income.)

* * * * *

125 Sinking funds (Major only).

This account shall include the amount of cash and book cost of investments held in sinking funds. This account shall also include unrealized holding gains and losses on trading and available-for-sale types of security investments. A separate account, with appropriate title, shall be kept for each sinking fund. Transfers from this account to special deposit accounts may be made as necessary for the purpose of paying matured sinking-fund obligations, or obligations called for redemption but not presented, or the interest thereon.

126 Depreciation fund (Major only).

This account shall include the amount of cash and book cost of investments which have been segregated in a special fund for the purpose of indentifying such assets with the accumulated provisions for depreciation. This account shall also include unrealized holding gains and losses on trading and available-for-sale types of security investments.

127 Amortization fund—Federal (Major only).

This account shall include the amount of cash and book cost of investments of any investments of any fund maintained pursuant to the requirements of a federal regulatory body, as the cash and investments segregated for the purpose of identifying the specific assets associated with account 215.1, Appropriated retained earnings—Amortization reserve, Federal. This account shall also include unrealized holding gains and losses on trading and available-for-sale types of security investments.

128 Other special funds (Major only).

This account shall include the amount of cash and book cost of investments which have been segregated in special funds for insurance, employee pensions, savings, relief, hospital, and other purposes not provided for elsewhere. This account shall also include unrealized holding gains and losses on trading and available-for-sale types of security investments. A separate account with appropriate title, shall be kept for each fund.

* * * * *

129 Special funds (Nonmajor only).

This account shall include the amount of cash and book cost of investments which have been segregated in special funds for bond retirements, property additions and replacements, insurance, employees' pensions, savings, relief, hospital, and other purposes not provided for elsewhere. This account shall also include unrealized holding gains and losses on trading and available-for-sale types of security investments. A separate account, with appropriate title, shall be kept for each fund.

* * * * *

175 Derivative instrument assets.

This account shall include the amounts paid for derivative instruments, and the change in the fair value of all derivative instrument assets not designated as cash flow or fair value hedges. Account 421, Miscellaneous

nonoperating income, will be charged with the corresponding amount of the change in the fair value of the derivative instrument.

176 Derivative instrument assets-Hedges.

A. This account shall include the amounts paid for derivative instruments, and the change in the fair value of derivative instrument assets designated by the utility as cash flow or fair value hedges.

B. When a utility designates a derivative instrument asset as a cash flow hedge it will record the change in the fair value of the derivative instrument in this account with a concurrent charge to account 219.1, Other comprehensive income, with the effective portion of the derivative's gain or loss. The ineffective portion of the cash flow hedge will be charged to the same income or expense account that would have been used if the hedged item had been disposed of or otherwise settled.

C. When a utility designates a derivative instrument as a fair value hedge it will record the change in the fair of the derivative instrument in this account with a concurrent charge to a subaccount of the asset or liability that carries the item being hedged. The ineffective portion of the fair value hedge will be charged to the same income or expense account that would have been used if the hedged item had been disposed of or otherwise settled.

* * * * *

219 Accumulated other comprehensive income.

A. This account shall include amounts of other comprehensive income transferred from account 219.1, Other comprehensive income. Records supporting the entries to this account shall be maintained so that the utility can furnish the amount of other comprehensive income for each item included in this account.

B. This account shall also be debited or credited, as appropriate, with amounts of accumulated other comprehensive income that have been included in the determination of net income during the period and in accumulated other comprehensive income in prior periods. Separate records for each category of items will be maintained to identify the amount of the reclassification adjustments from accumulated other comprehensive income to earnings made during the period.

219.1 Other comprehensive income.

A. This account shall include revenues, expenses, gains, and losses that are appropriately includable in other comprehensive income during the period. At year end the total of other comprehensive income will be transferred to account 219, Accumulated other comprehensive income.

B. This account shall also be debited or credited, as appropriate, with amounts of other comprehensive income that have been included in the determination of net income in the same period. Separate records will be maintained to identify the amount of the reclassification adjustments to earnings during the period.

C. Examples of items of other comprehensive income include foreign currency items, minimum pension liability adjustments, unrealized gains and losses on certain investments in debt and equity securities, and cash flow hedges. Records supporting the entries to this account shall be maintained so that the utility can furnish the amount of other comprehensive income for each item included in this account.

* * * * *

244 Derivative instrument liabilities.

This account shall include the change in the fair value of all derivative instrument liabilities not designated as cash flow or fair value hedges. Account 421, Miscellaneous nonoperating income, will be charged with the corresponding amount of the change in the fair value of the derivative instrument.

245 Derivative instrument liabilities-Hedges.

A. This account shall include the change in the fair value of derivative instrument liabilities designated by the utility as cash flow or fair value hedges.

B. A utility will record the change in the fair value of a derivative instrument liability related to a cash flow hedge in this account, with a concurrent charge to account 219.1, Other comprehensive income, with the effective portion of the derivative's gain or loss. The ineffective portion of the cash flow hedge will be charged to the same income or expense account that would have been used if the hedged item had been disposed of or otherwise settled.

C. A utility will record the change in the fair of a derivative instrument liability related to a fair value hedge in this account, with a concurrent charge to a subaccount of the asset or liability that carries the item being hedged. The ineffective portion of the fair value hedge will be charged to the same income or expense account that would have been used if the hedged item had been disposed of or otherwise settled.

* * * * *

PART 201—UNIFORM SYSTEM OF ACCOUNTS PRESCRIBED FOR NATURAL GAS COMPANIES SUBJECT TO THE PROVISIONS OF THE NATURAL GAS ACT

4. The authority citation for part 201 continues to read as follows:

Authority: 15 U.S.C. 717–717w, 3301–3432; 42 U.S.C. 7101–7352, 7651–7651o.

5. In part 201, General Instructions, sections 22. Accounting for other comprehensive income, and 23. Accounting for derivative instruments and hedging activities, are added to read as follows:

General Instructions.

* * * * *

22. *Accounting for other comprehensive income.*

A. Utilities will record items of other comprehensive income in account 219.1, Other comprehensive income. Amounts included in this account will be classified by their nature and supporting records will be maintained by each category of other comprehensive income. Examples of categories of other comprehensive income include, foreign currency items, minimum pension liability adjustments, unrealized gains and losses on available-for-sale type securities and cash flow hedge amounts.

B. At year end, amounts recorded in account 219.1, Other comprehensive income, will be transferred to account 219, Accumulated other comprehensive income. Supporting records will be maintained for account 219 so that the company can readily identify the cumulative amount of other comprehensive income for each item included in this account.

C. When an item of other comprehensive income enters into the determination of earnings in the current or subsequent periods a reclassification adjustment will be recorded in accounts 219 or 219.1 to avoid double counting of when an item included in net income was also included in other comprehensive income in the same or prior period.

23. *Accounting for derivative instruments and hedging activities.*

A. Utilities will recognize derivative instruments as either assets or liabilities in the financial statements and measure those instruments at fair value. A derivative instrument is a financial

instrument or other contract with all three of the following characteristics:

(1) It has one or more underlyings and a notional amount or payment provision. Those terms determine the amount of the settlement or settlements, and, in some cases, whether or not a settlement is required.

(2) It requires no initial net investment or an initial net investment that is smaller than would be required for other types of contracts that would be expected to have similar response to changes in market factors.

(3) Its terms require or permit net settlement, can readily be settled net by a means outside the contract, or provides for delivery of an asset that puts the recipient in a position not substantially different from net settlement.

B. The accounting for the changes in the fair value of derivative instruments depends upon their intended use and designation. Changes in the fair value of derivative instruments not designated as fair value or cash flow hedges will be recorded in account 175, Derivative instrument assets, or account 244, Derivative instrument liabilities, as appropriate, with the gains or losses charged to earnings in account 421, Miscellaneous nonoperating income.

C. A derivative instrument may be specifically designated as a fair value or cash flow hedge. A hedge may be used to manage risk to price, interest rates, or foreign currency transactions. Utilities will maintain documentation of the hedge relationship at the inception of the hedge that details the risk management objective and strategy for undertaking the hedge, the nature of the risk being hedged, and how hedge effectiveness will be determined.

D. If the utility designates the derivative instrument as a fair value hedge against exposure to changes in the fair value of a recognized asset, liability, or a firm commitment, it will record the change in fair value of the derivative instrument to account 176, Derivative instrument assets-Hedges, or account 245, Derivative instrument liabilities-Hedges, as appropriate, with a corresponding adjustment to the subaccount of the item being hedged. The ineffective portion of the hedge transaction will be reflected in the same income or expense account that would have been used if the hedged item had been disposed of or settled. In the case of a fair value hedge of a firm commitment a new asset or liability is created. As a result of the hedge relationship, the new asset or liability will become part of the carrying amount of the item being hedged.

E. If the utility designates the derivative instrument as a cash flow hedge against exposure to variable cash flows of a probable forecasted transaction, it will record changes in the fair value of the derivative instrument in account 176, Derivative instrument assets-Hedges, or account 245, Derivative instrument liabilities-Hedges, as appropriate, with a corresponding amount in Account 219.1, Other comprehensive income, for the effective portion of the hedge. The ineffective portion of the hedge transaction will be reflected in the same income or expense account that would have been used if the hedged item had been disposed of or settled. Amounts recorded in other comprehensive income will be reclassified into earnings in the same period or periods that the hedged forecasted item affects earnings.

* * * * *

6. In part 201, Balance Sheet Accounts, Accounts 124, paragraph A, 125, 126, and 128, introductory text preceding the Note, are revised, and Accounts 175, 176, 219, 219.1, 244 and 245 are added to read as follows:

Balance Sheet Accounts

* * * * *

124 Other investments.

A. This account shall include the book cost of investments in securities issued or assumed by nonassociated companies, investment advances to such companies, and any investments not accounted for elsewhere. This account shall also include unrealized holding gains and losses on trading and available-for-sale types of security investments. Include also the offsetting entry to the recording of amortization of discount or premium on interest bearing investments. (See account 419, interest and dividend income.)

* * * * *

125 Sinking funds.

This account shall include the amount of cash and book cost of investments held in sinking funds. This account shall also include unrealized holding gains and losses on trading and available-for-sale types of security investments. A separate account, with appropriate title, shall be kept for each sinking fund. Transfers from this account to special deposit accounts may be made as necessary for the purpose of paying matured sinking-fund obligations, or obligations called for redemption but not presented, or the interest thereon.

