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

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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

RIN 3206–AJ30

Prevailing Rate Systems; Change in the Survey Cycle for the Pennington, South Dakota, Nonappropriated Fund Wage Area

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management is issuing a final rule to change the timing of local wage surveys in the Pennington, South Dakota, nonappropriated fund Federal Wage System wage area. The change will help balance the workload for the Department of Defense and improve the amount and quality of data it collects during local annual wage surveys in the Pennington wage area.

DATES: Effective Date: April 24, 2002.

FOR FURTHER INFORMATION CONTACT: Chenty I. Carpenter at (202) 606–8359; by FAX at (202) 606–4264; or by email at *cicarpen@opm.gov.*

SUPPLEMENTARY INFORMATION: On December 19, 2000, the Office of Personnel Management (OPM) published a proposed rule to change the timing of local wage surveys in the Pennington, South Dakota, nonappropriated (NAF) Federal Wage System (FWS) wage area (65 FR 79320). The proposed rule provided a 30-day period for public comment, during which OPM received no comments.

The Department of Defense (DOD), the lead agency for the Pennington, SD, wage area, requested that the survey schedule be changed so that full-sale surveys could be conducted in June of even-numbered fiscal years. DOD conducted a full-scale survey in January 2002 and will conduct another full-scale survey in June 2002. The change from January to June will help avoid problems associated with conducting local wage surveys during inclement weather in western South Dakota and will improve wage survey participation and data yield. In addition, the new survey cycle will allow DOD to achieve a better balance in its wage survey workload.

The Federal Prevailing Rate Advisory Committee, the national labor-management committee responsible for advising OPM on matters concerning the pay of FWS employees, recommended by consensus that we change the full-scale survey cycle for the Pennington NAF wage area from January of even-numbered fiscal years to June of even-numbered fiscal years.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it affects only Federal agencies and employees.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

U.S. Office of Personnel Management.

Kay Coles James,

Director.

Accordingly, the Office of Personnel Management is amending 5 CFR part 532 as follows:

PART 532—PREVAILING RATE SYSTEMS

1. The authority citation for part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346; § 532.707 also issued under 5 U.S.C. 552.

Appendix A to Subpart B of Part 532—[Amended]

2. Appendix B to subpart B is amended by revising under the State of South Dakota the listing of beginning month of survey from ''January'' to ''June'' for the Pennington NAF wage area.

[FR Doc. 02–7022 Filed 3–22–02; 8:45 am]

BILLING CODE 6325–39–P

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 25

RIN 0503–AA20

Rural Empowerment Zones and Enterprise Communities

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: This final rule establishes the policies and procedures pertaining to 20 rural enterprise communities designated by the Secretary of the U.S. Department of Agriculture (USDA) (Secretary) as authorized by the Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act, 1999 (Agriculture Appropriations Act 1999) (Round IIS). This rule also contains the policies and procedures for implementing the grant program authorized by section 766 of the Agriculture Appropriations Act 1999 (USDA EZ/EC grants). Additionally, this rule clarifies post-designation procedures that rural empowerment zones and enterprise communities must follow to maintain their standing. Finally, this final rule amends the regulation to reflect that two new rural empowerment zones were authorized by the Community Renewal Tax Relief Act of 2000 (Round III).

EFFECTIVE DATE: April 24, 2002.

FOR FURTHER INFORMATION CONTACT: Norman Reed, (202) 690–0719, Deputy Administrator for Community Development, USDA Rural Development, Office of Community Development, Reporters Building, Room 266, 300 7th Street, SW., Washington, DC 20024–3203, telephone 1–800–645–4712, or by sending an Internet e-mail message to ''*info@www.ezec.gov*''. For hearing- and speech-impaired persons, information concerning this program may be obtained by contacting USDA's TARGET Center at (202) 720–2600 (Voice and TDD).

SUPPLEMENTARY INFORMATION:

Classification

This rule has been reviewed by the Office of Management and Budget (OMB) under E.O. 12866 and has been determined to be a significant regulatory action.

Programs Affected

The Catalog of Federal Domestic Assistance Program affected by this action is 10.772, Empowerment Zone Program.

Program Administration

The program is administered through the Office of Community Development within the Rural Development mission area of the Department of Agriculture.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act, USDA may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

The information collection requirements contained in 7 CFR part 25 are comprised of one-time application requirements (Application burden) and ongoing reporting requirements (Reporting burden).

The Application burden paperwork package approved under control no. 0570–0026 was approved by OMB in the context of the Round II application effort. The overall burden is a function of the hours assumed for each applicant multiplied by an estimated number of applicants. Comments on these application requirements were invited April 16, 1998 [63 FR 19108] at the time the Interim Final Rule for 7 CFR part 25 was published. No comments were received. After the expiration of the application deadline, the application burden no longer existed and USDA requested that the burden level under this control number be amended accordingly and this was approved by OMB. Subsequently, Congress authorized another competitive round for designations (Round III). USDA submitted a request to OMB to conform the burden level under this control number to reflect another round of application effort. The Application Form is the same as earlier approved under this burden level as well as the hour burden per applicant for Round III. The only difference between the burden levels estimated for Rounds II and III consists of a different assumed number of applicants. The burden level per applicant was the same. USDA's earlier estimate of 60 applicants for Round III is very close to the 55 valid applications we actually received. Now that the deadline for Round III is passed, there is no ongoing Application Burden. Accordingly, the submission was withdrawn and remains as previously approved by OMB. USDA will seek to amend the Application Burden only in the event legislation is passed which authorizes additional designations.

The Reporting burden paperwork package approved by OMB under control no. 0570–0027 covers the ongoing reporting requirements imposed by 7 CFR part 25 for empowerment zones and enterprise communities designated to date. USDA submitted a request to amend the Reporting paperwork burden to reflect the incrementally higher aggregate reporting burden associated with the designation of two empowerment zones pursuant to Round III and was approved by OMB. The individual reporting requirements imposed on Round III designees are the same as for all designees, and unchanged from those published and for which comments were invited April 27, 2000 [65 FR 24656] at the time the most recent proposed rule for amending 7 CFR part 25 was published. No comments were received.

Environmental Impact Statement

It is the determination of the Secretary that this action is not a major Federal action significantly affecting the environment. Therefore, in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, and 7 CFR part 1940, subpart G, an Environmental Impact Statement is not required.

Executive Order 12988

This final rule has been reviewed in accordance with E.O. 12988, Civil Justice Reform. In accordance with this rule: (1) All state and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings in accordance with 7 CFR part 11 must be exhausted before bringing suit in court challenging action taken under this rule unless those regulations specifically allow bringing suit at an earlier time.

The Unfunded Mandates Reform Act of 1995

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 and the private sector. Under section 202 of the UMRA, USDA must prepare a written statement, including a cost benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to state, local or tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, section 205 of UMRA generally requires USDA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost effective or least burdensome alternative that achieves the objectives of the rule.

This 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 UMRA.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the undersigned has determined and certified by signature of this document that this rule will not have a significant economic impact on a substantial number of small entities. The Regulatory Flexibility Act is intended to encourage Federal agencies to utilize innovative administrative procedures in dealing with individuals, small businesses, small organizations, and small governmental bodies that would otherwise be unnecessarily adversely affected by Federal regulations. The provisions included in this rule will not impact a substantial number of small entities to a greater extent than large entities. Therefore, no regulatory flexibility analysis under the Regulatory Flexibility Act is necessary.

Executive Order 13132, Federalism

The policies contained in this rule will not have substantial direct effects on states or their political subdivisions, or the relationship between the Federal Government and the states, or on the distribution of power and responsibilities among the various levels of government. Nor does this rule impose substantial direct compliance costs on state and local governments. This rule is intended to foster cooperation between the Federal Government and the states and local governments, and reduces, where possible, any regulatory burden imposed by the Federal Government that impedes the ability of state and local governments to solve pressing economic, social, and physical problems in their communities.

Background

The Secretary of Agriculture published on April 16, 1998 [63 FR 19108], an interim final rule with request for comments and a notice inviting applications for 5 additional rural empowerment zone designations as authorized by title IX of the Taxpayer Relief Act of 1997 (Pub. L. 105–34,

approved August 5, 1997) (Round II). These Round II empowerment zones were designated on December 24, 1998.

These 5 new rural empowerment zones were in addition to the 3 rural empowerment zones and 30 enterprise communities designated on December 21, 1994 by the Secretary of Agriculture pursuant to Title XIII of the Omnibus Budget Reconciliation Act of 1993 (Round I).

On December 21, 2000, the Community Renewal Tax Relief Act was signed into law (Pub. L. 106–554), authorizing the designation of two more rural empowerment zones (Round III), bringing the total authorized rural empowerment zones to ten. The eligibility criteria for Round III are exactly the same as for Round II empowerment zones.

The legislation which authorized Round I empowerment zones also authorized 30 rural enterprise communities. On October 21, 1998, the Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act, 1999 was signed into law, authorizing an additional 20 rural enterprise communities (Round IIS), bringing the total authorized to 50.

The proposed rule pertaining to Round IIS also amended 7 CFR part 25 in other ways that affected all rural empowerment zones and rural enterprise communities. Most notably it implemented a newly authorized direct grant program for Round II and IIS designees. It also amended the ongoing reporting and administrative requirements for all designated communities.

The Community Renewal Tax Relief Act of 2000 authorizing Round III was signed into law subsequent to publication of the proposed rule. It increased the number of designations the Secretary of Agriculture may make, it extends designation periods and increases certain tax code benefits which attach to the designations. It expressly provides that the eligibility requirements for Round III empowerment zones are to be the same as for Round II, with no change.

In addition to the changes for which comments were invited in the published proposed rule, this Final Rule conforms 7 CFR part 25 to reflect the provisions of the Community Renewal Tax Relief Act of 2000. These conforming changes are technical in nature such the Secretary has determined it appropriate that they be incorporated in this final rulemaking without subjecting them to the notice and comment process.

Discussion of Comments

Eleven comments were received in response to the published proposed rulemaking. Ten were from representatives of empowerment zones or enterprise communities (EZ/ECs); one was from a Rural Development State Director. Of the ten, five were from the same community and the other five represented different communities.

Ten of the eleven comments received were opposed to the proposed requirement that not less than 55% of the membership of the board of directors of the lead entity be determined by broad-based election. One respondent raised concerns about the requirements associated with the National Environmental Protection Act (NEPA). One respondent requested that EZ/EC program funds be considered eligible match funding for other federal programs. The use of EZ/EC funds as matching funds for other federal programs is currently prohibited. See 7 CFR 3019.23(a)(5) and OMB Circular A–110 issued by the Office of Management and Budget.

Objections to the board composition requirement were varied. One respondent argued that USDA's approval of the strategic plan at the time of designation included the proposed corporate organization of the lead entity, this approval was incorporated into the Memorandum of Agreement, and this agreement cannot be changed absent mutual consent.

Another respondent expressed concern that imposing a 55% elected board is excessive control on the part of USDA and counter to the empowerment principle that community-based decisions should be supported. One specifically argued that the boards should be comprised of ''movers and shakers'' rather than run by committee. Yet another stated that elections are not necessary because representative boards are being appointed now.

The regulatory amendment requiring 55% elected representation on the board of the lead entity was developed as a direct result of program reviews done for the first round of designated communities. In several of the most needy communities, the board members did not reflect the racial or economic diversity present in the community. Their decisions often did not reflect the principles of the EZ/EC program, or the best interest of the low-income residents. Rather, funding decisions and community management had reverted to traditional, less representative, power structures.

Designations are granted contingent upon final USDA approval of the applicant's strategic plan and the signing of a Memorandum of Agreement (MOA). The MOA documents the relationship and respective responsibilities of USDA and the designated community. It is not contractually binding and so states in the text of the document.

Public support for the policies of the lead entity is critical for the success of the strategic plan. USDA recognizes that appointed boards might be necessary in the start-up phase of an EZ/EC, but has learned from experience that it is possible to conduct board elections at the required public meetings at little or no additional cost to the community. Some appointments may yet be necessary to address special needs representation, such as youth or low-income representation, or to enjoy the benefit of legal, engineering, or other specific expertise on the board. USDA has observed that ''movers and shakers'' are capable of being elected to the board of lead entities.

Two respondents cited election-related problems that are specific to tribal entities. One questioned USDA's authority to override decisions made by tribal governments to appoint boards. In the case of areas covering a group of distinct tribes, with separate governance structures, disbursed populations, historical animosities and uneven minority distribution within the populace, achieving a representative board is possible through appointments, but less likely via elections.

USDA acknowledges the tribal governance issues, and has incorporated an exception for tribal entities if there is compelling evidence that the objectives intended by the election requirement cannot be realized except through an appointment process.

One respondent requested requirements for environmental assessments or environmental impact statements be waived for some projects, citing redundant environmental requirements imposed by state and other Federal partners. It was suggested that USDA accept the determinations made pursuant to environmental reviews conducted by others for purposes of EZ/EC program requirements.

USDA cannot waive the requirements of NEPA. The EZ/EC program has three options as far as NEPA is concerned. USDA could prepare yet another stand alone environmental regulation specific to the EZ/EC program, or use one of the two environmental regulations in effect within the Rural Development mission area at USDA. The final rule adopts the environmental review processes in effect for the Rural Utilities Service

(RUS) at 7 CFR part 1794. The environmental regulation that applies to other Rural Development agencies is referred to only for purposes of determining what level of environmental review is required for a given project. Once that threshold is determined, the notice and other provisions for environmental assessments, environmental impact statements, etc., contained in the RUS regulation are to be followed. The RUS regulation was chosen because it affords the greatest flexibility in implementing NEPA—most specifically with respect to whom can prepare the review document.

As is the case with most federal environmental regulations implementing NEPA, an agency head can adopt as its own a determination made by another federal agency, provided the review has met federal requirements. NEPA expressly contemplates that where multiple federal agencies are involved, efforts are to be made to avoid redundancy and determine a ''lead agency''. Unless expressly authorized by law, NEPA requires an agency head to evaluate the environmental consequences of the federal action taken by that agency. It has happened that a non-federal entity was authorized by law to make federal NEPA determinations, but it is not so authorized for the EZ/EC program.

List of Subjects in 7 CFR Part 25

Community development, Economic development, Empowerment zones, Enterprise communities, Housing, Indians, Intergovernmental relations, Reporting and recordkeeping requirements, Rural development.

In accordance with the reasons set out in the preamble, 7 CFR part 25 is amended as follows:

PART 25—RURAL EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES

1. The authority citation for part 25 is revised to read as follows:

Authority: 5 U.S.C. 301; 26 U.S.C. 1391; Sec. 766, Pub. L. 105–277, 112 Stat. 2681; Pub. L. 106–554 [Title I of H.R. 5562], 114 Stat. 2763.

Subpart A—General Provision

§ 25.1 [Amended]

2. Amend § 25.1 by revising paragraph (a) to read as follows:

§ 25.1 Applicability and scope.

(a) Applicability. This part contains policies and procedures applicable to rural empowerment zones and enterprise communities, authorized under the Omnibus Budget Reconciliation Act of 1993, title XIII, subchapter C, part I (Round I), the Taxpayer Relief Act of 1997, title IX, subtitle F (Round II), the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (Public Law 105–277) (Round IIS), and the Community Renewal Tax Relief Act of 2000 (Public Law 106–554) (Round III).

* * * * *

§ 25.3 [Amended]

3. Amend § 25.3 by revising the definitions of ''brownfield'' (and placing it in correct alphabetical order), ''designation'', ''designation date'' and by adding in alphabetical order definitions for ''designation period'', ''funding official'', ''Office of Community Development'', ''Round IIS'', ''Round III'', ''state director'' and ''USDA EZ/EC grant program'' to read as follows:

§ 25.3 Definitions.

* * * * *

Brownfield means a ''qualified contaminated site'' meeting the requirements of section 941 of the Taxpayer Relief Act of 1997, (26 U.S.C. 198(c)), where the site is located in an empowerment zone or enterprise community.

* * * * *

Designation means the process by which the Secretary designates rural areas as empowerment zones or enterprise communities pursuant to eligibility criteria established by subchapter U of the Internal Revenue Code (26 U.S.C. 1391 *et seq.*).

Designation date means December 21, 1994, in the case of Round I designations, and December 24, 1998, in the case of Round II and Round IIS designations.

Designation period means, in the case of empowerment zones, the lesser of such time as has elapsed from the designation date to December 31, 2009 or from the designation date to the effective date of an applicable notice of revocation pursuant to 7 CFR 25.405(e) and, in the case of enterprise communities, the lesser of ten years or such time as has elapsed from the designation date to the effective date of an applicable notice of revocation pursuant to 7 CFR 25.405(e).

* * * * *

Funding official means the state director in the state where the designated rural area is located, or if the designated rural area is located in more than one state, the state where the headquarters office of the lead managing entity is located.

* * * * *

Office of Community Development or *OCD* means the office of the Deputy Administrator, Community Development, as identified in 7 CFR 2003.26(b)(4).

* * * * *

Round IIS identifies designations of rural enterprise communities pursuant to section 766 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (Public Law 105–277).

Round III identifies designations of empowerment zones pursuant to section 111 of the Community Renewal Tax Relief Act of 2000 (Public Law 106–554).

* * * * *

State director means the state director for the Rural Development mission area within USDA, as identified in 7 CFR 2003.10.

* * * * *

USDA EZ/EC grant program means the grant program authorized by section 766 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (Public Law 105–277).

§ 25.4 [Amended]

4. Amend § 25.4 by revising paragraphs (a) and (b)(2) and adding paragraphs (b)(3), (b)(4) and (b)(5) to read as follows:

§ 25.4 Secretarial review and designation.

(a) *Designation.* The Secretary will review applications for the designation of nominated rural areas to determine the effectiveness of the strategic plans submitted by applicants; such designations of rural empowerment zones and enterprise communities as are made shall be from the applications submitted in response to the notice inviting applications or other applicable notice published in the **Federal Register**. The Secretary may elect to designate as champion communities those nominated areas which are not designated as either a rural empowerment zone or enterprise community and whose applications meet the criteria contained in § 25.301.

(b) * * *

(2) *Round II.* The Secretary may, prior to January 1, 1999, designate up to five rural empowerment zones in addition to those designated in Round I.

(3) *Round IIS.* The Secretary may designate up to 20 rural enterprise communities in addition to those designated in Round I.

(4) *Round III.* The Secretary may, prior to January 1, 2002, designate up to two rural empowerment zones in addition to those designated in Round I and Round II.

(5) *Champion communities.* The number of champion communities is limited to the number of applicants which are not designated empowerment zones or enterprise communities.

* * * * *

Subpart B—Area Requirements

§ 25.103 [Amended]

5. Amend § 25.103 by revising the introductory text of paragraphs (b)(2) and (b)(3) to read as follows:

§ 25.103 Area size and boundary requirements.

* * * * *

(b) * * *

(2) For purposes of applying paragraph (a)(1) of this section to Round II, Round IIS and Round III designations: * * *

(3) For purposes of applying paragraph (a)(2) of this section to Round II, Round IIS and Round III designations, the following shall not be treated as violating the continuous boundary requirement nor the limit on the number of noncontiguous parcels:

* * * * *

§ 25.104 [Amended]

6. Amend § 25.104 as follows:

a. Amend the heading of paragraphs (a)(2) and (b)(2) by adding ‘‘, Round IIS and Round III’’.

b. Revise the introductory text of paragraphs (a), (b) and (c), and revise paragraph (c)(2) to read as follows:

§ 25.104 Poverty rate.

(a) *General.* Eligibility of an area on the basis of poverty shall be established in accordance with the following poverty rate criteria specific to Round I, Round II, Round IIS and Round III nominated areas:

* * * * *

(a) *Special rules.* The following special rules apply to the determination of poverty rate for Round I, Round II, Round IIS and Round III nominated areas:

* * * * *

(c) *General rules.* The following general rules apply to the determination of poverty rate for Round I, Round II, Round IIS and Round III nominated areas.

* * * * *

(2) *Noncontiguous parcels.* Each such parcel (excluding, in the case of Round II, Round IIS and Round III, up to three noncontiguous developable sites not exceeding 2,000 acres in the aggregate) must separately meet the poverty criteria contained in this section.

* * * * *

Subpart C—Nomination Procedure

§ 25.202 [Amended]

7. Amend § 25.202 by revising paragraph (b)(7) to read as follows:

§ 25.202 Strategic plan.

* * * * *

(b) * * *

(7) Include such other information as required by USDA in the notice inviting applications or other applicable notice.

* * * * *

§ 25.203 [Amended]

8. Revise § 25.203 to read as follows:

§ 25.203 Submission of applications.

General. A separate application for designation as an empowerment zone or enterprise community must be submitted for each rural area for which such designation is requested. The application shall be submitted in a form to be prescribed by USDA in the notice inviting applications or other applicable notice as published in the **Federal Register** and must contain complete and accurate information.

Subpart D—Designation Process

§ 25.300 [Amended]

9. Amend § 25.300 by revising paragraphs (a) and (b) to read as follows:

§ 25.300 USDA action and review of nominations for designation.

(a) *Establishment of submission procedures.* USDA will establish a time period and procedure for the submission of applications for designation as empowerment zones or enterprise communities, including submission deadlines and addresses, in a notice inviting applications or other applicable notice, to be published in the **Federal Register**.

(b) *Acceptance for processing.* USDA will accept for processing those applications as empowerment zones and enterprise communities which USDA determines have met the criteria required under this part. USDA will notify the states and local governments whether or not the nomination has been accepted for processing. The application must be received by USDA on or before the close of business on the date established by the notice inviting applications or other applicable notice published in the **Federal Register**. The applications must be complete, inclusive of the strategic plan, as required by § 25.202, and the certifications and written assurances required by § 25.200(b).

* * * * *

Subpart E—Post-Designation Requirements

§ 25.404 [Amended]

10. Amend § 25.404 as follows:

a. Redesignate paragraph (a) as (c) and paragraph (b) as (d).

b. Add new paragraphs (a) and (b) to read as follows:

§ 25.404 Validation of designation.

(a) *Maintaining the principles of the program.* The empowerment zone, enterprise community or champion community (the designated community) must maintain a process for ensuring ongoing broad-based participation by community residents consistent with the approved application and planning process outlined in the strategic plan.

(1) *Continuous improvement.* The designated community must maintain a process for evaluating and learning from its experiences. It must detail the methods by which the community will assess its own performance in implementing its benchmarks, the process it will use for reviewing goals and benchmarks and revising its strategic plan.

(2) *Participation.* The designated community must develop as part of its strategic plan a written plan for assuring continuous broad-based community participation in the implementation of the strategic plan and the means by which the strategic plan is implemented, including board membership in the lead entity and other key partnership entities.

(b) *Administration of the strategic plan.* The strategic plan must be administered in a manner consistent with the principles of the program contained in § 25.202(a).

(1) *Lead entity.* The lead entity must have legal status and authority to receive and administer funds pursuant to Federal, state and other government or nonprofit programs.

(2) *Capacity.* The lead entity must have the capacity to implement the strategic plan, as demonstrated by audited financial statements as of the most recent fiscal year or other documentation that may be requested by USDA.

(3) *Board membership.* The membership of the board must be representative of the entire socio-economic spectrum in the designated community including business, social service agencies, health and education entities, low income and minority residents. Board membership may be

determined by either broad-based election or by appointment to meet this diversity requirement; however, not more than 45 percent of board members may be selected by appointment. Elections of community residents to the board may be done by any locally acceptable process; however, at least one board member from each of the designated community's census tracts must be elected and representative of the low income residents in their census tract. The Deputy Administrator, Office of Community Development, may waive the 45 percent maximum appointment limit only for Tribal Governmental Organizations where the Deputy Administrator determines, in writing, that a more representative board would be obtained through the appointment process.

(4) *Partnerships.* The relationship between the designated community's lead entity board and local governments and other major regional and community organizations operating in the same geographic area is critical to the community's success in implementing its strategic plan. Every effort should be made to identify and maintain relationships with local partners. Documentation including, but not limited to, minutes of meetings, benchmark activity reports and annual reports of the lead entity must reflect the contributions of local partnership entities.

(5) *Public information.* The designated community must have written procedures in place describing the means by which citizens of the community and partnership organizations will be kept informed of the community's activities and progress in implementing the strategic plan, consistent with the principal objective of community based partnerships pursuant to § 25.202(a)(2). These procedures must be kept current and compliance with them documented on an ongoing basis.

* * * * *

11. Subpart G of part 25, consisting of §§ 25.600 through 25.999 is added to read as follows:

Subpart G—Round II and Round IIS Grants

Sec.

25.600 Purpose.
25.601 Delegation of authority.
25.602 Eligible recipients.
25.603 Grant approval and obligation of funds.
25.604 Disbursement of grant funds.
25.605 Grant program reporting requirements.
25.606 Financial management and records.
25.607 Suspension or termination of grant funds.
25.608–25.619 [Reserved]
25.620 Eligible grant purposes.
25.621 Ineligible grant purposes.
25.622 Other considerations.
25.623 Programmatic changes.
25.624–25.999 [Reserved]

§ 25.600 Purpose.

This subpart outlines USDA policies and authorizations and contains procedures for the USDA EZ/EC grant program.

§ 25.601 Delegation of authority.

(a) *Program administration.* The Deputy Administrator, Office of Community Development, shall be responsible for the overall development of policy and administration of the USDA EZ/EC grant program.

(b) *Funding official.* Unless otherwise provided, the state director is responsible for implementing the authorities in this subpart, consistent with the guidance issued by the Office of Community Development. Except for grant approval and environmental determination authorities, state directors may re-delegate their duties to qualified staff members.

(c) *Environmental review determinations.* The funding official is responsible for making environmental review determinations.

(d) *Authority to issue regulations.* The Under Secretary, Rural Development, may promulgate regulations under this part.

§ 25.602 Eligible recipients.

(a) *General.* The grants made under this subpart shall be made to the lead managing entities on behalf of the Round II rural empowerment zones and Round IIS rural enterprise communities, respectively, in accordance with an approved strategic plan. Such grants shall be available to successor entities approved in writing by USDA.

(b) *Exception.* The funding official, with the approval of the Office of Community Development, may elect to award all or part of the available grant funds to an alternate grantee.

(c) *Subrecipients.* The grantee shall relay funds to subrecipients, as provided in the approved strategic plan, as soon as practicable.

§ 25.603 Grant approval and obligation of funds.