126 Depreciation fund.

This account shall include the amount of cash and book cost of investments which have been segregated in a special fund for the purpose of indentifying such assets with the accumulated provisions for depreciation. This account shall also include unrealized holding gains and losses on trading and available-for-sale types of security investments.

* * * * *

128 Other special funds.

This account shall include the amount of cash and book cost of investments which have been segregated in special funds for insurance, employee pensions, savings, relief, hospital, and other purposes not provided for elsewhere. This account shall also include unrealized holding gains and losses on trading and available-for-sale types of security investments. A separate account with appropriate title, shall be kept for each fund.

* * * * *

175 Derivative instrument assets.

This account shall include the amounts paid for derivative instruments, and the change in the fair value of all derivative instrument assets not designated as cash flow or fair value hedges. Account 421, Miscellaneous nonoperating income, will be charged with the corresponding amount of the change in the fair value of the derivative instrument.

176 Derivative instrument assets-Hedges.

A. This account shall include the amounts paid for derivative instruments, and the change in the fair value of derivative instrument assets designated by the utility as cash flow or fair value hedges.

B. When a utility designates a derivative instrument asset as a cash flow hedge it will record the change in the fair value of the derivative instrument in this account with a concurrent charge to account 219.1, Other comprehensive income, with the effective portion of the derivative's gain or loss. The ineffective portion of the cash flow hedge will be charged to the same income or expense account that would have been used if the hedged item had been disposed of or otherwise settled.

C. When a utility designates a derivative instrument asset as a fair value hedge it will record the change in the fair value of the derivative instrument in this account with a concurrent charge to a subaccount of the

asset or liability that carries the item being hedged. The ineffective portion of the fair value hedge will be charged to the same income or expense account that would have been used if the hedged item had been disposed of or otherwise settled.

* * * * *

219 Accumulated other comprehensive income.

A. This account shall include amounts of other comprehensive income transferred from account 219.1, Other comprehensive income. Records supporting the entries to this account shall be maintained so that the utility can furnish the amount of other comprehensive income for each item included in this account.

B. This account shall also be debited or credited, as appropriate, with amounts of accumulated other comprehensive income that have been included in the determination of net income during the period and in accumulated other comprehensive income in prior periods. Separate records for each category of items will be maintained to identify the amount of the reclassification adjustments from accumulated other comprehensive income to earnings made during the period.

219.1 Other comprehensive income.

A. This account shall include revenues, expenses, gains, and losses that are properly includable in other comprehensive income during the period. At year end the total of other comprehensive income will be transferred to account 219, Accumulated other comprehensive income.

B. This account shall also be debited or credited, as appropriate, with amounts of other comprehensive income that have been included in the determination of net income in the same period. Separate records will be maintained to identify the amount of the reclassification adjustments to earnings during the period.

C. Examples of items of other comprehensive income include foreign currency items, minimum pension liability adjustments, unrealized gains and losses on certain investments in debt and equity securities, and cash flow hedges. Records supporting the entries to this account shall be maintained so that the utility can furnish the amount of other comprehensive income for each item included in this account.

* * * * *

244 Derivative instrument liabilities.

This account shall include the change in the fair value of all derivative instrument liabilities not designated as cash flow or fair value hedges. Account 421, Miscellaneous nonoperating income, will be charged with the corresponding amount of the change in the fair value of the derivative instrument.

245 Derivative instrument liabilities-Hedges.

A. This account shall include the change in the fair value of derivative instrument liabilities designated by the utility as cash flow or fair value hedges.

B. A utility will record the change in the fair value of a derivative liability related to a cash flow hedge in this account, with a concurrent charge to account 219.1, Other comprehensive income, with the effective portion of the derivative's gain or loss. The ineffective portion of the cash flow hedge will be charged to the same income or expense account that would have been used if the hedged item had been disposed of or otherwise settled.

C. A will record the change in the fair of a derivative instrument liability related to a fair value hedge in this account, with a concurrent charge to a subaccount of the asset or liability that carries the item being hedged. The ineffective portion of the fair value hedge will be charged to the same income or expense account that would have been used if the hedged item had been disposed of or otherwise settled.

* * * * *

PART 352—UNIFORM SYSTEMS OF ACCOUNTS PRESCRIBED FOR OIL PIPELINE COMPANIES SUBJECT TO THE PROVISIONS OF THE INTERSTATE COMMERCE ACT

7. The authority citation for part 352 continues to read as follows:

Authority: 49 U.S.C. 60502; 49 App. U.S.C. 1–85 (1988).

* * * * *

8. In part 352, List of Instructions and Accounts, Definitions, paragraph 35(d) is revised to read as follows:

Definitions.

* * * * *

35. * * *

(d) *Cost*, as applied to a marketable equity security, refers to the original cost as adjusted for unrealized holding gains and losses.

* * * * *

9. In part 352, General Instructions, paragraph 1–15(a), (b) and (c) are revised, (d) and (e) are removed, and General Instructions paragraphs 1–17 and 1–18 are added to read as follows:

General Instructions

* * * * *

1–15 *Accounting for marketable securities owned.* (a) Accounts 11 ''Temporary investments,'' 20 ''Investments in affiliated companies,'' and 21 ''Other investments'' shall be maintained in such a manner as to reflect the marketable equity portion (see definition 35) and other securities or investments

(b) For the purpose of determining net ledger value, the marketable equity securities in account 11 shall be considered the current portfolio and the marketable equity securities in accounts 20 and 21 (combined) shall be considered the noncurrent portfolio.

(c) Carriers will categorize their security investments as held-to-maturity, trading, or available-for-sale. Unrealized holding gains and losses on trading type investment securities will be recorded in account 660, Miscellaneous income charges. Unrealized holding gains and losses on available-for-sale type investment securities will be recorded in account 77.1, Other comprehensive income.

* * * * *

1–17 *Accounting for other comprehensive income.*

(a) Carriers will record items of other comprehensive income in account 77.1, Other comprehensive income. Amounts included in this account will be maintained by each category of other comprehensive income. Examples of categories of other comprehensive income include, foreign currency items, minimum pension liability adjustments, unrealized gains and losses on available-for-sale type securities and cash flow hedge amounts.

(b) At year end, amounts recorded in account 77.1, Other comprehensive income, will be transferred to account 77, Accumulated other comprehensive income. Supporting records will be maintained for account 77 so that the carrier can readily identify the cumulative amount of other comprehensive income for each item included in this account.

(c) When an item of other comprehensive income enters into the determination of earnings in the current or subsequent periods a reclassification adjustment will be recorded in accounts 77 or 77.1 to avoid double counting of when an item included in net income was also included in other comprehensive income in the same or prior period.

* * * * *

1–18 *Accounting for derivative instruments and hedging activities.*

(a) A carrier will recognize derivative instruments as either assets or liabilities in the financial statements and measure those instruments at fair value. A derivative instrument is a financial instrument or other contract with all three of the following characteristics:

(1) It has one or more underlyings and a notional amount or payment provision. Those terms determine the amount of the settlement or settlements, and, in some cases, whether or not a settlement is required.

(2) It requires no initial net investment or an initial net investment that is smaller than would be required for other types of contracts that would be expected to have similar response to changes in market factors.

(3) Its terms require or permit net settlement, can readily be settled net by a means outside the contract, or provides for delivery of an asset that puts the recipient in a position not substantially different from net settlement.

(b) The accounting for the changes in the fair value of derivative instruments depends upon their intended use and designation. Changes in the fair value of derivative instruments not designated as fair value or cash flow hedges will be recorded in account 46, Derivative instrument assets, or account 65, derivative instrument liabilities, as appropriate, with the gains or losses charged to earnings in account 660, Miscellaneous income charges.

(c) A derivative instrument may be specifically designated as a fair value or cash flow hedge. A hedge may be used to manage risk to price, interest rates, or foreign currency transactions. An entity will maintain documentation of the hedge relationship at the inception of the hedge that details the risk management objective and strategy for undertaking the hedge, the nature of the risk being hedged, and how hedge effectiveness will be determined.

(d) If the carrier designates the derivative instrument as a fair value hedge against exposure to changes in the fair value of a recognized asset, liability, or a firm commitment, it will record the change in fair value of the derivative instrument designated as a fair value hedge to account 47, Derivative instrument assets-Hedges, or account 66, Derivative instrument liabilities-Hedges, as appropriate, with a corresponding adjustment to the subaccount of the item being hedged. The ineffective portion of the hedge transaction will be reflected in the same income or expense account that would have been used if the hedged item had been disposed of or settled. In the case of a fair value hedge of a firm commitment, a new asset or liability is created. As a result of the hedge relationship, the new asset or liability will become part of the carrying amount of the item being hedged.

(e) If the carrier designates the derivative instrument as a cash flow hedge against exposure to variable cash flows of a probable forecasted transaction it will record changes in the fair value of the derivative instrument in account 47, Derivative instrument assets-Hedges, or account 66, Derivative instrument liabilities-Hedges, as appropriate, with a corresponding amount in account 77.1, Other comprehensive income, for the effective portion of the hedge. The ineffective portion of the hedge transaction will be reflected in the same income or expense account that would have been used if the hedged item had been disposed of or settled. Amounts recorded in other comprehensive income will be reclassified into earnings in the same period or periods that the hedged forecasted item affects earnings.

* * * * *

10. In part 352, Balance Sheet Accounts, Accounts 11, 21, and 22 are revised, Accounts 23, 24, and 75.5 are removed, and Accounts 46, 47, 65, 66, 77 and 77.1 are added to read as follows:

Balance Sheet Accounts

* * * * *

11 Temporary investments.

(a) This account shall include the cost of securities and other collectible obligations acquired for the purpose of temporarily investing cash, such as United States Treasury certificates, marketable securities, time drafts receivable, demand loans, time deposits with banks and trust companies, and other similar investments of a temporary character. This account shall also include unrealized holding gains and losses on trading and available-for-sale types of security investments.

(b) This account shall be subdivided to reflect the marketable equity securities' portion and other temporary investments. (See Instruction 1–15).