Grants may be made at such time as the nominated area has been designated and such other prerequisites as USDA shall determine have been met, including but not limited to:

(a) The empowerment zone or enterprise community has entered into a memorandum of agreement satisfactory to USDA;

(b) The empowerment zone or enterprise community has conformed its strategic plan to be consistent with the level of federal grant aid available and such conforming amendments (if any) have met with the approval of the Office of Community Development and the funding official;

(c) Completion of the environmental review process, including all appropriate public notices;

(d) The proposed grantee has agreed, in form and substance satisfactory to the Office of Community Development, to any funding conditions imposed by USDA;

(e) The grantee has submitted a request for obligation of funds, in form and substance satisfactory to the Office of Community Development, inclusive of the following certification:

> ''The grantee certifies that it and all direct or substantial subrecipients are in compliance and will continue to comply with all applicable laws, regulations, executive orders and other generally applicable requirements, including those contained in 7 CFR parts 25, 3015, 3016, 3017, 3018, 3019 and 3052 and any agreement to meet funding conditions, in effect at the time of the grant or as subsequently amended.''

§ 25.604 Disbursement of grant funds.

(a) The funding official will determine, based on 7 CFR parts 3015, 3016 and 3019, as applicable, whether disbursement of a grant will be by advance or reimbursement.

(b) A ''request for advance or reimbursement,'' in form and substance satisfactory to USDA, must be completed by the grantee on behalf of itself and all applicable subrecipients and submitted to the funding official.

(c) Requests for advance or reimbursement must identify:

(1) The amount requested for each benchmark activity;

(2) The cumulative amount advanced to date (not inclusive of the current amount requested) for each benchmark activity;

(3) The total USDA EZ/EC grant obligated for each benchmark activity;

(4) The total approved budget for the applicable project or program (inclusive of non USDA EZ/EC grant program sources);

(5) An estimated percentage of completion or progress made in accomplishing the benchmark goal associated with each benchmark activity;

(6) Certification that the lead managing entity and the subrecipients (where applicable) are in compliance

with all applicable laws and regulatory requirements; and

(7) Such other information as the funding official may require.

(d) Requests for advance or reimbursement may include only activities or projects which are identified in an approved strategic plan.

§ 25.605 Grant program reporting requirements.

Grantees may incorporate grant reporting requirements in the reports submitted pursuant to § 25.400, or submit them separately. In complying with the requirements of 7 CFR parts 3015, 3016, or 3019, as applicable, grantees must submit, in lieu of the forms prescribed therein, the equivalent of such forms prescribed by the Office of Community Development pursuant to this subpart as such may be adapted to the USDA EZ/EC grant program and which may be submitted and retained in electronic form.

§ 25.606 Financial management and records.

(a) In complying with the requirements of 7 CFR parts 3015, 3016, or 3019, as applicable, grantees must submit, in lieu of the forms prescribed therein, the equivalent of such forms prescribed by the Office of Community Development pursuant to this subpart as such may be adapted to the USDA EZ/EC grant program and which may be submitted and retained in electronic form.

(b) Grantees must retain financial records, supporting documents, statistical records and all other records pertinent to the grant for a period of at least 3 years after the end of the designation period, except that the records shall be retained beyond the 3 year period if audit findings have not been resolved or if directed by the United States. Records may be retained and submitted in electronic form if allowed by Generally Accepted Government Accounting Principles.

§ 25.607 Suspension or termination of grant funds.

(a) Grants under this subpart may be suspended or terminated by the funding official, in all or in part, in accordance with this subpart and the applicable provisions of 7 CFR parts 3015, 3016 and 3019, as applicable.

(b) The funding official may elect to suspend or terminate the entirety of a grant, or funding of a particular benchmark activity, but nevertheless fund the remainder of a request for advance or reimbursement, where the funding official has determined:

(1) That grantee or subrecipient of the grant funds has demonstrated insufficient progress toward achieving the related benchmark goal or in any other way failed to comply with the strategic plan;

(2) There is reason to believe that other sources of joint funding have not been or will not be forthcoming on a timely basis;

(3) The strategic plan calls for a revised use of the grant funds; or

(4) Such other cause as the funding official identifies in writing to the grantee (including but not limited to the use of federal grant funds for ineligible purposes).

§§ 25.608–25.619 [Reserved]

§ 25.620 Eligible grant purposes.

Eligible grant purposes are:

(a) Services directed at the goals of—

(1) Achieving or maintaining economic self-support to prevent, reduce, or eliminate dependency;

(2) Achieving or maintaining self sufficiency, including reduction or prevention of dependency;

(3) Preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests, or preserving, rehabilitating or reuniting families;

(b) Projects and activities identified in the strategic plan for the area; and

(c) Activities that benefit residents of the area for which the grant is made.

§ 25.621 Ineligible grant purposes.

Grant funds may not be used:

(a) As a source of local matching funds required for other federal grants;

(b) To fund political activities;

(c) To duplicate current services or replace or substitute for financial support provided from other sources. If the current service is inadequate, however, grant funds may be used to augment financial support or service levels beyond what is currently provided;

(d) To pay costs of preparing the application package for designation under this program;

(e) To pay costs of a project which were incurred prior to the execution date of the applicable memorandum of agreement;

(f) To pay for assistance to any private business enterprise which does not have at least 51 percent ownership by those who are either citizens of the United States or reside in the United States after being legally admitted for permanent residence;

(g) To pay any judgment or debt owed to the United States;

(h) To assist in the relocation of businesses;

(i) To support or promote gambling; or

(j) For political lobbying.

§ 25.622 Other considerations.

(a) *Civil rights compliance requirements.* All grants made under this subpart are subject to Title VI of the Civil Rights Act of 1964 and 7 CFR part 1901, subpart E.

(b) *Environmental review.* All grants made under this subpart are subject to the environmental requirements in effect for the water and environmental programs of the Rural Utilities Service at 7 CFR part 1794. The threshold levels of environmental review, for projects funded by the USDA EZ/EC grant program (or EZ/EC SSBG funds where the Secretary is authorized to execute the responsibilities under the National Environmental Policy Act of 1969), which projects, by their nature, would qualify for assistance under any program administered by the Rural Housing Service or Rural Business Service within USDA, shall be determined in accordance with 7 CFR part 1940, subpart G as follows:

(1) Projects meeting the descriptions found at 7 CFR 1940.310(b), (c), (d) and (e) shall be considered categorically excluded (without an environmental report) for purposes of 7 CFR 1794.21.

(2) Projects meeting the descriptions found at 7 CFR 1940.311 shall be considered categorically excluded (with an environmental report) for purposes of 7 CFR 1794.22.

(3) Projects meeting the description found at 7 CFR 1940.312 shall require the preparation of an environmental assessment (EA) for purposes of 7 CFR 1794.23.

(4) Projects which would normally require the preparation of an environmental impact statement (EIS) for purposes of 7 CFR 1940.313 shall require an EIS for purposes of 7 CFR 1794.25.

(c) *Other USDA regulations.* This program is subject to the provisions of the following regulations, as applicable:

(1) 7 CFR part 3015, ''Uniform Federal Assistance Regulations'';

(2) 7 CFR part 3016, ''Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments'';

(3) 7 CFR part 3017, ''Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)'';

(4) 7 CFR part 3018, ''New Restrictions on Lobbying'';

(5) 7 CFR part 3019, ''Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations; and

(6) 7 CFR part 3052, ''Audits of States, Local Governments, and Non-Profit Organizations.''

§ 25.623 Programmatic changes.

Prior approval from USDA is required for all changes to the scope or objectives of an approved strategic plan or benchmark activity. Failure to obtain prior approval of changes to the strategic plan or benchmarks, including changes to the scope of work or a project budget may result in suspension, termination, and recovery of USDA EZ/EC grant funds.

§§ 25.624–25.999 [Reserved]

Dated: March 18, 2002.

Ann M. Veneman,

Secretary.

[FR Doc. 02–7023 Filed 3–22–02; 8:45 am]

BILLING CODE 3410–01–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 01–054–2]

Phytophthora Ramorum; Quarantine and Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and notice of public hearings; correction.

SUMMARY: In an interim rule published in the **Federal Register** and effective on February 14, 2002, we amended the domestic quarantine regulations by quarantining 10 counties in the State of California and a portion of 1 county in the State of Oregon because of the presence of *Phytophthora ramorum* and by regulating the interstate movement of regulated and restricted articles from the quarantined area. The interim rule contained errors in the Supplementary Information section and in the rule portion. This document corrects those errors.

EFFECTIVE DATE: February 14, 2002.

FOR FURTHER INFORMATION CONTACT: Mr. Jonathan Jones, Operations Officer, Invasive Species and Pest Management, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737; (301) 734–8247.

SUPPLEMENTARY INFORMATION: In an interim rule published in the **Federal Register** on February 14, 2002 (67 FR 6827–6837, Docket No. 01–054–1), we amended the domestic quarantine regulations in 7 CFR part 301 by adding a subpart, ''Phytophthora Ramorum'' (§§ 301.92 through 301.92–10, referred to below as the regulations). The regulations quarantine portions of the States of California and Oregon because of *Phytophthora ramorum* and restrict the interstate movement of regulated and restricted articles from quarantined areas.

P. ramorum is a harmful fungus that has been found in several hosts, including manzanita (*Arctostaphylos manzanita*). In the Supplementary Information section and the rule portion of the interim rule, we incorrectly listed all species of *Arctostaphylos* as regulated and restricted articles by identifying manzanita as *Arctostaphylos* spp. Therefore, in order for the regulations to accurately identify this specific host, we are correcting the errors in the rule portion of the interim rule by replacing *Arctostaphylos* spp. with *Arctostaphylos manzanita.*

In FR Doc. 02–3721, published on February 14, 2002 (67 FR 6827–6837), make the following corrections:

PART 301—[CORRECTED]

1. On page 6835, in the first column, in § 301.92–2, in paragraphs (a)(1) and (b)(1), correct ''(*Arctostaphylos spp.*),'' to read ''(*Arctostaphylos manzanita*),''.

2. On page 6837, in the first column, in § 301.92–10, in paragraph (b), correct ''(*Arctostaphylos* spp.),'' to read ''(*Arctostaphylos manzanita*),''.

Done in Washington, DC, this 19th day of March, 2002.

W. Ron DeHaven,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02–7110 Filed 3–22–02; 8:45 am]

BILLING CODE 3410–34–U

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 989

[Docket No. FV02–989–3 FIR]

Raisins Produced From Grapes Grown in California; Extension of Redemption Date for Unsold 2001 Diversion Certificates

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim final rule that extended the deadline for raisin handlers to redeem diversion certificates issued under the 2001 raisin diversion program (RDP). The deadline is specified under the Federal marketing order for California raisins (order). The order regulates the handling of raisins produced from grapes grown in California and is administered locally by the Raisin Administrative Committee (RAC). This action gave producers additional time to sell their certificates to handlers and thus be compensated for diverting their 2001 production, which is the intent of the RDP.

EFFECTIVE DATE: Effective April 24, 2002.

FOR FURTHER INFORMATION CONTACT: Maureen T. Pello, Senior Marketing Specialist, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (559) 487–5901, Fax: (559) 487–5906; 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) 720–5698.

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) 720–5698, or E-mail: *Jay.Guerber@usda.gov.*

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 989 (7 CFR part 989), both as amended, regulating the handling of raisins produced from grapes grown in California, 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 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 continues in effect an interim final rule that extended the deadline for handlers to redeem diversion certificates issued under the 2001 RDP for Natural (sun-dried) Seedless (NS) raisins. The deadline was extended from December 17, 2001, to January 18, 2002, and applied only to certificates unsold by producers to handlers as of December 18, 2001. 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. Such 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 continues in effect an interim final rule that extended the deadline for handlers to redeem diversion certificates issued under the 2001 NS RDP. The deadline was extended from December 17, 2001, to January 18, 2002, and applied only to certificates unsold by producers as of December 18, 2001. This action gave producers additional time to sell their certificates to handlers and thus be compensated for diverting their 2001 production, which is the intent of the RDP. This action was recommended by the RAC at a meeting on December 11, 2001, by a near unanimous vote of 36 in favor, 2 opposed (believed the RAC should adhere to the current deadline), and 1 abstained. All certificates were redeemed by January 18, 2002.

Volume Regulation Provisions

The order provides authority for volume regulation designed to promote orderly marketing conditions, stabilize prices and supplies, and improve producer returns. When volume regulation is in effect, a certain percentage of the California raisin crop may be sold by handlers to any market (free tonnage) while the remaining percentage must be held by handlers in a reserve pool (reserve) for the account of the RAC. Reserve raisins are disposed of through various programs authorized under the order. For example, reserve raisins may be sold by the RAC to handlers for free use or to replace part of the free tonnage they exported; carried over as a hedge against a short crop the following year; or may be disposed of in other outlets not competitive with those for free tonnage raisins, such as government purchase, distilleries, or animal feed. Net proceeds from sales of reserve raisins are ultimately distributed to producers.

Raisin Diversion Program

The RDP is another program concerning reserve raisins authorized under the order and may be used as a means for controlling overproduction. Authority for the program is provided in § 989.56 of the order. Paragraph (e) of that section provides authority for the RAC to establish, with the approval of USDA, such rules and regulations as may be necessary for the implementation and operation of an RDP. Accordingly, additional procedures and deadlines are specified in § 989.156.

Pursuant to these sections, the RAC must meet by November 30 each crop year to review raisin data, including information on production, supplies, market demand, and inventories. If the RAC determines that the available supply of raisins, including those in the reserve pool, exceeds projected market needs, it can decide to implement a diversion program, and announce the amount of tonnage eligible for diversion during the subsequent crop year. Producers who wish to participate in the RDP must submit an application to the RAC prior to December 20. The RAC conducts a lottery if the tonnage applied far exceeds what has been allotted. RAC staff then notifies producers whether they have been accepted into the program.