* * * * *

21 Other investments.

This account shall include the cost of investments in securities of (other than securities held in special funds) and advances made to other than affiliated companies. This account shall also include unrealized holding gains and losses on trading and available-for-sale types of security investments. Separate records shall be maintained to show the securities pledged and the following classes of investments in each nonaffiliated company:

(a) Stocks.
(b) Bonds.
(c) Other secured obligations.
(d) Unsecured notes.
(e) Investment advances.

22 Sinking and other funds.

(a) This account shall include cash and cost of investments in securities and other assets, trusteed or otherwise restricted, that have been segregated in distinct funds for purposes of redeeming outstanding obligations; purchasing or replacing assets; paying pensions, relief, hospitalization, and other similar items. This account shall also include unrealized holding gains and losses on trading and available-for-sale types of security investments. The cash value of life insurance policies on the lives of employees and officers to the extent that the carrier is the beneficiary of such policies shall also be included in this account. Separate subsidiary records shall be maintained for each distinct fund.

23 and 24 [Removed]

* * * * *

46 Derivative instrument assets.

This account shall include the amounts paid for derivative instruments, and the change in the fair value of all derivative instrument assets not designated as cash flow or fair value hedges. Account 660, Miscellaneous income charges, will be charged with the corresponding amount of the change in the fair value of the derivative instrument.

47 Derivative instrument assets—Hedges.

(a) This account shall include the amounts paid for derivative instruments, and the change in the fair value of derivative instrument assets designated by the utility as cash flow or fair value hedges.

(b) When a carrier designates a derivative instrument asset as a cash flow hedge, it will record the change in the fair value of the derivative instrument in this account with a concurrent charge to account 77.1, Other comprehensive income, with the effective portion of the derivative's gain or loss. The ineffective portion of the cash flow hedge will be charged to the same income or expense account that would have been used if the hedged item had been disposed of or otherwise settled.

(c) When a carrier designates a derivative instrument as a fair value

hedge, it will record the change in the fair of the derivative instrument in this account with a concurrent charge to a subaccount of the asset or liability that carries the item being hedged. The ineffective portion of the fair value hedge will be charged to the same income or expense account that would have been used if the hedged item had been disposed of or otherwise settled.

* * * * *

65 Derivative instrument liabilities.

This account shall include the change in the fair value of all derivative instrument liabilities not designated as cash flow or fair value hedges. Account 660, Miscellaneous income charges, will be charged with the corresponding amount of the change in the fair value of the derivative instrument.

* * * * *

66 Derivative instrument liabilities—Hedges.

(a) This account shall include the change in the fair value of derivative instrument liabilities designated by the carrier as cash flow or fair value hedges.

(b) A carrier will record the change in the fair value of a derivative instrument liability related to a cash flow hedge in this account, with a concurrent charge to account 77.1, Other comprehensive income, with the effective portion of the derivative's gain or loss. The ineffective portion of the cash flow hedge will be charged to the same income or expense account that would have been used if the hedged item had been disposed of or otherwise settled.

(c) A carrier will record the change in the fair of a derivative instrument liability related to a fair value hedge in this account, with a concurrent charge to a subaccount of the asset or liability that carries the item being hedged. The ineffective portion of the fair value hedge will be charged to the same income or expense account that would have been used if the hedged item had been disposed of or otherwise settled.

* * * * *

75.5 [Removed]

* * * * *

77 Accumulated other comprehensive income.

(a) This account shall include amounts of other comprehensive income transferred from account 77.1, Other comprehensive income. Records supporting the entries to this account shall be maintained so that the utility can furnish the amount of other comprehensive income for each item included in this account.

(b) This account shall also be debited or credited, as appropriate, with amounts of accumulated other comprehensive income that have been included in the determination of net income during the period and in accumulated other comprehensive income in prior periods. Separate records for each category of items will be maintained to identify the amount of the reclassification adjustments from accumulated other comprehensive income to earnings made during the period.

* * * * *

77.1 Other comprehensive income.

(a) This account shall include revenues, expenses, gains, and losses that are properly includable in other comprehensive income during the period. At year end, the total of other comprehensive income will be transferred to account 77, Accumulated other comprehensive income.

(b) This account shall also be debited or credited, as appropriate, with amounts of other comprehensive income that have been included in the determination of net income in the same period. Separate records will be maintained to identify the amount of the reclassification adjustments to earnings during the period.

(c) Examples of items of other comprehensive income include foreign currency items, minimum pension liability adjustments, unrealized gains and losses on certain investments in debt and equity securities, and cash flow hedges. Records supporting the entries to this account shall be maintained so that the carrier can furnish the amount of other comprehensive income for each item included in this account.

* * * * *

Note: The following Appendix A will not appear in the Code of Federal Regulations:

BILLING CODE 6717–01–P

Appendix A Proposed Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -1-

Name of Respondent	This Form is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

List of Schedules

Enter in column (c) the terms "none", "not applicable or "NA" as appropriate, where no information or amounts have been reported for certain pages. Omit pages where the respondents are "none," "not applicable," or "NA"

Title of Schedule (a)	Reference Page No. (b)	Remarks (c)
GENERAL CORPORATE INFORMATION AND FINANCIAL STATEMENTS		
General Information	101	
Control Over Respondent	102	
Corporations Controlled by Respondent	103	
Officers	104	
Directors	105	
Security Holders and Voting Powers	106-107	
Important Changes During the Year	108-109	
Comparative Balance Sheet	110-113	
Statement of Income for the Year	114-117	
Statement of Retained Earnings for the Year	118-119	
Statement of Cash Flows	120-121	
Statement of Comprehensive Income and Hedging Activities	122	
Notes to Financial Statements	123	
BALANCE SHEET SUPPORTING SCHEDULES (Assets and Other Debits)		
Summary of Utility Plant and Accumulated Provisions for Depreciation, Amortization, and Depletion	200-201	
Nuclear Fuel Materials	202-203	
Electric Plant in Service	204-207	
Electric Plant Leased to Others	213	
Electric Plant Held for Future Use	214	
Construction Work in Progress -- Electric	216	
Construction Overheads -- Electric	217	
General Description of Construction Overhead Procedure	218	
Accumulated Provision for Depreciation of Electric Utility Plant	219	
Nonutility Property	221	
Investment in Subsidiary Companies	224-225	
Materials and Supplies	227	
Allowances	228-229	
Extraordinary Property Losses	230	
Unrecovered Plant and Regulatory Study Costs	230	
Other Regulatory Assets	232	
Miscellaneous Deferred Debits	233	
Accumulated Deferred Income Taxes (Account 190)	234	
BALANCE SHEET SUPPORTING SCHEDULES (Liabilities and Other Credits)		
Capital Stock	250-251	
Capital Stock Subscribed, Capital Stock Liability for Conversion, Premium on Capital Stock, and installments Received on Capital Stock	252	
Other Paid-in Capital	253	
Discount on Capital Stock	254	
Capital Stock Expense	254	
Long-Term Debt	256-257	

Appendix A Proposed Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -2-

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

COMPARATIVE BALANCE SHEET (ASSETS AND OTHER DEBITS)

Line No	Title of Account (a)	Ref. Page No. (b)	Balance at Beginning of year (c)	Balance at End of Year (d)
1	UTILITY PLANT			
2	Utility Plant (101)-106, 114)	200-201		
3	Construction Work in Progress (107)	200-201		
4	TOTAL UTILITY PLANT (Enter Total of Lines 2 and 3)			
5	(Less) Accum. Prov. For Depr. Amort. Depl. (108, 111, 115)	200-201		
6	Net Utility Plant (Enter Total of Line 4 less 5)	-		
7	Nuclear Fuel (120.1-120.4, 120.6)	202-203		
8	(Less) Accum. Prov. For Amort. Of Nucl. Fuel Assemblies (120.5)	202-203		
9	Net Nuclear Fuel (Enter Total of Lines 7 Less 8)	-		
10	Net Utility Plant (Enter Total of Line 6 and 9)	-		
11	Utility Plant Adjustments (116)	122		
12	Gas Stored Underground-Noncurrent (117)	-		
13	OTHER PROPERTY AND INVESTMENTS			
14	Nonutility Property (121)	221		
15	(Less) Accum. Prov. For Depr. And Amort. (122)	-		
16	Investments in Associated Companies (123)	-		
17	Investment in Subsidiary Companies (123.1)	224-225		
18	(For Cost of Account 123.1, See Footnote Page 224, Line 42)	-		
19	Noncurrent Portion of Allowances	228-229		
20	Other Investments (124)	-		
21	Special Funds (125-128)	-		
22	TOTAL Other Property and Investments (Total of Lines 14--17, 19--21)			
23	CURRENT AND ACCRUED ASSETS			
24	Cash (131)	-		
25	Special Deposits (132-134)	-		
26	Working Fund (135)	-		
27	Temporary Cash Investments (136)	-		
28	Notes Receivable (141)	-		
29	Customer Accounts Receivable (142)	-		
30	Other Accounts Receivable (143)	-		
31	(Less) Accum. Prov. For Uncollectible Acct. - Credit (144)	-		
32	Notes Receivable from Associated Companies (145)	-		
33	Accounts Receivable from Assoc. Companies (146)	-		
34	Fuel Stock (151)	227		
35	Fuel Stock Expenses Undistributed (152)	227		
36	Residuals (Elec) and Extracted Products (153)	227		
37	Plant Materials and Operating Supplies (154)	227		
38	Merchandise (155)	227		
39	Other Material and Supplies (156)	227		
40	Nuclear Materials held for Sale (157)	202-203/227		
41	Allowances (158.1 and 158.2)	228-229		
42	(Less) Noncurrent Portion of Allowances	228-229		
43	Stores Expenses Undistributed (163)	-		
44	Gas Stored Underground-Current (164.1)	-		
45	Liquefied Natural Gas Stored and Held for Processing (164.2-164.3)	-		
46	Prepayments (165)	-		
47	Advances for Gas (166-167)	-		
48	Interest and Dividends Receivable (171)	-		
49	Rents Receivable (172)	-		
50	Accrued Utility Revenues (173)	-		
51	Miscellaneous Current and Accrued Assets (174)	-		

Appendix A Proposed Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -3-

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, ____

COMPARATIVE BALANCE SHEET (ASSETS AND OTHER DEBITS) (Continued)