Approved producers curtail their production by vine removal or some other means established by the RAC. Such producers receive a certificate the following fall from the RAC which represents the quantity of raisins diverted. Producers sell these certificates to handlers who pay producers for the free tonnage applicable to the diversion certificate minus the established harvest cost for the diverted tonnage. Handlers redeem the certificates by presenting them to the RAC by December 15 (Monday, December 17, 2001, for the 2001 RDP since December 15 fell on a Saturday) and paying an amount equal to the established harvest cost plus payment for receiving, storing, fumigating, handling, and inspecting the tonnage represented on the certificate. The RAC then gives the handler raisins from the prior year's reserve pool in an amount equal to the tonnage represented on the diversion certificate. The new crop year's volume regulation percentages are applied to the diversion tonnage acquired by the handler (as if the handler had bought raisins directly from a producer).

2001 NS Diversion Program

The 2000–01 California NS raisin crop was the largest on record with final deliveries of raisins from producers to handlers totaling 432,616 tons. This compares to the 10-year average of 344,303 tons. With this large crop, 203,330 tons of NS raisins were set aside in a reserve pool. Of that reserve tonnage, 89,076 tons were ultimately allocated to a diversion program. As of December 1, 2001, 70,529 tons of diversion certificates had been acquired by handlers. It was reported at the December 11, 2001, RAC meeting, by RAC staff that the status of about 2,000 tons of 2001 diversion certificates was unknown.

RAC Recommendation

The RAC met on December 11, 2001, and addressed a concern expressed by some producers with the 2001 RDP. Some producers were having trouble selling their 2001 diversion certificates to handlers. There was concern that some certificates may remain unsold and unredeemed by the December 15 deadline (or Monday, December 17, 2001, for the 2001 RDP since December 15 fell on a Saturday). Several reasons were mentioned as to why this was occurring. The California raisin industry as a whole is experiencing a severe economic downturn. Two short crops in 1998 and 1999 along with other factors caused producer prices to drop drastically for the 2000 crop, marking the first time in about 13 years that prices had fallen. The value of handler inventories has likewise fallen which has contributed to handler difficulties in securing financing to purchase diversion certificates from producers. In addition, some handlers do not need any more raisins to meet their market needs. In some instances, producers tried to negotiate a premium price for their certificates with handlers.

After deliberating various options (discussed in the following section of this rule regarding the Regulatory Flexibility Analysis), the RAC recommended extending the deadline for handlers to redeem 2001 diversion certificates from December 17, 2001, to January 18, 2002. The extension applied only to 2001 certificates unsold by producers as of December 18, 2001. Producers still holding certificates had to have the certificates verified and stamped appropriately by the RAC by December 21, 2001, to indicate that such certificates were valid until January 18, 2002. Handlers could then purchase these certificates from producers and redeem them for 2000–01 crop reserve raisins following prescribed procedures

in § 989.156(k). This action gave producers still holding certificates additional time to sell their certificates to handlers, and gave handlers additional time to secure financing to purchase the certificates from producers and redeem them with the RAC. All certificates were redeemed by January 18, 2002. Thus, producers will be compensated for diverting their 2001 production, which is the intent of the RDP. Section 989.156(k) was changed accordingly for the 2001 RDP only.

Final 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 final 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 20 handlers of California raisins who are subject to regulation under the order and approximately 4,500 raisin producers in the regulated area. Small agricultural firms are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less that $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $750,000. Thirteen of the 20 handlers subject to regulation have annual sales estimated to be at least $5,000,000, and the remaining 7 handlers have sales less than $5,000,000. No more than 7 handlers, and a majority of producers, of California raisins may be classified as small entities.

This rule continues to revise §§ 989.156(k) of the order's rules and regulations regarding the RDP. Under an RDP, producers receive certificates from the RAC for curtailing their production to reduce burdensome supplies. The certificates represent diverted tonnage. Producers sell the certificates to handlers who, in turn, redeem the certificates with the RAC for raisins from the prior year's reserve pool. This rule continues in effect an interim final rule that extended the deadline for handlers to redeem 2001 diversion certificates with the RAC from December 17, 2001, to January 18, 2002, and applied only to certificates unsold by producers to handlers as of December 18, 2001. All certificates were redeemed by January 18, 2002. Authority for this action is provided in § 989.56(e) of the order.

Regarding the impact of this action on affected entities, producers who curtailed 2001 production and had trouble selling their diversion certificates to handlers had additional time to sell their certificates to handlers. Handlers pay producers for the free tonnage applicable to the diversion certificate minus the established harvest cost for the diverted tonnage. For the 2001 RDP, the industry average free tonnage price applied to diversion certificates was $854 per ton, and applicable harvest costs as established by the RAC were $340 per ton. Preliminary volume regulation percentages for the 2001–02 crop were announced by the RAC at 56 percent free and 44 percent reserve. Thus, using these figures, if a producer was issued a certificate for 100 tons of raisins, he/she would be paid $138.24 per ton by the handler, or a total of $13,824 (($854 per ton × 100 tons × .56) minus (100 tons × $340 per ton harvest cost)). Extending the deadline gave producers additional time to sell their certificates and earn some income for not producing a 2001 crop.

Regarding the impact of this action on handlers, handlers experiencing financial difficulty had additional time to arrange for financing through likely extending lines of credit with financial institutions. Handlers pay producers for the free tonnage applicable to the diversion certificate minus the $340 per ton harvest cost. Handlers redeem the certificates for 2000–01 crop NS reserve raisins and pay the RAC the $340 per ton harvest cost, plus payment for bins ($20 per ton) and for receiving, storing, fumigating, handling (currently totaling $46 per ton) and inspecting (currently $9.00 per ton) the tonnage represented on the certificate (or a total of $415 per ton). In the above example, the handler would redeem the 100-ton certificate with the RAC, pay the RAC $41,500 ($415 per ton × 100 tons), and receive 44 tons (.44 × 100 tons) of raisins from the 2000–01 reserve pool.

In addition, the $41,500 in the above example paid by the handler to the RAC would be allocated to the 2000–01 reserve pool and be used to pay remaining pool expenses or be distributed to 2000–01 reserve pool equity holders (producers). Thus, all such equity holders could potentially benefit from this action.

Several alternatives to the recommended action were considered by the RAC and/or by the RAC's Administrative Issues Subcommittee. It was proposed that the RAC purchase unsold diversion certificates from producers. However, the order currently provides no authority for this. In addition, there are concerns as to how this would impact future raisin diversion programs, in particular, whether the integrity of the RDP could be maintained.

It was also proposed that a late fee be added to handlers' costs for redeeming diversion certificates after December 17, 2001. However, the order provides no authority for such a late charge. Another option considered was to take no action and adhere to the December deadline. Some industry members believe that there is no guarantee that producers can sell their harvested crop each season, and there should likewise be no ''guarantee'' that producers can sell their diversion certificates.

There was also consideration of other extension dates besides January 18, 2002. However, after much deliberation, the majority of RAC members believe that extending the deadline to January 18, 2002, was the best solution to this situation. This date gives the RAC sufficient time before it recommends final volume regulation percentages to ensure that all redeemed diversion certificates are properly reported as 2001 acquisitions by handlers and included in the 2001–02 crop estimate.

This rule imposes no additional reporting or recordkeeping requirements on either small or large raisin handlers. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection requirement referred to in this rule (i.e., the application) has been approved by the Office of Management and Budget (OMB) under OMB Control No. 0581–0178. 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. Finally, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

Further, the RAC's meeting on December 11, 2001, and the RAC's Administrative Issues Subcommittee meeting on December 5, 2001, where this action was deliberated were all public meetings widely publicized throughout the raisin industry. All interested persons were invited to attend the meetings and participate in the industry's deliberations.

An interim final rule concerning this action was published in the **Federal Register** on December 19, 2001 (66 FR

65423). Copies of the rule were mailed by RAC staff to all RAC members and alternates, the Raisin Bargaining Association, handlers and dehydrators. In addition, the rule was made available through the Internet by the Office of the Federal Register and USDA. That rule provided for a 15-day comment period that ended on January 3, 2002. One comment was received.

The commenter opposed extending the redemption deadline, expressing concern with changing the rules to accommodate a few producers while the majority of producers were able to sell their certificates by the December deadline. The commenter, who is also a handler, also expressed concern that the extension would apply to producers who had tried to negotiate a premium price for their diversion certificates. The commenter stated that, in such instances, it released the producers from their sales contract.

Similar concerns regarding producers who tried to negotiate a premium price for their diversion certificates with handlers were raised at the RAC meeting by RAC members as well. However, other reasons were given at the meeting as to why some producers were having trouble selling their certificates. As stated earlier in this rule, the California raisin industry as a whole is experiencing a severe economic downturn. Two short crops in 1998 and 1999 along with other factors caused producer prices to drop drastically for the 2000 crop, marking the first time in about 13 years that prices had fallen. The value of handler inventories has likewise fallen which has contributed to handler difficulties in securing financing to purchase diversion certificates from producers. In addition, some handlers do not need any more raisins to meet their market needs. In light of the unusual circumstances currently facing the California raisin industry, the majority of RAC members favored extending the deadline until January 18, 2002. The intent of the RDP is to divert tonnage and reduce supplies, while providing some compensation to producers. Extending the deadline resulted in redemption of all certificates, thus helping to achieve the program's intent.

The commenter also expressed concern that the RAC's statistical report regarding acquisitions of diversion certificates did not appear to reconcile with the RAC staff's report on the status of all diversion certificates. Such a discrepancy would not adversely affect this rulemaking, but may raise compliance issues.

Accordingly, no changes will be made to the rule, based on the comment received.

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.

After consideration of all relevant material presented, including the information and recommendation submitted by the RAC, the comment received, and other available information, it is hereby found that finalizing this interim final rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 989

Grapes, Marketing agreements, Raisins, Reporting and recordkeeping requirements.

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

Accordingly, the interim final rule amending 7 CFR part 989 which was published at 66 FR 65423 on December 19, 2001, is adopted as a final rule without change.

Dated: March 18, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–7107 Filed 3–22–02; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1219

[FV–01–706 FR Correction]

Hass Avocado Promotion, Research and Information Order; Referendum Procedures; Correction

AGENCY: Agricultural Marketing Service, Agriculture.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule that was published on February 19, 2002 [67 FR 7261] by publishing the correct Harmonized Tariff Schedule number for Hass avocados used to determine importer eligibility to vote in the referendum. The rule established referendum procedures to be used in connection with the Hass Avocado Promotion, Research, and Information Order.

EFFECTIVE DATE: March 25, 2002.

FOR FURTHER INFORMATION CONTACT: Julie A. Morin, Research and Promotion Branch, FV, AMS, USDA, Stop 0244, 1400 Independence Avenue, SW., Room 2535 South Building, Washington, DC 20250–0244; telephone (202) 720–9915; facsimile (202) 205–2800; or julie.morin@usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The Department of Agriculture (Department) published a final rule in the **Federal Register** on February 19, 2002 [67 FR 7261], establishing referendum procedures for the referendum on the implementation of the Hass Avocado Promotion, Research, and Information Order [7 CFR Part 1219]. The proposed Order is authorized under the Hass Avocado Promotion, Research, and Information Act of 2000 [7 U.S.C. 7801–7813].

Need for Correction

As published, there was a typographical error in the final rule. In § 1219.101(b) the definition of eligible importer, the Harmonized Tariff Schedule number identifying Hass avocados is incorrect. Accordingly, this correction document contains the correct Hass avocado Harmonized Tariff Schedule number.

Correction

FR Doc. 02–3796, published on February 19, 2002 [67 FR 7261], is corrected as follows:

§ 1219.101 [Corrected]

1. On page 7264, in the second column, in the Definitions for Subpart B—Referendum Procedures, section number § 1219.101(b) is correctly revised to read as follows:

(b) *Eligible importer* means any person who imported Hass avocados that are identified by the number 0804.40.00.10 in the Harmonized Tariff Schedule of the United States for at least one year prior to the referendum. Importation occurs when Hass avocados originating outside of the United States are released from custody by the U.S. Customs Service and introduced into the stream of commerce in the United States. Included are persons who hold title to foreign-produced Hass avocados immediately upon release by the U.S. Customs Service, as well as any persons who act on behalf of others, as agents or brokers, to secure the release of Hass avocados from the U.S. Customs Service when such Hass avocados are entered or

withdrawn for consumption in the United States.

Dated: March 19, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–7105 Filed 3–22–02; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–CE–32–AD; Amendment 39–12683; AD 2002–06–06]

RIN 2120–AA64

Airworthiness Directives; Rockwell Collins, Inc. TDR–94 and TDR–94D Mode S Transponders

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Rockwell Collins TDR–94 and TDR–94D Mode S transponders that derive altitude information from a Gillham (gray code) encoded pressure altitude source and are installed on airplanes. This AD requires you to have the unit modified to prevent erroneous altitude reporting. This AD is the result of reports that erroneous altitude resolutions could occur when the affected transponders are utilized in areas with other airplanes equipped with certain aircraft collision avoidance system (ACAS) or traffic alert and collision avoidance system (TCAS) configurations. The actions specified by this AD are intended to prevent these erroneous altitude resolutions from causing a reduction in the intended ACAS or TCAS Change 7 separation margins. Such a condition could result in air traffic control or the pilot making flight decisions that put the airplane in unsafe flight conditions.

DATES: This AD becomes effective on May 3, 2002.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of May 3, 2002.

ADDRESSES: You may get the service information referenced in this AD from Rockwell Collins Inc., Business and Regional Systems, 400 Collins Road Northeast, Cedar Rapids, Iowa 52498. You may view this information at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–CE–32–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: Roger A. Souter, FAA, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone: (316) 946–4134; facsimile: (316) 946–4407; e-mail: *roger.souter@faa.gov*.

SUPPLEMENTARY INFORMATION:

Discussion

What Events Have Caused This AD?

The FAA has received information that erroneous altitude resolutions could occur on certain Rockwell Collins TDR–94 and TDR–94D Mode S transponders installed in airplanes with Gillham (gray code) encoded sources. This information indicates that these transponders are utilized in areas with other airplanes equipped with certain aircraft collision avoidance system (ACAS) or traffic alert and collision avoidance system (TCAS) configurations. In these situations, the transponders could receive incorrect TCAS resolution advisories. This could result in a reduction in the intended ACAS or TCAS Change 7 minimum separation margins.

Gillham altitude sources have a 100-foot resolution. The affected transponder will set the altitude resolution status to indicate a 25-foot resolution when connected to a Gillham altitude source. For those units that have digital sources of altitude information, the altitude resolution status is set correctly.

These Rockwell Collins TDR–94 and TDR–94D Mode S transponders could be installed on, but not limited to, the following airplanes:

—Aerospatiale ATR42 series airplanes;
—deHavilland DHC–7 and DHC–8 series airplanes; and
—Short Brothers Models SD3–60 and SD3–60 SHERPA airplanes.

What Is the Potential Impact if FAA Took No Action?

As described above, such erroneous altitude resolutions could cause a reduction in the intended ACAS or TCAS Change 7 separation margins and result in air traffic control or the pilot making flight decisions that put the airplane in unsafe flight conditions.

Has FAA Taken Any Action to This Point?

We issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Rockwell Collins TDR–94 and TDR–94D Mode S transponders that derive altitude information from a Gillham (gray code) encoded pressure altitude source and are installed on airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on November 5, 2001 (66 FR 55898). The NPRM proposed to require you to have the actions of Rockwell Collins Service Bulletin No. 17 (TDR–94/94D–34–17), dated February 8, 1999, incorporated on any affected Mode S transponder that is installed on a type-certificated airplane where Gillham pressure altitude encoding sources are used.

Was the Public Invited To Comment?

The FAA encouraged interested persons to participate in the making of this amendment. The following presents the comments received on the proposal and FAA's response to each comment:

Comment Issue No. 1: Add Revision 1 of Service Bulletin 17 as an Acceptable Method of Compliance

What Is the Commenter's Concern?

A commenter states that Rockwell Collins Service Bulletin No. 17 (TDR–94/94D–34–17), Revision No. 1, dated May 15, 2000, should be included as an acceptable method of compliance. The commenter states that the only change revision 1 makes to the original service bulletin is in the Material Information.

What Is FAA's Response to the Concern?

The FAA concurs that Revision 1 of the service bulletin should be included as an acceptable method of compliance with this AD. We will incorporate this bulletin into the AD.

Comment Issue No. 2: Add Another Service Bulletin as an Acceptable Method of Compliance

What Is the Commenter's Concern?

The commenter states that Rockwell Collins Service Bulletin 20 (TDR–94/94D–34–20), Revision 1, dated May 2, 2001, should also be included as an acceptable method of compliance with this AD. Service Bulletin 20 allows modification of TDR–94 and TDR–94D Mode S Transponders from the –004 or –005 status to the –006 status. Service Bulletin 20 includes all –005 status functionality required in Service Bulletin 17.

What Is FAA's Response to the Concern?

The FAA concurs that Rockwell Collins Service Bulletin 20 (TDR–94/94D–34–20), Revision 1, dated May 2,

2001, should be included as an acceptable method of compliance with this AD. We will incorporate this bulletin into the AD.

FAA's Determination

What Is FAA's Final Determination on This Issue?

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

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

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

Cost Impact

How Many Airplanes Does This AD Impact?

We estimate that 1,400 affected Rockwell Collins TDR–94 and TDR–94D Mode S transponders could be installed on airplanes in the U.S. registry.

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

We estimate the following costs to accomplish the modification:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
3 workhours × $60 per hour = $180	$295	$475	$665,000

The manufacturer will provide warranty credit for parts and labor for work done in accordance with Rockwell Collins Service Bulletin No. 17, dated February 8, 1999, Service Bulletin 17, Revision No. 1, dated May 15, 2000, and to the extent noted in Service Bulletin 20, Revision No. 1, dated May 2, 2001.

Compliance Time of This AD

Why Is the Compliance Time of This AD Presented in Calendar Time Instead of Hours Time-In-Service (TIS)?

The compliance of this AD is presented in calendar time instead of hours TIS because the condition exists regardless of airplane operation. The erroneous altitude indications could occur regardless of the number of times and hours the airplane was operated or the age of the Mode S transponder. For these reasons, 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 in a reasonable time period on all airplanes that have an affected Rockwell Collins TDR–94 and TDR–94D Mode S transponder installed, and where Gillham pressure altitude encoding sources are used.

Regulatory Impact

Does This AD Impact Various Entities?

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

Does This AD Involve a Significant Rule or Regulatory Action?

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2002–06–06 Rockwell Collins, Inc.: Amendment 39–12683; Docket No. 2000–CE–32–AD.

(a) *What airplanes are affected by this AD?* This AD applies to TDR–94 Mode S transponders (Collins part number (CPN) 622–9352–004) and TDR–94D Mode S transponders (CPN 622–9210–004) that derive altitude information from a Gillham (gray code) encoded pressure altitude source and are installed on, but not limited to, the following airplanes that are certificated in any category:

(1) Aerospatiale ATR42 series airplanes;

(2) deHavilland DHC–7 and DHC–8 series airplanes; and

(3) Short Brothers Models SD3–60 and SD3–60 SHERPA airplanes.

(b) *Who must comply with this AD?* Anyone who wishes to operate any airplane with one of the affected TDR–94 or TDR–94D Mode S Transponder units installed must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to prevent erroneous altitude resolutions from causing a reduction in the intended aircraft collision avoidance system (ACAS) or traffic alert and collision avoidance system (TCAS) Change 7 minimum separation margins. Such a condition could result in air traffic control or the pilot making flight decisions that put the airplane in unsafe flight conditions.

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

Actions	Compliance	Procedures
(1) Determine whether the altitude information from any TDR–94 Mode S transponder (CPN 622–9352–004) or TDR–94D Mode S transponder (CPN 622–9120–004) is derived from a digital air data source or a Gillham (gray code) encoded source.	Within the next 3 months after May 3, 2002 (the effective date of this AD).	As specified in Rockwell Collins Service Bulletin No. 17 (TDR–94/94D–34–17), dated February 8, 1999, Service Bulletin 17, Revision No. 1, dated May 15, 2000, or Service Bulletin 20 (TDR–94/94D–34–20), Revision No. 1, dated May 2, 2001. Collins Product Information Letter No. 71, dated January 1999, references Service Bulletin 17, dated February 8, 1999
(2) If the altitude information is derived from a Gillham (gray code) encoded source, have the unit modified to prevent erroneous altitude reporting. The modification encompasses converting the TDR–94 transponder from Collins part number (CPN) 622–9352–004 to CPN 622–9352–005 or converting CPN 622–9352–004/005 to CPN 622–9352–006; and converting the TDR 94D transponder from CPN 622–9210–004 to CPN 622–9210–005 or converting CPN 622–9210–004/005 to CPN 622–9210–006.	At the next transponder check required by 14 CFR 91.413 and occurs 3 months after May 3, 2002 (the effective date of this AD) or within the next 9 months after May 3, 2002 (the effective date of this AD), whichever occurs first.	In accordance with Rockwell Collins Service Bulletin No. 17 (TDR–94/94D–34–17), dated February 8, 1999, Service Bulletin 17, Revision No. 1, dated May 15, 2000, or Service Bulletin 20 (TDR–94/94D–34–20), Revision No. 1, dated May 2, 2001. Collin Product Information Letter No. 71, dated January 1999, references Service Bulletin 17, dated February 8, 1999.
(3) If the altitude information from all affected transponders is derived from a digital air data source, no modification action is required by this AD.	Not applicable	Not applicable.
(4) Do not install any TDR–94 Mode S transponder (CPN 622–9352–004) or TDR–94D Mode S transponder (CPN 622–9210–004) on any airplane if the altitude information is derived from a Gillham (gray code) encoded source, unless the modification required by paragraph (d)(2) of this Ad is incorporated.	As of May 6, 2002 (the effective date of this AD).	Accomplish the modification in accordance with Rockwell Collins Service Bulletin No. 17 (TDR–94/94D–34–17), dated February 8, 1999, Service Bulletin 17, Revision No. 1, dated May 15, 2000, or Service Bulletin 20 (TDR–94/94D–34–20), Revision No. 1, dated May 2, 2001. Collins Product Information Letter No. 71, dated January 1999, references Service Bulletin 17, dated February 8, 1999.

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

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

(f) *Where can I get information about any already-approved alternative methods of compliance?* You can contact Roger A. Souter, FAA, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone: (316) 946–4134; facsimile: (316) 946–4407; e-mail: roger.souter@faa.gov.

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

(h) *Are any service bulletins incorporated into this AD by reference?* Actions required by this AD must be done in accordance with Rockwell Collins Service Bulletin No. 17 (TDR–94/94D–34–17), dated February 8, 1999, Rockwell Collins Service Bulletin Service Bulletin 17 (TDR–94/94D–34–17), Revision No. 1, dated May 15, 2000, or Service Bulletin 20 (TDR–94/94D–34–20), Revision No. 1, dated May 2, 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 Rockwell Collins Inc., Business and Regional Systems, 400 Collins Road Northeast, Cedar Rapids, Iowa 52498. You can look at copies at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

(i) *When does this amendment become effective?* This amendment becomes effective on May 3, 2002.

Issued in Kansas City, Missouri, on March 12, 2002.

Dorenda D. Baker,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–6625 Filed 3–22–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Parts 734, 740, 742, 743, and 774

[Docket No. 020228045–2053–02]

RIN 0694–AC56

Corrections to Rule Entitled: Revisions to License Exception CTP: Implementation of Presidential Announcement of January 2, 2002

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: On March 8, 2002 the Bureau of Export Administration (BXA) published a final rule revising License Exception CTP. This rule corrects errors in instruction 9.

DATES: This rule is effective March 25, 2002.

FOR FURTHER INFORMATION CONTACT: Sharron Cook in the Office of Exporter Services, Bureau of Export Administration, at (202) 482–2440.

SUPPLEMENTARY INFORMATION:

In rule FR Doc. 02–5562 published on March 8, 2002, (67 FR 10608), BXA makes the following corrections.

PART 742—[CORRECTED]

On page 10610, in the third column, under part 742, in instruction 9, revise the phrase ''in paragraph (b)(3)(iv)(A)'' to read ''in paragraph (b)(3)(iv)(A),'' and by revising the phrase ''with a CTP greater than 85,000 MTOPS'' to read ''with a CTP greater than 190,000 MTOPS'' in paragraph (b)(3)(i)(B).

Dated: March 19, 2002.

Eileen M. Albanese,

Director, Office of Exporter Services, Export Administration.

[FR Doc. 02–7111 Filed 3–22–02; 8:45 am]

BILLING CODE 3510–33–M

RAILROAD RETIREMENT BOARD

20 CFR Part 345

RIN 3220–AB52

Employers' Contributions and Contribution Reports

AGENCY: Railroad Retirement Board.

ACTION: Final rule.

SUMMARY: The Railroad Retirement Board (Board) amends its regulations to permit the filing of contribution reports via the Internet. The Government Paperwork Elimination Act provides that Federal agencies are required by October 21, 2003, to provide ''for the option of the electronic maintenance, submission, or disclosure of information, when practicable as a substitute for paper''. The changes will permit the filing of Form DC–1, ''Employer's Quarterly Report of Contributions Under the Railroad Unemployment Insurance Act'' electronically.

DATES: Effective March 25, 2002.

FOR FURTHER INFORMATION CONTACT: Marguerite P. Dadabo, Assistant General Counsel, (312) 751–4945, TTD (312) 751–4701.

SUPPLEMENTARY INFORMATION: The amendments revise sections of part 345 of the Board's regulations (20 CFR part 345) to permit the filing of employer contribution reports via the Internet. The Government Paperwork Elimination Act, Pub. L. 105–277 §§ 1701–1710 (codified as 44 U.S.C. 3504n) provides that Federal agencies are required by October 21, 2003, to provide ''for the option of the electronic maintenance, submission, or disclosure of information, when practicable as a substitute for paper''. The amendments to part 345 will permit the filing of Form DC–1, ''Employer's Quarterly Report of Contributions Under the Railroad Unemployment Insurance Act'' electronically.

The revision of § 345.111 provides that if the DC–1 is filed electronically, no duplicate filing is required. The revision to § 345.113 provides that the DC–1 may be filed electronically through the Board's agent. That section is further amended to provide that if the DC–1 is filed electronically, no further authentication is required. The paper Form DC–1 must be signed. However, with submission of the DC–1 electronically, the Board intends to use a user-ID/PIN/password system for the submission of the form as a substitute for a required signature.