Line No.	Title of Account (a)	Ref Page No. (b)	Balance at Beginning of Year (c)	Balance at End of Year (d)
52	Derivative Instrument Assets (175)			
53	Derivative Instrument Assets - Hedges (176)			
54	TOTAL Current and Accrued Assets (Enter Total of Lines 24 thru 53)			
55	DEFERRED DEBITS			
56	Unamortized Debt Expenses (181)	-		
57	Extraordinary Property Losses (182.1)	230		
58	U n recovered Plant and Regulatory Study Costs (182.2)	230		
59	Other Regulatory Assets (182.3)	232		
60	Prelim. Survey and Investigation Charges (Elec) (183)	231		
61	Prelim. Sur. and Invest. Charges (Gas) (183.1, 183.2)	-		
62	Clearing Accounts (184)	-		
63	Temporary Facilities (185)	-		
64	Miscellaneous Deferred Debits (186)	233		
65	Def.-Losses from Disposition of Utility Plant (187)	-		
66	Research, Devel. and Demonstration Expend. (188)	352-353		
67	Unamortized Loss on Reacquired Debt (189)	-		
68	Accumulated Deferred Income Taxes (190)	234		
69	Unrecovered Purchased Gas Costs (191)	-		
70	TOTAL Deferred Debits (Enter Total of Lines 56 thru 69)			
71	TOTAL Assets and Other Debits *(Enter Total of Lines 10, 11, 12, 22, 54, and 70)*			

Appendix A Proposed Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -4-

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, ____

COMPARATIVE BALANCE SHEET (LIABILITIES AND OTHER CREDITS)

Line No.	Title of Account (a)	Ref Page No. (b)	Balance at Beginning of Year (c)	Balance at End of Year (d)
1	PROPRIETARY CAPITAL			
2	Common Stock Issued (201)	250-251		
3	Preferred Stock Issued (204)	250-251		
4	Capital Stocked Subscribed (202, 205)	252		
5	Stock Liability for Conversion (203, 206)	252		
6	Premium on Capital Stock (207)	252		
7	Other Paid-In Capital (208-211)	253		
8	Installments Received on Capital Stock (212)	252		
9	(Less) Discount on Capital Stock (213)	254		
10	(Less) Capital Stock Expense (214)	254		
11	Retained Earnings (215, 215.1, 216)	118-119		
12	Unappropriated Undistributed Subsidiary Earnings (216.1)	118-119		
13	(Less) Reacquired Capital Stock (217)	250-251		
14	Accumulated Other Comprehensive Income (219)	122		
15	TOTAL PROPRIETARY CAPITAL *(Enter Total of lines 2 thru 14)*			
16	LONG-TERM DEBT			
17	Bonds (221)	256-257		
18	(Less) Reacquired Bonds (222)	256-257		
19	Advances from Associated Companies (223)	256-257		
20	Other Long-term Debt (224)	256-257		
21	Unamortized Premium on Long-Term Debt (225)	-		
22	(Less) Unamortized Discount on Long-Term Debt - Debit (226)	-		
23	TOTAL Long-Term Debt (Enter Total of Lines 17 thru 22)			
24	OTHER NONCURRENT LIABILITIES			
25	Obligations Under Capital Leases - Noncurrent (227)	-		
26	Accumulated Provision for Property Insurance (228.1)	-		
27	Accumulated Provision for Injuries and Damages (228.2)	-		
28	Accumulated Provision for Pensions and Benefits (228.3)	-		
29	Accumulated Miscellaneous Operating Provisions (228.4)	-		
30	Accumulated Provision for Rate Refunds (229)	-		
31	TOTAL OTHER NONCURRENT LIABILITIES *(Enter Total of lines 25 thru 30)*			
32	CURRENT AND ACCRUED LIABILITIES			
33	Notes Payable (231)	-		
34	Accounts Payable (232)	-		
35	Notes Payable to Associated Companies (233)	-		
36	Accounts Payable to Associated Companies (234)	262-263		
37	Customer Deposits (235)	-		
38	Taxes Accrued (236)	-		
39	Interest Accrued (237)	-		
40	Dividends Declared (238)	-		
41	Matured Long-Term Debt (239)	-		
42	Matured Interest (240)	-		
43	Tax Collections Payable (241)	-		
44	Miscellaneous Current and Accrued Liabilities (242)	-		
45	Obligations under Capital Leases - Current (243)	-		
46	Derivative Instrument Liabilities (244)			
47	Derivative Instrument Liabilities-Hedges (245)			
48	TOTAL CURRENT & ACCRUED LIABILITIES (Enter Total of Lines 33-47)	-		

Appendix A Proposed Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -5-

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, ____

COMPARATIVE BALANCE SHEET (LIABILITIES AND OTHER CREDITS) (Continued)

Line No.	Title of Account (a)	Ref. Page No. (b)	Balance at Beginning of Year (c)	Balance at End of Year (d)
49	DEFERRED CREDITS			
50	Customer Advances for Construction (252)			
51	Accumulated Deferred Investment Tax Credits (255)	266-267		
52	Deferred Gains from Disposition of Utility Plant (256)			
53	Other Deferred Credits (253)	269		
54	Other Regulatory Liabilities (254)	278		
55	Unamortized Gain on Reacquired Debt (257)	-		
56	Accumulated Deferred Income Taxes (281-283)	272-277		
57	TOTAL DEFERRED CREDITS *(Enter Total of lines 50 thru 56)*			
58				
59				
60				
61				
62				
63				
64				
65				
66				
67				
68				
69				
70				
71	TOTAL Liabilities and Other Credits *(Enter Total of lines 15, 23, 31, 48 and 57)*			

Appendix A Proposed Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -6-

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

STATEMENT OF COMPREHENSIVE INCOME AND HEDGING ACTIVITIES

1 Report in columns (b) and (c) the amounts of other comprehensive income items listed below in column (a).

2. Report amounts related to categories of other comprehensive income on a net-of-tax basis, where appropriate, and report the related tax effects allocated to each category in a footnote.

3. Report in a footnote, the accumulated other comprehensive income balances at year end, by category.

4. Report in a footnote, the fair value hedge balances at year end, by category.

Line No.	Item (a)	Total Current Year (in dollars) (b)	Total Prior Year (in dollars) (c)
1	Net Income (Carried forward from page 117, Line 72)		
2	CATEGORIES OF OTHER COMPREHENSIVE INCOME		
3	Unrealized gains and losses on available-for-sale type securities		
4	Minimum pension liability adjustment (net amount)		
5	Cash Flow Hedge Components		
6	Foreign currency hedges		
7	Other cash flow hedges		
8			
9			
10			
11			
12			
13			
14			
15	RECLASSIFICATION ADJUSTMENTS		
16	Unrealized gains and losses on available-for-sale type securities		
17	Cash Flow Hedge Components		
18	Foreign currency hedges		
19	Other cash flow hedges		
20			
21			
22			
23			
24			
25			
26			
27	Total Categories of Other Comprehensive Income (lines 3 through 26)		
28	Comprehensive Income (line 1 plus line 27)		
29			
30			
31			

Appendix A Proposed Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -8-

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V	Statement of Retained Earnings for the Year (118-119)
XXI	Summary of Utility Plant and Accumulated Provisions for Depreciation, Amortization and Depletion (200-201, 204-207)
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INSTRUCTIONS FOR FILING FERC Form No. 1-F

GENERAL INFORMATION

1. Purpose

This form is a regulatory requirement (18 CFR 141.2). It is designed to collect financial information from privately owned electric utilities and licensees who have generation, transmission, distribution and sales of electric energy, however produced throughout the United States and its possessions, subject to the jurisdiction of the Federal Energy Regulatory Commission.

II. Who Must Submit

Each Nonmajor Public Utility or Licensee, as classified in the Commission's Uniform System of Accounts Prescribed for Public Utilities and Licensees Subject to the Provisions of the Federal Power Act (18 CFR 101 (US of A.) must submit this form.

Each Nonmajor public utility or licensee classified as Class C or Class D prior to January 1, 1984, may continue to file only the basic financial statements -Parts 111, IV and V.

Note: Nonmajor means having total annual sales of 10,000 megawatt hours or more in the previous calendar year and not classified as "Major."

Appendix A Proposed Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -9-

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, ____

PART III: COMPARATIVE BALANCE SHEET

	Assets and Other Debits (a)	Balance at Beginning of year (b)	Balance at End of Year (c)
01	Utility plant *(101 - 107, 114, 118)*		
02	Accumulated Provision for Depreciation and Amortization *(110, 119)*		
03	NET UTILITY PLANT *(Enter total of line 01 less 02)*		
04	Utility Plant Adjustments *(116)*		
05	Gas Stored Underground - Noncurrent		
06	Nonutility Property *(121)*		
07	Accumulated Provision For Depreciation and Amortization - Credit *(122)*		
08	Noncurrent Portion of Allowances		
09	Other Investments and Special Funds *(124-129)*		
10	CURRENT AND ACCRUED ASSETS:		
11	Cash and Working Funds *(130)*		
12	Temporary Cash Investments *(136)*		
13	Notes and Accounts Receivable *(141, 142, 143, 145, 146)(Report amounts applicable to associated companies in a footnote)*		
14	Accumulated provision for Uncollectible Accounts - Credit *(144)*		
15	Plant Materials and Operating Supplies *(154)*		
16	Allowances *(158.1 and 158.2)*		
17	(Less) Noncurrent Portion of Allowances		
18	Gas Stored *(164.1, 164.2)*		
19	Prepayments *(165)*		
20	Miscellaneous Current and Accrued Assets *(174)*		
21	Derivative Instrument Assets (175)		
22	Derivative Instruments Assets - Hedges (176)		
23	TOTAL CURRENT AND ACCRUED ASSETS *(Enter total of lines 11 thru 22)*		
24	DEFERRED DEBITS:		
25	Unamortized Debt Expense *(181)*		
26	Extraordinary Property Losses *(182.1)*		
27	Unrecovered Plant and Regulatory Study Costs *(182.2)*		
28	Other Regulatory sets *(182.3)*		
29	Miscellaneous Deferred Debits *(186)*		
30	Deferred Losses from Disposition of Utility Plant *(187)*		
31	Unamortized Loss on Reacquired Debt *(189)*		
32	Accumulated Deferred Income Taxes *(190)*		
33	Unrecovered Purchased Gas Costs *(191)*		
34	TOTAL DEFERRED DEBITS *(Enter total of Lies 25 thru 33)*		
35	TOTAL ASSETS AND OTHER DEBITS *(Enter total lines 03 thru 09, 23 and 34)*		