Employers currently use a user-ID/PIN/password system to access RRBLINK and make electronic tax deposits. Form DC–1 is being added to the existing system. The user-ID/PIN/password system was established under a Memorandum of Understanding between Firstar Bank and the U.S. Department of the Treasury. A PIN/password system is used to access the pay.gov site to which the RRBLINK system will eventually migrate. The pay.gov site is operated by the U.S. Department of the Treasury. Such a system also is consistent with the guidance provided by the Department of Justice regarding the use of electronic processes.

The revision to § 345.114 permits the use of an electronic version of the DC–1 that can be accessed from the Board's financial agent. Section 345.115 is revised to provide that the DC–1, if filed electronically, may be filed with the Board's designee.

Section 345.124 is revised to clarify that if an employer wishes to appeal the amount of the contribution, interest, or penalty, the procedure in that section is to be followed. Section 345.307 is revised to clarify that if the employer wishes to protest the contribution rate, the procedure in that section is to be followed. In addition, the title of the person who hears such a protest is revised due to an agency reorganization from the ''Director of Unemployment and Sickness Insurance'' to the ''Director of Assessment and Training''.

The Board published the proposed rule on January 16, 2002 (67 FR 2157), and invited comments by March 18, 2002. No comments were received. Accordingly, the proposed rule is being published as a final rule without change.

The Board, with the concurrence of the Office of Management and Budget, has determined that this is not a significant regulatory action under Executive Order 12866. Therefore, no regulatory analysis is required. The Office of Management and Budget has approved information collections associated with this rule under control number 3220–0012.

List of Subjects in 20 CFR Part 345

Electronic filing, Paperwork elimination, Railroad unemployment insurance, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, the Railroad Retirement Board amends title 20, chapter II, part 345 of the Code of Federal Regulations as follows:

PART 345—EMPLOYERS' CONTRIBUTIONS AND CONTRIBUTION REPORTS

1. The authority citation for part 345 continues to read as follows:

Authority: 45 U.S.C. 362(l).

2. Section 345.111 of subpart B is revised to read as follows:

§ 345.111 Contribution reports.

(a) *General.* (1) Except as provided in paragraph (a)(2) of this section, every employer shall, for each calendar quarter of each year, prepare a contribution report, in duplicate, on Form DC–1. If the Form DC–1 is filed electronically, no duplicate submission is required.

(2) Contribution reports of employers who are required by State law to pay compensation on a weekly basis shall include with respect to such compensation all payroll weeks in which all or the major part of the compensation falls within the period for which the reports are required.

(b) *Compensation to be reported on Form DC–1.* Employers shall enter on the employer's quarterly contribution report, prior to any additions or subtractions, the amount of creditable compensation appearing on payrolls or other disbursement documents for the corresponding quarter as the amount of creditable compensation from which the contribution payable for that quarter is to be computed.

(Approved by the Office of Management and Budget under control number 3220–0012)

3. Section 345.113 of subpart B is revised to read as follows:

§ 345.113 Execution of contribution reports.

(a) Each contribution report on Form DC–1 shall be signed by hand by:

(1) The individual, if the employer is an individual;

(2) The president, vice president, or other duly authorized officer, if the employer is a corporation; or

(3) A responsible and duly authorized member or officer having knowledge of its affairs if the employer is a partnership or other unincorporated organization.

(b) The Form DC–1 may be filed electronically through the Board's authorized agent. If filed electronically, no further authentication is required.

4. Section 345.114 of subpart B is revised to read as follows:

§ 345.114 Prescribed forms for contribution reports.

Each employer's contribution report, together with any prescribed copies and supporting data, shall be filled out in accordance with the instructions and regulations applicable thereto. The prescribed forms may be obtained from or accessed by contacting the Board. An employer will not be excused from making a contribution report for the reason that no form has been furnished to such employer. Application should be made to the Board for the prescribed forms in ample time to have the contribution report prepared, verified, and filed with the Board on or before the due date. Contribution reports that have not been so prepared will not be accepted and shall not be considered filed for purposes of § 345.115 of this part. In case the prescribed form has not been obtained, a statement made by the employer disclosing the period covered and the amount of compensation with respect to which the contribution is required may be accepted as a tentative contribution report if accompanied by the amount of contribution due. If filed within the prescribed time, the statements so made will relieve the employer from liability for any penalty imposed under this part for the delinquent filing of the contribution report provided that the failure to file a contribution report on the prescribed form was due to reasonable cause and not due to willful neglect, *and provided further,* that within 30 days after receipt of the tentative report, such tentative report is supplemented by a contribution report made on the proper form. (Approved by the Office of Management and Budget under control number 3220–0012)

5. Section 345.115 of subpart B is revised to read as follows:

§ 345.115 Place and time for filing contribution reports.

Each employer shall file its contribution report with the Chief Financial Officer, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, 60611–2092, or the Chief Financial Officer's designee. The employer's contribution report for each quarterly period shall be filed on or before the last day of the calendar month following the period for which it is made. If such last day falls on Saturday, Sunday, or a national legal holiday, the report may be filed on the next following business day. If mailed, reports must be postmarked on or before the date on which the report is required to be filed.

6. Section 345.124 of subpart B is revised to read as follows:

§ 345.124 Right to appeal the amount of a contribution, interest, or penalty.

(a) Except as otherwise provided, an employer may seek administrative review of any determination with respect to any contribution, interest, or penalty made under this part by filing a request for reconsideration with the Chief Financial Officer within 30 days after the mailing of notice of such determination. An employer shall have a right to appeal to the Board from any reconsideration decision under this section by filing notice of appeal to the Secretary to the Board within 14 days after the mailing of the decision on reconsideration. Upon receipt of a notice of an appeal, the Board may designate one of its officers or employees to receive evidence and report to the Board under the procedures set forth in part 319 of this chapter. An appeal of the contribution rate is made under § 345.307 of this part.

(b) Any appeal filed under this part shall not relieve the employer from filing any reports or paying any contribution required under this part nor stay the collection thereof. Upon the request of an employer, the Board may relieve the employer of any obligation required under this part pending an appeal. Unless specifically provided by the Board, such relief shall not stay the accrual of interest on any disputed amount as provided for in § 345.122 of this part.

7. Section 345.307 of subpart D is revised to read as follows:

§ 345.307 Rate protest.

(a) *Request for reconsideration.* An employer may appeal a determination of a contribution rate computed under this part by filing a request for reconsideration with the Director of Assessment and Training within 90 days after the date on which the Board notified the employer of its rate of contribution for the next ensuing calendar year. Within 45 days of the receipt of a request for reconsideration, the Director shall issue a decision on the protest.

(b) *Appeal to the Board.* An employer aggrieved by the decision of the Director of Assessment and Training under paragraph (a) of this section may appeal to the Board. Such appeal shall be filed with the Secretary to the Board within 30 days after the date on which the Director notified the employer of the decision on reconsideration. The Board may decide such appeal without a hearing or, in its discretion, may refer the matter to a hearings officer pursuant to part 319 of this chapter.

(c) *Decision of the Board final.* Subject to judicial review provided for in section 5(f) of the RUIA, the decision of the Board under paragraph (b) of this section is final with respect to all issues determined therein.

(d) *Waiver of time limits.* A request for reconsideration or appeal under this section shall be forfeited if the request or appeal is not filed within the time prescribed, unless reasonable cause, as defined in this part, for failure to file timely is shown.

(e) *Rate pending review.* Pending review of the protested rate, the employer shall continue to pay contributions at such rate. Any adjustment in the contributions paid at such rate as the result of an appeal shall be in accordance with § 345.118 of this part.

(f) The amount of a contribution, interest, or penalty may be protested in accord with § 345.124 of this part.

Dated: March 19, 2002.

By Authority of the Board, for the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 02–7069 Filed 3–22–02; 8:45 am]

BILLING CODE 7905–01–P

DEPARTMENT OF THE INTERIOR

Office of Indian Education Programs

25 CFR Part 46

RIN 1076–AE29

Technical Amendments to Adult Education Program

AGENCY: Office of Indian Education Programs, Interior.

ACTION: Final rule; corrected.

SUMMARY: This rule changes our estimate of the time it takes to fill out the application form for adult education benefits. The new estimated completion time of four hours more accurately reflects the time that applicants must spend to provide the information that we request. This more accurate estimate satisfies the requirements of the

Paperwork Reduction Act and Office of Management and Budget regulations. The application requirements themselves remain unchanged.

EFFECTIVE DATE: Effective on March 25, 2002.

FOR FURTHER INFORMATION CONTACT: William A. Mehojah, Jr., Director, Office of Indian Education Programs, 202–208–6123.

SUPPLEMENTARY INFORMATION: The final rule was published in the **Federal Register** on August 19, 1997 (62 FR 44081). At that time, 46.3 listing a burden time of 3 hours per response was published. Since then, the hour burden has been changed to 4 hours per response and approved by the Office of Management and Budget. We are amending the rule to agree with the approved hour burden. Additionally, we are correcting the address for submission of comments and deleting reference to sending comments to the Office of Management and Budget. The change will not adversely affect respondents.

Determination To Issue A Final Rule

The Department has determined that the public notice and comment provisions of the Administrative Procedure Act, 5 U.S.C. 553(b) do not apply because of the good cause exception under 5 U.S.C. 553(b)(3)(B), which allows the agency to suspend the notice and public procedure when the agency finds for good cause that those requirements are impractical, unnecessary and contrary to the public interest. This amendment brings agreement between the rule and the Information Collection Request (1076–0120) which provides an additional hour for the annual report preparation. We have published this increased burden estimate in the **Federal Register** several times and have received no adverse comments. The rule also directed comments to be sent to the Office of Management and Budget but that is no longer considered necessary by the Office of Management and Budget. For these reasons, public comment on this technical change is unnecessary.

Determination To Make Rule Effective Immediately

The Department has determined that the amended rule should be effective immediately in accordance with 5 U.S.C. 533(d) for the following reasons: (1) The changes to amend the rule have no adverse affect on the public, and (2) the public has had opportunity to comment on the response burden previously during renewal of the Information Collection Request.

Regulatory Planning and Review (Executive Order 12866)

This document is not a significant rule and is not subject to review by the Office of Management and Budget under Executive Order 12866.

(1) This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.

(3) This rule does not alter the budgetary effects or entitlements programs or the rights or obligations of their recipients. The program for adult education is not changed except to put the rule in agreement with the approved information collection.

(4) This rule does not raise novel legal or policy issues. The main impact is to put the rule in agreement with the approved information collection.

Regulatory Flexibility Act

The Department of the Interior certifies that this document 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.*). Funding will not be affected by this minor change to the rule.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

(a) Does not have an annual effect on the economy of $100 million or more.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

This rule imposes no unfunded mandates on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. This rule will not require additional costs to state, local, or tribal governments. This rule is in compliance with the provisions of the Unfunded Mandates Act of 1995 (1 U.S.C. 1531, *et seq.*).

Takings (Executive Order 12630)

In accordance with Executive Order 12630, the rule does not have significant takings implications. This rule affects adult education by making the rule agree with the approved information collection. A takings implication assessment is not required.

Federalism (Executive Order 12612)

This rule does not have significant Federalism effects. A Federalism assessment is not required. This rule affects only the small adult education programs of the tribes.

Civil Justice Reform (Executive Order 12988)

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3 (a) and 3 (b)(2) of Executive Order 12988.

Paperwork Reduction Act

This regulation requires a collection of information from 10 or more parties, and submission under the Paperwork Reduction Act is required. OMB form 83–I for this collection has been reviewed by the Department and approved by the Office of Management and Budget as 1076–0120.

National Environmental Policy Act

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. It has no effect on the environment. A detailed statement under the National Environmental Policy Act of 1969 is not needed.

Consultation and Coordination With Indian Tribal Governments (Executive Order 13175)

The rewriting of this rule is designed to ensure that the rule agrees with the approved information collection. The rewriting of this rule directs comments to the bureau in accordance with the Office of Management and Budget direction. The addition of 1 hour to the burden has been published in the **Federal Register** several times, allowing the tribes affected and other members of the public to comment.

Clarity of This Regulation

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your

comments on how to make this proposed rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the proposed rule clearly stated? (2) Does the proposed rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the proposed rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Would the rule be easier to understand if it were divided into more (but shorter) sections? (A ''section'' appears in bold type and is preceded by the symbol ''§'' and a numbered heading; for example, § 46.3 Information Collection) (5) Is the description of the rule in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the proposed rule? What else could we do to make the rule easier to understand? Send a copy of any comments that concern how we could make this rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street NW., Washington, DC 20240. You may also e-mail the comments to this address: *Exsec@ios.doi.gov*

List of Subjects in 25 CFR Part 46

Indians—education, adult education.

Dated: March 7, 2002.

Neal A. McCaleb,

Assistant Secretary—Indian Affairs.

For the reasons set out in the preamble, Part 46 of Title 25 of the Code of Federal Regulations is amended as follows:

PART 46—ADULT EDUCATION PROGRAM

1. The authority citation for part 46 continues to read as follows:

Authority: 43 U.S.C. 1457; 25 U.S.C. 2, 9, 13.

2. Section 46.3 is revised to read as follows:

§ 46.3 Information collection.

Information collection requirements contained in this part have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned control number 1076–0120. This information is being collected to assess the need for adult education programs. The information collection is used to manage program resources and for fiscal accountability and appropriate direct services documentation. Response to this request is necessary to obtain or retain a benefit. Public reporting burden for this form is estimated to average 4 hours per response including time for reviewing instructions, gathering, maintaining data, completing and reviewing the form. Direct comments regarding the burden estimate or any other aspect of this form to the BIA Information Collection Clearance Officer, 1849 C Street NW., Washington, DC 20240.