Appendix A Proposed Revised Schedules for FERC Forms 1, 1-F 2, 2-A, and 6 -10-

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

PART III: COMPARATIVE BALANCE SHEET (Continued)

	Liabilities and Other Credits (a)	Balance at Beginning of year (b)	Balance at End of Year (c)
01	Common Stock Issued (201)		
02	Preferred Stock Issued (204)		
03	Miscellaneous Paid-in Capital (211)		
04	Installments Received on Capital Stock (212)		
05	Discount on Capital Stock (213)		
06	Capital Stock Expenses - Debit (214)		
07	Retained Earnings (215-216)		
08	Reacquired Capital Stock - Debit (217)		
09	Noncorporate Proprietorshi[p (218)		
10	Accumulated Other Comprehensive Income (219)		
11	TOTAL PROPRIETORSHIP CAPITAL (Enter Total of Lines 01 thru 10)		
12	Bonds (221)		
13	Advances from Associated Companies (223)		
14	Other Long-term Debt (Specify in footnote) (224)		
15	Unamortized Premium on Long-term Debt (225)		
16	Unamortized Discount on Long-term Debt - Debit (226)		
17	TOTAL LONG-TERM DEBT (Enter Total of Lines 12 thru 16)		
18	OTHER NONCURRENT LIABILITIES:		
19	Obligations Under Capital Leases - Noncurrent (227)		
20	Accumulated Provision for Property Insurance (228.1)		
21	Accumulated Provision for Injuries and Damages (228.2)		
22	Accumulated Provision for Pensions and Benefits (228.3)		
23	Accumulated Miscellaneous Operating Provisions (228.4)		
24	Accumulated Provision for Rate Refunds (229)		
25	TOTAL OTHER NONCURRENT LIABILITIES (Enter Total of Lines 19 thru 24)		
26	CURRENT AND ACCRUED LIABILITIES:		
27	Notes and Accounts Payable (Report amounts applicable to associated companies in a footnote) (231 to 234)		
28	Customer Deposits (235)		
29	Taxes Accrued (236)		
30	Interest Accrued (237)		
31	Miscellaneous Current and Accrued Liabilities (242)		
32	Obligations Under Capital Leases - Current (243)		
33	Derivative Instrument Liabilities (244)		
34	Derivative Instrument Liabilities - Hedges (245)		
35	TOTAL CURRENT AND ACCRUED LIABILITIES (Enter Total of Lines 27 thru 34)		
36	DEFERRED CREDITS:		
37	Customer Advances for Construction (252)		
38	Other Deferred Credits (253)		
39	Other Regulatory Liabilities (254)		
40	Accumulated Deferred Investment Tax Credits (255)		
41	Deferred Gains from Disposition of Utility Plant (256)		
42	Unamortized Gain on on Reacquired Debt (257)		
43	Accumulated Deferred Income Taxes (281-283)		
44	TOTAL DEFERRED CREDITS (Enter Total of Lines 37 thru 43)		
45	TOTAL LIABILITIES AND OTHER CREDITS (Enter Total of Lines 11, 17, 25, 35 and 44)		

Appendix A Proposed Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -11-

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

STATEMENT OF COMPREHENSIVE INCOME AND HEDGING ACTIVITIES

1. Report in columns (b) and (c) the amounts of other comprehensive income items listed below in column (a).
2. Report amounts related to categories of other comprehensive income on a net-of-tax basis, where appropriate, and report the related tax effects allocated to each category in a footnote.
3. Report in a footnote, the accumulated other comprehensive income balances at year end, by category.
4. Report in a footnote, the fair value hedge balances at year end, by category.

Line No.	Item (a)	Total Current Year (in dollars) (b)	Total Prior Year (in dollars) (c)
1	Net Income (Carried forward from page 8, Line 63)		
2	COMPONENTS OF OTHER COMPREHENSIVE INCOME		
3	Unrealized gains and losses on available-for-sale type securities		
4	Minimum pension liability adjustment (net amount)		
5	Cash Flow Hedge Components		
6	Foreign currency hedges		
7	Other cash flow hedges		
8			
9			
10			
11			
12			
13			
14			
15	RECLASSIFICATION ADJUSTMENTS		
16	Unrealized gains and losses on available-for-sale type securities		
17	Cash Flow Hedge Components		
18	Foreign currency hedges		
19	Other cash flow hedges		
20			
21			
22			
23			
24			
25			
26			
27	Total Categories of Other Comprehensive Income (lines 3 through 26)		
27	Comprehensive Income (line 1 plus line 27)		
28			
29			
31			

Appendix A Proposed Revised Schedules for FERC Forms 1, 1-F 2, 2-A, and 6 -12-

Name of Respondent	This Report is: ☐ An Original ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

List of Schedules

Enter in column (d) the terms "none," "not applicable," or "NA" as appropriate, where no information or amounts have been reported for certain pages Omit pages where the responses are "none," "not applicable," or "NA

Line No.	Title of Schedule (a)	Reference Page No. (b)	Date Revised (c)	Remarks (d)
	GENERAL CORPORATE INFORMATION AND FINANCIAL STATEMENTS			
1	General Information	101		
2	Control over Respondent	102		
3	Corporations Controlled by Respondent	103		
4	Security Holders and Voting Powers	107		
5	Important Changes During the Year	108		
6	Comparative Balance Sheet	110-113		
7	Statement of Income for the Year	114-116		
8	Statement of Comprehensive Income and Hedging Activities	117		
9	Statement of Retained Earnings for the Year	118-119		
10	Statement of Cash Flows	120-121		
11	Notes to the Financial Statements	122		
	BALANCE SHEET SUPPORTING SCHEDULES (Assets and Other Debits)			
12	Summary of Utility Plant and Accumulated Provisions for Depreciation, Amortization, and Depletion	200-201		
13	Gas Plant in Service	204-209		
14	Gas Property and Capacity Leased from Others	212		
15	Gas Property and Capacity Leased to Others	213		
16	Gas Plant Held for Future Use	214		
17	Construction Work in Progress - Gas	216		
18	General Description of Construction Overhead Procedure	218		
19	Accumulated Provision for Depreciation of Gas Utility Plant	219		
20	Gas Stored	220		
21	Investments	222-223		
22	Investments in Subsidiary Companies	224-225		
23	Prepayment	230		
24	Extraordinary Property Losses	230		
25	Unrecovered Plant and Regulatory Study Costs	230		
26	Other Regulatory Assets	232		
27	Miscellaneous Deferred Debits	233		
28	Accumulated Deferred Income Taxes	234-235		
	BALANCE SHEET SUPPORTING SCHEDULES (Liabilities and Other Credits)			
29	Capital Stock	250-251		
30	Capital Stock Subscribed, Capital Stock Liability for Conversion, Premium on Capital Stock, and Installments Received on Capital Stock	252		
31	Other Paid-in Capital	253		
32	Discount on Capital Stock	254		
33	Capital Stock Expense	254		
34	Securities Issued or Assumed and Securities Refunded or Retired During the Year	255		
35	Long-Term Debt	256-257		
36	Unamortized Debt Expense, Premium, and Discount on Long-Term Debt	258-259		
37	Unamortized Loss and Gain on Reacquired Debt	260		
38	Reconciliation of Reported Net Income with Taxable Income for Federal Income Taxes	261		

Appendix A Proposed Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -13-

Name of Respondent	This Report is: ☐ An Original ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

LIST OF SCHEDULES (Natural Gas Company)

Enter in column (d) the terms "none," "not applicable," or "NA" as appropriate, where no information or amount have been reported for certain pages Omit pages where the responses are "none," "not applicable," or "NA

Line No.	Title of Schedule (a)	Reference Page No. (b)	Date Received (c)	Remarks
	BALANCE SHEET SUPPORTING SCHEDULES (Liabilities and Other Credits) (Continued)			
39	Taxes Accrued, Prepaid, and Charged During Year	262-263		
40	Miscellaneous Current and Accrued Liabilities	268		
41	Other Deferred Credits	269		
42	Accumulated Deferred Income Taxes-Other Property	274-275		
43	Accumulated Deferred Income Taxes-Other	276-277		
44	Other Regulatory Liabilities	278		
	INCOME ACCOUNT SUPPORTING SCHEDULES			
45	Gas Operating Revenues	300-301		
46	Revenues from Transportation of Gas of Others Through Gathering Facilities	302-303		
47	Revenues from Transportation of Gas of Others Through Transmission Facilities	304-305		
48	Revenues from Storage Gas of Others	306-307		
49	Other Gas Revenues	308		
50	Gas Operation and Maintenance Expenses	317-325		
51	Exchange and Imbalance Transactions	328		
52	Gas Used in Utility Operations	331		
53	Transmission and Compression of Gas by Others	332		
54	Other Gas Supply Expenses	334		
55	Miscellaneous General Expenses-Gas	335		
56	Depreciation, Depletion, and Amortization of Gas Plant	336-338		
57	Particulars Concerning Certain income Deduction and Interest Charges Accounts	340		
	COMMON SECTION			
58	Regulatory Commission Expenses	350-351		
59	Distribution of Salaries and Wages	354-355		
60	Charges for Outside Professional and Other Consultative Services	357		
	GAS PLANT STATISTICAL DATA			
61	Compressor Stations	508-509		
62	Gas Storage Projects	512-513		
63	Transmission Lines	514		
64	Transmission System Peak Deliveries	518		
65	Auxiliary Peaking Facilities	519		
66	Gas Account-Natural Gas	520		
67	System Map	522		
68	Footnote Reference	551		
69	Footnote Text	552		
70	Stockholders' Reports (check appropriate box)			

☐ Four copies will be submitted
☐ No annual report to stockholders is prepared

Appendix A Proposed Revised Schedules for FERC Forms 1, 1-F 2, 2-A, and 6 -14-

Name of Respondent	This Report is: ☐ An Original ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

COMPARATIVE BALANCE SHEET (ASSETS AND OTHER DEBITS) (Continued)

Line No.	Title of Account (a)	Reference Page Number (b)	Balance at End of Current Year (in dollars) (c)	Balance at End of Previous Year (in dollars) (d)
44	Allowances (158 1 and 158 2)			
45	*(Less)* Noncurrent Portion of Allowances			
46	Stores Expenses Undistributed (163)			
47	Gas Stored Underground - Current (164 1)	220		
48	Liquefied Natural Gas stored and Held for Processing (164 2 thru 164 3)	220		
49	Prepayments (165)	230		
50	Advances for Gas (166 and 167)			
51	Interest and Dividends Receivable (171)			
52	Rents Receivable (172)			
53	Accrued Utility Revenues (173)			
54	Miscellaneous Current and Accrued Assets (174)			
55	Derivative Instrument Assets (175)			
56	Derivative Instrument Assets - Hedges (176)			
57	TOTAL Current and Accrued Assets (Total of lines 27 thru 56)			
58	DEFERRED DEBITS			
59	Unamortized Debt Expense (181)			
60	Extraordinary Property Losses (182 1)	230		
61	Unrecovered Plant and Regulatory Study Costs (182 2)	230		
62	Other Regulatory Assets (182 3)	232		
63	Preliminary Survey and Investigation Charges (Electric) (183)			
64	Preliminary Survey and Investigation Charges (Gas) (183 1 and 183 2)			
65	Clearing Accounts (184)			
66	Temporary Facilities (185)			
67	Miscellaneous Deferred Debits (186)	233		
68	Deferred Losses from Disposition of Utility Plant (187)			
69	Research, Development, and Demonstration Expend (188)			
70	Unamortized Loss on Reacquired Debt (189)			
71	Accumulated Deferred Income Taxes (190)	234-235		
72	Unrecovered Purchased Gas Costs (191)			
73	TOTAL Deferred Debits (Total of lines 59 thru 72)			
74	TOTAL Assets and Other Debits (Total of lines 10-15, 25, 57 and 73)			

Appendix A Proposed Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -15-

Name of Respondent	This Report is: ☐ An Original ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

COMPARATIVE BALANCE SHEET (LIABILITIES AND OTHER CREDITS)

Line No.	Title of Account (a)	Reference Page Number (b)	Balance at End of Current Year (in dollars) (c)	Balance at End of Previous Year (in dollars) (d)
1	PROPRIETARY CAPITAL			
2	Common Stock Issued (201)	250-251		
3	Preferred Stock Issued (204)	250-251		
4	Capital Stock Subscribed (202, 205)	252		
5	Stock Liability for Conversion (203, 206)	252		
6	Premium on Capital Stock (207)	252		
7	Other Paid-In Capital (208-211)	253		
8	Installments Received on Capital Stock (212)	252		
9	*(Less)* Discount on Capital Stock (213)	254		
10	*(Less)* Capital Stock Expense (214)	254		
11	Retained Earnings (215, 215 1, 216)	118-119		
12	Unappropriated Undistributed Subsidiary Earnings (216 1)	118-119		
13	*(Less)* Reacquired Capital Stock (217)	250-251		
14	Accumulated Other Comprehensive Income (219)	117		
15	TOTAL Proprietary Capital (Total of line 2 thru 14)			
16	LONG TERM DEBT			
17	Bonds (221)	256-257		
18	*(Less)* Reacquired Bonds (222)	256-257		
19	Advances from Associated Companies (223)	256-257		
20	Other Long-Term Debt (224)	256-257		
21	Unamortized Premium on Long-Term Debt (225)	258-259		
22	(Less) Unamortized Discount on Long-Term Debt-Dr (226)	258-259		
23	(Less) Current Portion of Long-Term Debt			
24	TOTAL Long-Term Debt (Total of lines 17 thru 23)			
25	OTHER NONCURRENT LIABILITIES			
26	Obligations Under Capital Leases -- Noncurrent (227)			
27	Accumulated Provision for Property Insurance (228 1)			
28	Accumulated Provision for Injuries and Damages (228 2)			
29	Accumulated Provision for Pensions and Benefits (228 3)			
30	Accumulated Miscellaneous Operating Provision (228 4)			
31	Accumulated Provision for Rate Refunds (229)			
32	TOTAL Other Noncurrent Liabilities (total of lines 26 thru 31)			

Appendix A Proposed Revised Schedules for FERC Forms 1, 1-F 2, 2-A, and 6 -16-

Name of Respondent	This Report is: ☐ An Original ☐ A Resubmission	Date of Report (Mo Da, Yr)	Year of Report Dec 31, _____

COMPARATIVE BALANCE SHEET (LIABILITIES AND OTHER CREDITS) (Continued)

Line No.	Title of Account (a)	Reference Page Number (b)	Balance at End of Current Year (in dollars) (c)	Balance at End of Previous Year (in dollars) (d)
33	CURRENT AND ACCRUED LIABILITIES			
34	Current Portion of Long-Term Debt			
35	Notes Payable (231)			
36	Accounts Payable (232)			
37	Notes Payable to Associated Companies (233)			
38	Accounts Payable to Associated Companies (234)			
39	Customer Deposits (235)			
40	Taxes Accrued (236)	262-263		
41	Interest Accrued (237)			
42	Dividends Declared (238)			
43	Matured Long-Term Debt (239)			
44	Matured Interest (240)			
45	Tax Collections Payable (241)			
46	Miscellaneous Current and Accrued Liabilities (242)	268		
47	Obligations Under Capital Leases -- Current (243)			
48	Derivative Instrument Liabilities (244)			
49	Derivative Instrument Liabilities - Hedges (245)			
50	TOTAL Current and Accrued Liabilities (Total of lines 34 thru 49)			
51	DEFERRED CREDITS			
52	Customer Advances for Construction (252)			
53	Accumulated Deferred Investment Tax Credits (255)			
54	Deferred Gains from Disposition of Utility Plant (256)			
55	Other Deferred Credits (253)	269		
56	Other Regulatory Liabilities (254)	278		
57	Unamortized Gain on Reacquired Debt (257)	260		
58	Accumulated Deferred Income Taxes (281-283)			
59	TOTAL Deferred Credits (Total of lines 52 thru 58)			
60	TOTAL Liabilities and Other Credits (Total of lines 15, 24, 32, 50, and 59)			

Appendix A Proposed Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -17-

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

STATEMENT OF COMPREHENSIVE INCOME AND HEDGING ACTIVITIES

1. Report in columns (b) and (c) the amounts of other comprehensive income items listed below in column (a).
2. Report amounts related to categories of other comprehensive income on a net-of-tax basis, where appropriate, and report the related tax effects allocated to each category in a footnote.
3. Report in a footnote, the accumulated other comprehensive income balances at year end, by category.
4. Report in a footnote, the fair value hedge balances at year end, by category.

Line No.	Item (a)	Total Current Year (in dollars) (b)	Total Prior Year (in dollars) (c)
1	Net Income (Carried forward from page 116, Line 72)		
2	CATEGORIES OF OTHER COMPREHENSIVE INCOME		
3	Unrealized gains and losses on available-for-sale type securities		
4	Minimum pension liability adjustment (net amount)		
5	Cash Flow Hedge Components		
6	Foreign currency hedges		
7	Other cash flow hedges		
8			
9			
10			
11			
12			
13			
14			
15	RECLASSIFICATION ADJUSTMENTS		
16	Unrealized gains and losses on available-for-sale type securities		
17	Cash Flow Hedge Components		
18	Foreign Currency hedges		
19	Other cash flow hedges		
20			
21			
22			
23			
24			
25			
26			
27	Total Categories of Other Comprehensive Income (lines 3 through 26)		
28	Comprehensive Income (line 1 plus line 27)		
29			
30			
31			

Appendix A Proposed Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -18-

Name of Respondent	This Report is: ☐ An Original ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, ____

LIST OF SCHEDULES (Natural Gas Company)

Enter in column (d) the terms "none," "not applicable," or "NA" as appropriate, where no information or amounts have been reported for certain pages Omit pages where the responses are "none," "not applicable," or "NA

Line No	Title of Schedule (a)	Reference Page No (b)	Date Revised (c)	Remarks (d)
	GENERAL CORPORATE INFORMATION AND FINANCIAL STATEMENTS			
1	Security Holders and Voting Powers	107		
2	Comparative Balance Sheet	110-113		
3	Statement of Income for the Year	114-116		
4	Statement of Comprehensive Income and Hedging Activities	117		
5	Statement of Retained Earnings for the Year	118-119		
6	Statements of Cash Flows	120-121		
7	Notes to Financial Statements	122		
	BALANCE SHEET SUPPORTING SCHEDULES (Assets and Other Debits)			
8	Gas Plant in Service	204-209		
9	General Information on Plant and Operations	211		
10	Gas Property and Capacity Leased From and to Others	212-213		
11	Accumulated Provision for depreciation of Gas Utility Plant	219		
12	Other Regulatory Assets - Gas	232		
	BALANCE SHEET SUPPORTING SCHEDULES (Liabilities and Other Credits)			
13	Capital Stock and Long-Term Debt Data	250		
14	Other Regulatory Liabilities	278		
	INCOME ACCOUNT SUPPORTING SCHEDULES			
15	Gas Operating Revenues	300-301		
16	Gas Operation and Maintenance Expenses	317-325		
	GAS PLANT STATISTICAL DATA			
17	Gas Account-Natural Gas	520		
18	Footnote Reference	551		
19	Footnote Text	552		

Appendix A Proposed Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -19-

Name of Respondent	This Report is: ☐ An Original ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

COMPARATIVE BALANCE SHEET (ASSETS AND OTHER DEBITS) (Continued)