[FR Doc. 02–7000 Filed 3–22–02; 8:45 am]

BILLING CODE 4310–6W–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD07–02–021]

Drawbridge Operation Regulations: Hatchett Creek (US 41), Gulf Intracoastal Waterway, Venice, Sarasota County, FL

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Seventh Coast Guard District, has approved a deviation from the regulations governing the operation of the new Hatchett Creek (US 41) bridge across the Gulf Intracoastal Waterway in Venice, Florida. This deviation allows the drawbridge owner to only open one leaf of the bridge from March 18, 2002, until May 15, 2002, to complete construction of the new bascule leaves. A double leaf opening is available with 6 hours notice to bridge tender.

DATES: This rule is effective from 12:01 a.m. on March 18, 2002, until 11:59 p.m. on May 15, 2002.

ADDRESSES: Comments and material received from the public, as well as comments indicated in this preamble as being available in the docket, are part of docket [CGD07–02–021] and are available for inspection or copying at Commander (obr), Seventh Coast Guard District, 909 SE. 1st Avenue, Room 432, Miami, FL 33131 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Barry Dragon, Chief, Operations Section, Seventh Coast Guard District, Bridge Branch at (305) 415–6743.

SUPPLEMENTARY INFORMATION: The Florida Department of Transportation requested that the Coast Guard temporarily allow the Hatchett Creek bridge to only open a single leaf of the bridge from March 18, 2002, until May 15, 2002. Double leaf openings will be available with 6 hour advance notice to the bridge tender. This temporary deviation from the existing bridge regulations is necessary to complete construction of the new bascule leaves. The Hatchett Creek (US 41), bridge has a horizontal clearance of 45 feet between the fender and the down span.

The District Commander has granted a temporary deviation from the operating requirements listed in 33 CFR 117.5 to allow the owner to complete construction of the new bascule leaves. Under this deviation, the Hatchett Creek (US 41) bridge need only open a single leaf of the bridge from March 18, 2002, until May 15, 2002. Double leaf openings will be available with a 6 hour advanced notice to the bridge tender.

Dated: March 13, 2002.

Greg Shapley,

Chief, Bridge Administration, Seventh Coast Guard District.

[FR Doc. 02–7001 Filed 3–22–02; 8:45 am]

BILLING CODE 4910–15–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO 152–1152a; FRL–7163–2]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is announcing it is approving the State Implementation Plan (SIP) revision submitted by the state of Missouri which provides for the attainment and maintenance of the sulfur dioxide (SO_2) National Ambient Air Quality Standard (NAAQS) in Springfield (Greene County), Missouri. This revision approves a Consent Agreement which requires SO_2 emission reductions from a major air emissions source in Springfield. Approval of this SIP revision will make the Consent Agreement Federally enforceable.

DATES: This direct final rule will be effective May 24, 2002, unless EPA receives adverse comments by April 24, 2002. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Comments may be mailed to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

Copies of documents relative to this action are available for public

inspection during normal business hours at the above-listed Region 7 location. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Wayne Kaiser at (913) 551–7603.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This section provides additional information by addressing the following questions:

What is a SIP?
What is the Federal approval process for a SIP?
What does Federal approval of a state regulation or control strategy mean to me?
What is the NAAQS for SO_2?
What NAAQS exceedances occurred in Springfield, Missouri?
What is the control strategy?
What is contained in the SIP submittal?
Have the requirements for approval of a SIP revision been met?
What action is EPA taking?

What Is a SIP?

Section 110 of the Clean Air Act (CAA) requires states to develop air pollution regulations and control strategies to ensure that state air quality meets the national ambient air quality standards established by EPA. These ambient standards are established under section 109 of the CAA, and they currently address six criteria pollutants. These pollutants are: carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

Each Federally-approved SIP protects air quality primarily by addressing air pollution at its point of origin. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

What Is the Federal Approval Process for a SIP?

In order for state regulations and control strategies to be incorporated into the Federally-enforceable SIP, states must formally adopt them consistent with state and Federal requirements. This process generally includes a public notice, public hearing, public comment period, and a formal adoption by a state-authorized rulemaking body.

Once a state regulation or control strategy is adopted, the state submits it to us for inclusion into the SIP. We must provide public notice and seek additional public comment regarding the proposed Federal action on the state submission. If adverse comments are received, they must be addressed prior to any final Federal action by us.

All state regulations and supporting information approved by EPA under section 110 of the CAA are incorporated into the Federally-approved SIP. Records of such SIP actions are maintained in the Code of Federal Regulations (CFR) at Title 40, Part 52, entitled ''Approval and Promulgation of Implementation Plans.'' The Missouri SIP is published in 40 CFR part 52, subpart AA.

The actual state regulations and control strategies which are approved are not reproduced in their entirety in the CFR outright but are ''incorporated by reference,'' which means that we have approved a given state regulation or control strategy with a specific effective date.

What Does Federal Approval of a State Regulation or Control Strategy Mean to Me?

Enforcement of the state regulation or control strategy before and after it is incorporated into the Federally-approved SIP is primarily a state responsibility. However, after the regulation is Federally approved, we are authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violations as described in section 304 of the CAA.

What Is the NAAQS for SO_2?

As mentioned above, we have established ambient air quality standards for a number of pollutants, including SO_2. These standards are set at levels to protect public health and welfare. The standards are published in 40 CFR part 50. If ambient air monitors measure violations of the standard, states are required to identify the cause of the problem and to take measures which will bring the area back within the level of the standard. The 24-hour standard for SO_2 is 0.14 parts per million, not to be exceeded more than once per year. There is also a 3-hour and an annual standard.

What NAAQS Exceedances Occurred in Springfield, Missouri?

In 1996, there were two exceedances of the 24-hour SO_2 standard at separate monitors in the vicinity of the James River power station. The source of the SO_2 emissions identified as contributing to the exceedances of the NAAQS was the Springfield, Missouri, City Utilities James River power generating station. There are five boilers at this facility.

What Is the Control Strategy?

The Missouri Department of Natural Resources (MDNR) negotiated enforceable emission limitations and other control measures, means, and techniques, as well as schedules and timetables for compliance, sufficient to ensure that the NAAQS for SO_2 will be achieved and maintained in the future. These measures incorporate the use of low sulfur coal and fuel blending. Compliance will be determined through coal sampling and fuel certification, and continuous emissions monitoring.

The control strategy reduces the allowable SO_2 that can be emitted to the atmosphere on a 24-hour average from the five boiler units. Units 1–4 are limited to 1.5 lb/mmBtu of heat input and Unit 5 is limited to 2.0 lb/mmBtu of heat input. The pre-existing limit was 9.2 lb/mmBtu. Two additional SO_2 monitors will be installed in the vicinity of the James River station, for a total of five monitors.

These control strategy requirements were incorporated into a Consent Agreement issued by MDNR to City Utilities. In addition to the conditions above, the Consent Agreement contains monitoring, reporting, and recordkeeping requirements sufficient to determine compliance. These provisions shall also be incorporated into the facility's Title V operating permit.

What Is Contained in the SIP Submittal?

The MDNR submitted a request to us to approve the Consent Agreement as a revision to the Missouri SIP. Additional information is contained in the state submittal and in the EPA Technical Support Document (TSD) for this notice which can be obtained by contacting us at the address above.

Have the Requirements for Approval of a SIP Revision Been Met?

The state submittal has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submittal also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained above and in more detail in the TSD, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

What Action Is EPA Taking?

We are approving a revision to the Missouri SIP which requires source-specific SO_2 emission reductions which will result in attainment and maintenance of the SO_2 NAAQS in Springfield (Greene County), Missouri.

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 CAA. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

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

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

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 May 24, 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 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: March 14, 2002.

James B. Gulliford,

Regional Administrator, Region 7.

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 AA—Missouri

2. In § 52.1320(d) the table is amended by adding a new entry to the end of the table to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(d) * * *

EPA-APPROVED STATE SOURCE-SPECIFIC PERMITS AND ORDERS

Name of source	Order/permit No.	State effective date	EPA approval date	Explanation
*	*	*	*	*
Springfield City Utilities James River Power Station SO_2.	Consent Agreement	12/06/01	3/25/02 and FR cite.	

* * * * *

[FR Doc. 02–7092 Filed 3–22–02; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO 114–1114b; FRL–7162–9]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving as an amendment to the Missouri State Implementation Plan (SIP) a revision to the Missouri construction permit rule. EPA is also responding to comments received during the public comment period. This revision will strengthen the SIP with respect to attainment and maintenance of established air quality standards, ensure consistency between the state and Federally-approved rules, and ensure Federal enforceability of the state's air program rule revisions pursuant to section 110 of the Clean Air Act.

EFFECTIVE DATE: This rule is effective on April 24, 2002.

FOR FURTHER INFORMATION CONTACT: Wayne Kaiser at (913) 551–7603.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This section provides additional information by addressing the following questions:

What is a SIP?
What is the Federal approval process for a SIP?
What does Federal approval of a state regulation mean to me?
What is being addressed in this document?
Have the requirements for approval of a SIP revision been met?
What action is EPA taking?

What Is a SIP?

Section 110 of the Clean Air Act (CAA) requires states to develop air pollution regulations and control strategies to ensure that state air quality meets the national ambient air quality standards established by EPA. These ambient standards are established under section 109 of the CAA, and they currently address six criteria pollutants. These pollutants are: carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

Each state must submit these regulations and control strategies to us for approval and incorporation into the Federally-enforceable SIP.

Each Federally-approved SIP protects air quality primarily by addressing air pollution at its point of origin. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

What Is the Federal Approval Process for a SIP?

In order for state regulations to be incorporated into the Federally-enforceable SIP, states must formally adopt the regulations and control strategies consistent with state and Federal requirements. This process generally includes a public notice, public hearing, public comment period, and a formal adoption by a state-authorized rulemaking body.

Once a state rule, regulation, or control strategy is adopted, the state submits it to us for inclusion into the SIP. We must provide public notice and seek additional public comment regarding the proposed Federal action on the state submission. If adverse comments are received, they must be addressed prior to any final Federal action by us.

All state regulations and supporting information approved by EPA under section 110 of the CAA are incorporated into the Federally-approved SIP. Records of such SIP actions are maintained in the Code of Federal Regulations (CFR) at Title 40, part 52, entitled ''Approval and Promulgation of Implementation Plans.'' The actual state regulations which are approved are not reproduced in their entirety in the CFR outright but are ''incorporated by reference,'' which means that we have approved a given state regulation with a specific effective date.

What Does Federal Approval of a State Regulation Mean to Me?

Enforcement of the state regulation before and after it is incorporated into the Federally-approved SIP is primarily a state responsibility. However, after the regulation is Federally approved, we are authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violations as described in section 304 of the CAA.

What Is Being Addressed in This Document?

Background

On April 6, 2001, we published a proposal and a direct final **Federal Register** document to approve Missouri rule 10 CSR 10–6.060, Construction Permits Required, as a revision to the Missouri State Implementation Plan (SIP). Among other revisions, this submission established minimum emission cutoffs for the state's minor new source review (NSR) program. In general, Missouri did not previously have exemptions to its minor NSR program based on emission levels. The revisions, in relevant part, exempt sources with emission levels below 0.5 pounds per hour or 876 pounds per year of a regulated pollutant from the minor source permitting program. Because adverse comments were submitted on our approval of the rule, the direct final rule was withdrawn on June 1, 2001 (66 FR 29705).

Two comment letters were received—one from the Associated Industries of Missouri (AIM) and one from the Regulatory Environmental Group For Missouri (REGFORM). The REGFORM comments were received two days after the close of the comment period, but since its comments were similar to those submitted by AIM, they will also be addressed here.

Response to Comments

Comment 1: The AIM comment was general in nature and pertained to the portion of the rule relating to the emission levels below which permit review for new construction or modification is not required. AIM stated that this issue had been the subject of discussion of a work group involving industry, citizen groups and the Missouri Department of Natural Resources (MDNR), which led up to the revision of the rule, and the work group is again meeting and the ''insignificant levels'' issue is again being reviewed. Since the rule may be revised again, AIM believes it is inappropriate to incorporate the rule in the SIP at this time. The comments from REGFORM also concerned the ''insignificant levels.'' REGFORM commented that the aforementioned work group was again meeting and that we should not approve this revision, but instead wait until a new rule is promulgated after the work group has completed its deliberations.

Response to Comment 1: The CAA contains two limitations relating to EPA action on SIP submittals which are relevant to the comment. First, section 110(k)(2) provides, in part, that EPA must act on a SIP submission within 12 months after EPA determines that the SIP submission is ''complete.'' Second, section 110(k)(3) provides that we must approve a SIP revision which meets the requirements of the CAA.

Because of the 12-month deadline for EPA action, we would be unable to merely defer action on the submission until the work group reaches consensus on rule changes, and MDNR makes rule changes (MDNR rulemaking process generally takes about one year; MDNR has not begun that process yet and has made no decision to begin the rulemaking process), even if we had a justification for deferring action pending that process. We also note that deferring action would leave in place the current rule, which contains no exemptions based on emission levels, leaving sources subject to a more stringent rule than the revised rule which we are approving into the SIP.