Line No.	Title of Account (a)	Reference Page Number (b)	Balance at End of Current Year (in dollars) (c)	Balance at End of Previous Year (in dollars) (d)
44	Allowances (158 1 and 158 2)			
45	*(Less)* Noncurrent Portion of Allowances			
46	Stores Expenses Undistributed (163)			
47	Gas Stored Underground - Current (164 1)	220		
48	Liquefied Natural Gas stored and Held for Processing (164 2 thru 164 3)	220		
49	Prepayments (165)	230		
50	Advances for Gas (166 and 167)			
51	Interest and Dividends Receivable (171)			
52	Rents Receivable (172)			
53	Accrued Utility Revenues (173)			
54	Miscellaneous Current and Accrued Assets (174)			
55	Derivative Instrument Assets (175)			
56	Derivative Instrument Assets - Hedges (176)			
57	TOTAL Current and Accrued Assets (Total of lines 27 thru 56)			
58	DEFERRED DEBITS			
59	Unamortized Debt Expense (181)			
60	Extraordinary Property Losses (182 1)	230		
61	Unrecovered Plant and Regulatory Study Costs (182 2)	230		
62	Other Regulatory Assets (182 3)	232		
63	Preliminary Survey and Investigation Charges (Electric) (183)			
64	Preliminary Survey and Investigation Charges (Gas) (183 1 and 183 2)			
65	Clearing Accounts (184)			
66	Temporary Facilities (185)			
67	Miscellaneous Deferred Debits (186)	233		
68	Deferred Losses from Disposition of Utility Plant (187)			
69	Research, Development, and Demonstration Expend (188)			
70	Unamortized Loss on Reacquired Debt (189)			
71	Accumulated Deferred Income Taxes (190)	234-235		
72	Unrecovered Purchased Gas Costs (191)			
73	TOTAL Deferred Debits (Total of lines 59 thru 72)			
74	TOTAL Assets and Other Debits (Total of lines 10-15, 25, 57 and 73)			

Appendix A Proposed Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -20-

Name of Respondent	This Report is: ☐ An Original ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

COMPARATIVE BALANCE SHEET (LIABILITIES AND OTHER CREDITS)

Line No.	Title of Account (a)	Reference Page Number (b)	Balance at End of Current Year (in dollars) (c)	Balance at End of Previous Year (in dollars) (d)
1	PROPRIETARY CAPITAL			
2	Common Stock Issued (201)	250-251		
3	Preferred Stock Issued (204)	250-251		
4	Capital Stock Subscribed (202, 205)	252		
5	Stock Liability for Conversion (203, 206)	252		
6	Premium on Capital Stock (207)	252		
7	Other Paid-In Capital (208-211)	253		
8	Installments Received on Capital Stock (212)	252		
9	*(Less)* Discount on Capital Stock (213)	254		
10	*(Less)* Capital Stock Expense (214)	254		
11	Retained Earnings (215, 215 1, 216)	118-119		
12	Unappropriated Undistributed Subsidiary Earnings (216 1)	118-119		
13	*(Less)* Reacquired Capital Stock (217)	250-251		
14	Accumulated Other Comprehensive Income (219)	117		
15	TOTAL Proprietary Capital (Total of line 2 thru 14)			
16	LONG TERM DEBT			
17	Bonds (221)	256-257		
18	*(Less)* Reacquired Bonds (222)	256-257		
19	Advances from Associated Companies (223)	256-257		
20	Other Long-Term Debt (224)	256-257		
21	Unamortized Premium on Long-Term Debt (225)	258-259		
22	(Less) Unamortized Discount on Long-Term Debt-Dr (226)	258-259		
23	(Less) Current Portion of Long-Term Debt			
24	TOTAL Long-Term Debt (Total of lines 17 thru 23)			
25	OTHER NONCURRENT LIABILITIES			
26	Obligations Under Capital Leases – Noncurrent (227)			
27	Accumulated Provision for Property Insurance (228 1)			
28	Accumulated Provision for Injuries and Damages (228 2)			
29	Accumulated Provision for Pensions and Benefits (228 3)			
30	Accumulated Miscellaneous Operating Provision (228 4)			
31	Accumulated Provision for Rate Refunds (229)			
32	TOTAL Other Noncurrent Liabilities (total of lines 26 thru 31)			

Appendix A Proposed Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -21-

Name of Respondent	This Report is: ☐ An Original ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

COMPARATIVE BALANCE SHEET (LIABILITIES AND OTHER CREDITS) (Continued)

Line No.	Title of Account (a)	Reference Page Number (b)	Balance at End of Current Year (in dollars) (c)	Balance at End of Previous Year (in dollars) (d)
33	CURRENT AND ACCRUED LIABILITIES			
34	Current Portion of Long-Term Debt			
35	Notes Payable (231)			
36	Accounts Payable (232)			
37	Notes Payable to Associated Companies (233)			
38	Accounts Payable to Associated Companies (234)			
39	Customer Deposits (235)			
40	Taxes Accrued (236)	262-263		
41	Interest Accrued (237)			
42	Dividends Declared (238)			
43	Matured Long-Term Debt (239)			
44	Matured Interest (240)			
45	Tax Collections Payable (241)			
46	Miscellaneous Current and Accrued Liabilities (242)	268		
47	Obligations Under Capital Leases – Current (243)			
48	Derivative Instrument Liabilities (244)			
49	Derivative Instrument Liabilities - Hedges (245)			
50	TOTAL Current and Accrued Liabilities (Total of lines 34 thru 49)			
51	DEFERRED CREDITS			
52	Customer Advances for Construction (252)			
53	Accumulated Deferred Investment Tax Credits (255)			
54	Deferred Gains from Disposition of Utility Plant (256)			
55	Other Deferred Credits (253)	269		
56	Other Regulatory Liabilities (254)	278		
57	Unamortized Gain on Reacquired Debt (257)	260		
58	Accumulated Deferred Income Taxes (281-283)			
59	TOTAL Deferred Credits (Total of lines 52 thru 58)			
60	TOTAL Liabilities and Other Credits (Total of lines 15, 24, 32, 50, and 59)			

Appendix A Proposed Revised Schedules for FERC Forms 1, 1-F 2, 2-A, and 6 -22-

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

STATEMENT OF COMPREHENSIVE INCOME AND HEDGING ACTIVITIES

1. Report in columns (b) and (c) the amounts of other comprehensive income items listed below in column (a).

2. Report amounts related to categories of other comprehensive income on a net-of-tax basis, where appropriate, and report the related tax effects allocated to each category in a footnote.

3. Report in a footnote, the accumulated other comprehensive income balances at year end, by category.

4. Report in a footnote, the fair value hedge balances at year end, by category.

Line No.	Item (a)	Total Current Year (in dollars) (b)	Total Prior Year (in dollars) (c)
1	Net Income (Carried forward from page 116, Line 63)		
2	CATEGORIES OF OTHER COMPREHENSIVE INCOME		
3	Unrealized gains and losses on available-for-sale type securities		
4	Minimum pension liability adjustment (net amount)		
5	Cash Flow Hedge Components		
6	Foreign currency hedges		
7	Other cash flow hedges		
8			
9			
10			
11			
12			
13			
14			
15	RECLASSIFICATION ADJUSTMENTS		
16	Unrealized gains and losses on available-for-sale type securities		
17	Cash Flow Hedge Components		
18	Foreign currency hedges		
19	Other cash flow hedges		
20			
21			
22			
23			
24			
25			
26			
27	Total Categories of Other Comprehensive Income (lines 3 through 26)		
27	Comprehensive Income (line 1 plus line 27)		
28			
29			
31			

Appendix A Proposed Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -23-

Name of Respondent	This Report Is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec. 31, 20___

LIST OF SCHEDULES

Enter in column (d) the terms "none," "not applicable," or "NA," as appropriate, where no information or amounts have been reported for certain pages. Omit pages where the responses are "none," "not applicable," or "NA."

Title of Schedule (a)	Reference Page No. (b)	Date Revised (c)	Remarks (d)
GENERAL CORPORATE INFORMATION AND FINANCIAL STATEMENTS			
General Information	101	ED 12-91	
Control Over Respondent	102	REV 12-95	
Companies Controlled by Respondent	103	NEW 12-95	
Principal General Officers	104	ED 12-91	
Directors	105	REV 12-95	
Important Changes During the Year	108-109	REV 12-95	
Comparative Balance Sheet Statement	110-113	REV 12-01	
Income Statement	114	ED 12-96	
Statement of Comprehensive Income and Hedging Activities	115	NEW 12-01	
Appropriated Retained Income	118	REV 12-95	
Unappropriated Retained Income Statement	119	REV 12-95	
Dividend Appropriations of Retained Income	119	REV 12-95	
Statement of Cash Flows	120-121	REV 12-95	
Notes to Financial Statements	122-123	REV 12-95	
BALANCE SHEET SUPPORTING SCHEDULES (Assets and Other Debts)			
Receivables From Affiliated Companies	200	REV 12-00	
General Instructions Concerning Schedules 202 thru 205	201	REV 12-95	
Investments in Affiliated Companies	202-203	ED 12-91	
Investments in Common Stocks of Affiliated Companies	204-205	ED 12-91	
Companies Controlled Directly by Respondent Other Than Through Title to Securities	204-205	ED 12-91	
Instructions for Schedules 212 Thru 217	211	REV 12-00	
Carrier Property	212-213	REV 12-00	
Undivided Joint Interest Property	214-215	REV 12-00	
Accrued Depreciation-Carrier Property	216	REV 12-00	
Accrued Depreciation-Undivided Joint Interest Property	217	REV 12-00	
Amortization Base and Reserve	218-219	REV 12-95	
Noncarrier Property	220	REV 12-00	
Other Deferred Charges	221	REV 12-00	
BALANCE SHEET SUPPORTING SCHEDULES (Liabilities and Other Credits)			
Payables to Affiliated Companies	225	REV 12-00	
Long-Term Debt	226-227	ED 12-00	
Analysis of Federal Income and Other Taxes Deferred	230-231	REV 12-00	
Capital Stock	250-251	REV 12-95	
Capital Stock Changes During the Year	252-253	ED 12-91	
Additional Paid-in Capital	254	ED 12-87	

Appendix A Proposed Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -24-

Name of Respondent	This Report Is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec. 31, 20___

COMPARATIVE BALANCE SHEET STATEMENT - ASSETS

For instructions covering this schedule, see the text and instructions pertaining to Balance Sheet Accounts in the USofA. The entries in this balance sheet should be consistent with those in the supporting schedules on the pages indicated.

Line No.	Item (a)	Reference Page No. (b)	Balance at End of Current Year (In dollars) (c)	Balance at End of Previous Year (In dollars) (d)
	CURRENT ASSETS			
1	Cash (10)			
2	Special Deposits (10-5)			
3	Temporary Investments (11)			
4	Notes Receivable (12)			
5	Receivables from Affiliated Companies (13)	200		
6	Accounts Receivable (14)			
7	Accumulated Provision For Uncollectible Accounts (14-5)			
8	Interest and Dividends Receivable (15)			
9	Oil Inventory (16)			
10	Material and Supplies (17)			
11	Prepayment (18)			
12	Other Current Assets (19)			
13	Deferred Income Tax Assets (19-5)	230-231		
14	TOTAL Current Assets *(Total of lines 1 thru 13)*			
	INVESTMENTS AND SPECIAL FUNDS			
	Investments in Affiliated Companies (20):			
15	Stocks	202-203		
16	Bonds	202-203		
17	Other Secured Obligations	202-203		
18	Unsecured Notes	202-203		
19	Investment Advances	202-203		
20	20 Undistributed Earnings from Certain Invest. in Acct.	204		
	Other Investments (21):			
21	Stocks			
22	Bonds			
23	Other Secured Obligations			
24	Unsecured Notes			
25	Investment Advances			
26	Sinking and Other Funds (22)			
27	TOTAL Investment and Special Funds *(Total lines 15 thru 26)*			

Appendix A Proposed Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -25-

Name of Respondent	This Report Is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec. 31, 20__

COMPARATIVE BALANCE SHEET STATEMENT - ASSETS (Continued)

1.) For instructions covering this schedule, see the text and instructions pertaining to Balance Sheet Accounts in the USofA. The entries in this balance sheet should be consistent with those in the supporting schedules on the pages indicated.

2.) On line 30, include depreciation applicable to investment in property.

Line No.	Item (a)	Reference Page No. (b)	Balance at End of Current Year (In dollars) (c)	Balance at End of Previous Year (In dollars) (d)
	TANGIBLE PROPERTY			
28	Carrier Property (30)	212-215		
29	(Less) Accrued Depreciation - Carrier Property (31)	216-217		
30	(Less) Accrued Amortization - Carrier Property (32)	218-219		
31	Net Carrier Property *(Line 28 less 29 and 30)*			
32	Operating Oil Supply (33)			
33	Noncarrier Property (34)	220		
34	Less Accrued Depreciation - Noncarrier Property			
35	Net Noncarrier Property *(Line 35 less 36)*			
36	TOTAL Tangible Property *(Total of lines 31, 32 and 35)*			
	OTHER ASSETS AND DEFERRED CHARGES			
37	Organization Costs and Other Intangibles (40)			
38	(Less) Accrued Amortization of Intangibles (41)			
39	Reserved			
40	Miscellaneous Other Assets (43)			
41	Other Deferred Charges (44)	221		
42	Accumulated Deferred Income Tax Assets (45)	230-231		
43	Derivative Instrument Assets (46)			
44	Derivative Instrument Assets - Hedges (47)			
45	TOTAL Other Assets and Deferred Charges *(37 thru 44)*			
46	TOTAL Assets *(Total of lines 14, 27, 36 and 45)*			

Appendix A Proposed Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -26-

Name of Respondent	This Report Is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec. 31, 20___

COMPARATIVE BALANCE SHEET STATEMENT - LIABILITIES (Continued)

For instructions covering this schedule, see the text and instructions pertaining to Balance Sheet Accounts in the USofA. The entries in this balance sheet should be consistent with those in the supporting schedules on the pages indicated.

Line No.	Item (a)	Reference Page No. (b)	Balance at End of Current Year (In dollars) (c)	Balance at End of Previous Year (In dollars) (d)
	CURRENT LIABILITIES			
47	Notes Payable (50)			
48	Payables to Affiliated Companies (51)			
49	Accounts Payable (52)			
50	Salaries and Wages Payable (53)			
51	Interest Payable (54)			
52	Dividends Payable (55)			
53	Taxes Payable (56)			
54	Long - Term Debt - Payable Within One Year (57)	226-227		
55	Other Current Liabilities (58)			
56	Deferred Income Tax Liabilities (59)	230-231		
57	TOTAL Current Liabilities *(Total of lines 47 thru 56)*			
	NONCURRENT LIABILITIES			
58	Long-Term Debt - Payable After One Year (60)	226-227		
59	Unamortized Premium on Long-Term Debt (61)			
60	(Less) Unamortized Discount on Long-Term Debt-Dr. (62)			
61	Other Noncurrent Liabilities (63)			
62	Accumulated Deferred Income Tax Liabilities (64)	230-231		
63	Derivative Instrument Liabilities (65)			
64	Derivative Instrument Liabilities - Hedges (66)			
65	TOTAL Noncurrent Liabilities *(Total of lines 58 thru 64)*			
66	TOTAL Liabilities *(Total of lines 57 and 65)*			
	STOCKHOLDERS' EQUITY			
67	Capital Stock (70)	250-251		
68	Premiums on Capital Stock (71)			
69	Capital Stock Subscriptions (72)			
70	Additional Paid-In Capital (73)	254		
71	Appropriated Retained Income (74)	118		
72	Unappropriated Retained Income (75)	119		
73	(Less) Treasury Stock (76)			
74	Accumulated Other Comprehensive Income (77)	115		
75	TOTAL Stockholders' Equity *(Total of lines 67 thru 74)*			
76	TOTAL Liabilities and Stockholders' Equity *(Total of lines 66 and 75)*			

Appendix A Proposed Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -27-

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

STATEMENT OF COMPREHENSIVE INCOME AND HEDGING ACTIVITIES

1 Report in columns (b) and (c) the amounts of Other Comprehensive Income items listed below in column (a)

2. Report amounts related to categories of other comprehensive income on a net-of-tax basis, where appropriate, and report the related tax effects allocated to each category in a footnote.

3. Report in a footnote, the accumulated other comprehensive income balances at year end, by category.

4. Report in a footnote, the fair value hedge balances at year end, by category.

Line No.	Item (a)	Total Current Year (In dollars) (b)	Total Prior Year (In dollars) (c)
1	Net Income (Carried forward from page 114, Line 29)		
2	CATEGORIES OF OTHER COMPREHENSIVE INCOME		
3	Unrealized gains and losses on available-for-sale type securities		
4	Minimum pension liability adjustment (net amount)		
5	Cash Flow Hedge Components		
6	Foreign currency hedges		
7	Other cash flow hedges		
8			
9			
10			
11			
12			
13			
14			
15	RECLASSIFICATION ADJUSTMENTS		
16	Unrealized gains and losses on available-for-sale type securities		
17	Cash Flow Hedge Components		
18	Foreign currency hedges		
19	Other cash flow hedges		
20			
21			
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23			
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25			
26			
27	Total Categories of Other Comprehensive Income (lines 3 through 26)		
28	Comprehensive Income (line 1 plus line 27)		
29			
30			
31			

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Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
- Poly (vinyl pyrrolidone), etc.
  - Correction; published 10-10-01

TREASURY DEPARTMENT

Internal Revenue Service

Income taxes:
- Farm income averaging; published 1-8-02

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AGRICULTURE DEPARTMENT

Agricultural Marketing Service

California Prune/Plum (Tree Removal) Diversion Program; implementation; comments due by 1-16-02; published 12-17-01 [FR 01-31038]

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:
- Northeastern United States fisheries—
  - Northeast Multispecies Fishing Capacity Reduction Program; comments due by 1-18-02; published 12-19-01 [FR 01-31262]

COMMODITY FUTURES TRADING COMMISSION

Security futures products:
- Large trader reports; reporting levels; comments due by 1-14-02; published 12-13-01 [FR 01-30812]

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Retired and Senior Volunteer Program; amendments; comments due by 1-14-02; published 11-13-01 [FR 01-28254]

DEFENSE DEPARTMENT

Federal Acquisition Regulation (FAR):
- Indefinite-delivery contracts; progress payment requests; comments due by 1-14-02; published 11-14-01 [FR 01-28230]

ENVIRONMENTAL PROTECTION AGENCY

Air pollutants, hazardous; national emission standards:
- Phosphoric acid manufacturing and phosphate fertilizers production plants; comments due by 1-16-02; published 12-17-01 [FR 01-31009]

ENVIRONMENTAL PROTECTION AGENCY

Air pollutants, hazardous; national emission standards:
- Phosphoric acid manufacturing and phosphate fertilizers production plants; comments due by 1-16-02; published 12-17-01 [FR 01-31010]

Air pollution control; new motor vehicles and engines:
- Nonroad large spark ignition engines and recreational engines (marine and land-based); emissions control; comments due by 1-18-02; published 12-18-01 [FR 01-31178]

Air programs:
- Ambient air quality standards, national—
  - Ozone; response to remand; comments due by 1-14-02; published 11-14-01 [FR 01-27820]

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Air programs; approval and promulgation; State plans for designated facilities and pollutants:
- Kansas; comments due by 1-18-02; published 12-19-01 [FR 01-31238]

ENVIRONMENTAL PROTECTION AGENCY

Air programs; approval and promulgation; State plans for designated facilities and pollutants:
- Kansas; comments due by 1-18-02; published 12-19-01 [FR 01-31239]

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:
- Wisconsin; comments due by 1-14-02; published 12-14-01 [FR 01-30814]

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:
- Wisconsin; comments due by 1-14-02; published 12-14-01 [FR 01-30815]

Superfund program:
- National oil and hazardous substances contingency plan—
  - National priorities list update; comments due by 1-14-02; published 12-13-01 [FR 01-30740]

Water pollution; discharge of pollutants (NPDES):
- Concentrated animal feeding operations; permit regulation and effluent limitations guidelines and standards; data availability; comments due by 1-15-02; published 11-21-01 [FR 01-28738]

FEDERAL COMMUNICATIONS COMMISSION

Radio stations; table of assignments:
- California; comments due by 1-14-02; published 12-10-01 [FR 01-30387]

Television stations; table of assignments:
- Utah and Nevada; comments due by 1-14-02; published 12-18-01 [FR 01-31187]

GENERAL SERVICES ADMINISTRATION

Federal Acquisition Regulation (FAR):
- Indefinite-delivery contracts; progress payment requests; comments due by 1-14-02; published 11-14-01 [FR 01-28230]

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Federal Housing Enterprise Oversight Office

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- Counterparty haircuts, multifamily loans, and refunding; technical amendments and corrections; comments due by 1-17-02; published 12-18-01 [FR 01-30898]

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Fish and Wildlife Service

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at *http://www.nara.gov/fedreg/plawcurr.html*.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.access.gpo.gov/nara/nara005.html*. Some laws may not yet be available.

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National Museum of African American History and Culture Plan for Action Presidential Commission Act of 2001 (Dec. 28, 2001; 115 Stat. 1009)

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