Although the commenters did not suggest that EPA disapprove the rule, we note that disapproval would be the alternative available to EPA under section 110 (k)(2), and that the commenters have not provided any basis for EPA to disapprove the revision. The commenters state that it is inappropriate to approve the revision now, since it may be revised in the future. However, SIP revisions are always subject to future changes, and the CAA provides no basis for us to disapprove a rule merely because it might be changed later. For the reasons stated in the proposal and this final rule, we have determined that the SIP revision meets the requirements of the CAA, and we are approving it under section 110 (k)(3). If MDNR makes further revisions to the rule and submits the revisions to EPA, we will evaluate the revisions and determine whether to incorporate the revisions into the SIP through future rulemaking.

Comment 2: REGFORM also specifically expressed concern about the insignificant level of 0.5 pounds per hour, below which a source is not subject to the rule requirements. REGFORM asserts that establishing a threshold in pounds per hour considerably restricts permit applicants' ability to qualify for an exemption, even if the source is meeting the yearly limit.

Response to Comment 2: EPA recognizes that a per hour emission rate may be more restrictive than a daily or annual rate. However, there is nothing which restricts the state from setting an hourly limit. The state decided that the 0.5 hourly exemption level was appropriate and considered comments on the 0.5 hourly exemption during its public comment period. (The state's response to comments is contained in the July 29, 1999, Missouri Air Conservation Commission Briefing Document.) The state concluded that a short-term applicability limit was needed to ensure protection of short-term air quality standards. The commenter did not provide any information indicating that the state's choice of a short-term limit is inconsistent with the CAA. Therefore, EPA concludes that it cannot disapprove or defer action on this provision merely because it may be more restrictive than the annual applicability limits.

Summary: The comments submitted fail to provide sufficient technical or statutory reasons to not fully approve the revised rule in the Missouri SIP. We therefore are taking final action to approve this rule revision as an amendment to the Missouri SIP.

Have the Requirements for Approval of a SIP Revision Been met?

The state submittal has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submittal also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained in the April 6, 2001, **Federal Register** notice and in more detail in the technical support document which is part of this docket, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

What Action Is EPA Taking?

We are taking final action to approve this rule as a revision to the Missouri SIP.

Administrative Requirements

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

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

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

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

This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 24, 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 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: March 14, 2002.

James B. Gulliford,

Regional Administrator, Region 7.

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 AA—Missouri

2. In § 52.1320(c) the table is amended under Chapter 6 by revising the entry for ''10–6.060'' to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED MISSOURI REGULATIONS

Missouri citation	Title	State effective date	EPA approval date	Explanation
Missouri Department of Natural Resources				
*	*	*	*	*
Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods, and Air Pollution Control Regulations for the State of Missouri				
*	*	*	*	*
10–6.060	Construction Permits Required.	11/30/99	03/25/02 and FR cite.	Section 9, pertaining to hazardous air pollutants, is not part of the SIP.
*	*	*	*	*

* * * * *

[FR Doc. 02–7094 Filed 3–22–02; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 87–260; RM–5728]

Radio Broadcasting Services; Olive Branch, MS

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: The Federal Communications Commission published in the **Federal Register** of June 22, 1988, a document concerning updating the FM Table of Allotments for Section 73.202(b) under Mississippi. The spelling of the community was incorrect. This document corrects the spelling of the community.

DATES: Effective on March 25, 2002.

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

SUPPLEMENTARY INFORMATION: On June 22, 1988, the Commission published a document (53 FR 23369) amending § 73.202(b), the FM Table of Allotments, by adding Channel 239A at Olive Branch, Mississippi. The name of the community was listed in the FM Table of Allotments as ''Olive Brance'' in lieu of Olive Branch. This document corrects the spelling of the community.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 02–7019 Filed 3–22–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–1480; MM Docket No. 00–158; RM–9337, RM–9892]

Radio Broadcasting Services; Alamo Community, NM

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: The Federal Communications Commission published in the **Federal Register** of September 15, 2000, 65 FR 55930, a document concerning updating Section 73.202(b), the FM Table of Allotments for Radio Broadcasting Services; Alamo Community, New Mexico of the Commission Rules. The docket number listed in the heading was published incorrectly. The correct docket number is set forth above.

DATES: Effective on March 25, 2002.

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

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 02–7018 Filed 3–22–02; 8:45 am]

BILLING CODE 6712–01–P

Rules and Regulations

Federal Register
Vol. 67, No. 57
Monday, March 25, 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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

RIN 3206–AJ30

Prevailing Rate Systems; Change in the Survey Cycle for the Pennington, South Dakota, Nonappropriated Fund Wage Area

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management is issuing a final rule to change the timing of local wage surveys in the Pennington, South Dakota, nonappropriated fund Federal Wage System wage area. The change will help balance the workload for the Department of Defense and improve the amount and quality of data it collects during local annual wage surveys in the Pennington wage area.

DATES: Effective Date: April 24, 2002.

FOR FURTHER INFORMATION CONTACT: Chenty I. Carpenter at (202) 606–8359; by FAX at (202) 606–4264; or by email at *cicarpen@opm.gov.*

SUPPLEMENTARY INFORMATION: On December 19, 2000, the Office of Personnel Management (OPM) published a proposed rule to change the timing of local wage surveys in the Pennington, South Dakota, nonappropriated (NAF) Federal Wage System (FWS) wage area (65 FR 79320). The proposed rule provided a 30-day period for public comment, during which OPM received no comments.

The Department of Defense (DOD), the lead agency for the Pennington, SD, wage area, requested that the survey schedule be changed so that full-sale surveys could be conducted in June of even-numbered fiscal years. DOD conducted a full-scale survey in January 2002 and will conduct another full-scale survey in June 2002. The change from January to June will help avoid problems associated with conducting local wage surveys during inclement weather in western South Dakota and will improve wage survey participation and data yield. In addition, the new survey cycle will allow DOD to achieve a better balance in its wage survey workload.

The Federal Prevailing Rate Advisory Committee, the national labor-management committee responsible for advising OPM on matters concerning the pay of FWS employees, recommended by consensus that we change the full-scale survey cycle for the Pennington NAF wage area from January of even-numbered fiscal years to June of even-numbered fiscal years.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it affects only Federal agencies and employees.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

U.S. Office of Personnel Management.

Kay Coles James,

Director.

Accordingly, the Office of Personnel Management is amending 5 CFR part 532 as follows:

PART 532—PREVAILING RATE SYSTEMS

1. The authority citation for part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346; § 532.707 also issued under 5 U.S.C. 552.

Appendix A to Subpart B of Part 532—[Amended]

2. Appendix B to subpart B is amended by revising under the State of South Dakota the listing of beginning month of survey from ''January'' to ''June'' for the Pennington NAF wage area.

[FR Doc. 02–7022 Filed 3–22–02; 8:45 am]

BILLING CODE 6325–39–P

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 25

RIN 0503–AA20

Rural Empowerment Zones and Enterprise Communities

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: This final rule establishes the policies and procedures pertaining to 20 rural enterprise communities designated by the Secretary of the U.S. Department of Agriculture (USDA) (Secretary) as authorized by the Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act, 1999 (Agriculture Appropriations Act 1999) (Round IIS). This rule also contains the policies and procedures for implementing the grant program authorized by section 766 of the Agriculture Appropriations Act 1999 (USDA EZ/EC grants). Additionally, this rule clarifies post-designation procedures that rural empowerment zones and enterprise communities must follow to maintain their standing. Finally, this final rule amends the regulation to reflect that two new rural empowerment zones were authorized by the Community Renewal Tax Relief Act of 2000 (Round III).

EFFECTIVE DATE: April 24, 2002.

FOR FURTHER INFORMATION CONTACT: Norman Reed, (202) 690–0719, Deputy Administrator for Community Development, USDA Rural Development, Office of Community Development, Reporters Building, Room 266, 300 7th Street, SW., Washington, DC 20024–3203, telephone 1–800–645–4712, or by sending an Internet e-mail message to ''*info@www.ezec.gov*''. For hearing- and speech-impaired persons, information concerning this program may be obtained by contacting USDA's TARGET Center at (202) 720–2600 (Voice and TDD).

SUPPLEMENTARY INFORMATION:

Classification

This rule has been reviewed by the Office of Management and Budget (OMB) under E.O. 12866 and has been determined to be a significant regulatory action.

Programs Affected

The Catalog of Federal Domestic Assistance Program affected by this action is 10.772, Empowerment Zone Program.

Program Administration

The program is administered through the Office of Community Development within the Rural Development mission area of the Department of Agriculture.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act, USDA may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

The information collection requirements contained in 7 CFR part 25 are comprised of one-time application requirements (Application burden) and ongoing reporting requirements (Reporting burden).

The Application burden paperwork package approved under control no. 0570–0026 was approved by OMB in the context of the Round II application effort. The overall burden is a function of the hours assumed for each applicant multiplied by an estimated number of applicants. Comments on these application requirements were invited April 16, 1998 [63 FR 19108] at the time the Interim Final Rule for 7 CFR part 25 was published. No comments were received. After the expiration of the application deadline, the application burden no longer existed and USDA requested that the burden level under this control number be amended accordingly and this was approved by OMB. Subsequently, Congress authorized another competitive round for designations (Round III). USDA submitted a request to OMB to conform the burden level under this control number to reflect another round of application effort. The Application Form is the same as earlier approved under this burden level as well as the hour burden per applicant for Round III. The only difference between the burden levels estimated for Rounds II and III consists of a different assumed number of applicants. The burden level per applicant was the same. USDA's earlier estimate of 60 applicants for Round III is very close to the 55 valid applications we actually received. Now that the deadline for Round III is passed, there is no ongoing Application Burden. Accordingly, the submission was withdrawn and remains as previously approved by OMB. USDA will seek to amend the Application Burden only in the event legislation is passed which authorizes additional designations.

The Reporting burden paperwork package approved by OMB under control no. 0570–0027 covers the ongoing reporting requirements imposed by 7 CFR part 25 for empowerment zones and enterprise communities designated to date. USDA submitted a request to amend the Reporting paperwork burden to reflect the incrementally higher aggregate reporting burden associated with the designation of two empowerment zones pursuant to Round III and was approved by OMB. The individual reporting requirements imposed on Round III designees are the same as for all designees, and unchanged from those published and for which comments were invited April 27, 2000 [65 FR 24656] at the time the most recent proposed rule for amending 7 CFR part 25 was published. No comments were received.

Environmental Impact Statement

It is the determination of the Secretary that this action is not a major Federal action significantly affecting the environment. Therefore, in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, and 7 CFR part 1940, subpart G, an Environmental Impact Statement is not required.

Executive Order 12988

This final rule has been reviewed in accordance with E.O. 12988, Civil Justice Reform. In accordance with this rule: (1) All state and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings in accordance with 7 CFR part 11 must be exhausted before bringing suit in court challenging action taken under this rule unless those regulations specifically allow bringing suit at an earlier time.

The Unfunded Mandates Reform Act of 1995

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 and the private sector. Under section 202 of the UMRA, USDA must prepare a written statement, including a cost benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to state, local or tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, section 205 of UMRA generally requires USDA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost effective or least burdensome alternative that achieves the objectives of the rule.

This 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 UMRA.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the undersigned has determined and certified by signature of this document that this rule will not have a significant economic impact on a substantial number of small entities. The Regulatory Flexibility Act is intended to encourage Federal agencies to utilize innovative administrative procedures in dealing with individuals, small businesses, small organizations, and small governmental bodies that would otherwise be unnecessarily adversely affected by Federal regulations. The provisions included in this rule will not impact a substantial number of small entities to a greater extent than large entities. Therefore, no regulatory flexibility analysis under the Regulatory Flexibility Act is necessary.

Executive Order 13132, Federalism

The policies contained in this rule will not have substantial direct effects on states or their political subdivisions, or the relationship between the Federal Government and the states, or on the distribution of power and responsibilities among the various levels of government. Nor does this rule impose substantial direct compliance costs on state and local governments. This rule is intended to foster cooperation between the Federal Government and the states and local governments, and reduces, where possible, any regulatory burden imposed by the Federal Government that impedes the ability of state and local governments to solve pressing economic, social, and physical problems in their communities.

Background

The Secretary of Agriculture published on April 16, 1998 [63 FR 19108], an interim final rule with request for comments and a notice inviting applications for 5 additional rural empowerment zone designations as authorized by title IX of the Taxpayer Relief Act of 1997 (Pub. L. 105–34,

approved August 5, 1997) (Round II). These Round II empowerment zones were designated on December 24, 1998.

These 5 new rural empowerment zones were in addition to the 3 rural empowerment zones and 30 enterprise communities designated on December 21, 1994 by the Secretary of Agriculture pursuant to Title XIII of the Omnibus Budget Reconciliation Act of 1993 (Round I).

On December 21, 2000, the Community Renewal Tax Relief Act was signed into law (Pub. L. 106–554), authorizing the designation of two more rural empowerment zones (Round III), bringing the total authorized rural empowerment zones to ten. The eligibility criteria for Round III are exactly the same as for Round II empowerment zones.

The legislation which authorized Round I empowerment zones also authorized 30 rural enterprise communities. On October 21, 1998, the Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act, 1999 was signed into law, authorizing an additional 20 rural enterprise communities (Round IIS), bringing the total authorized to 50.

The proposed rule pertaining to Round IIS also amended 7 CFR part 25 in other ways that affected all rural empowerment zones and rural enterprise communities. Most notably it implemented a newly authorized direct grant program for Round II and IIS designees. It also amended the ongoing reporting and administrative requirements for all designated communities.

The Community Renewal Tax Relief Act of 2000 authorizing Round III was signed into law subsequent to publication of the proposed rule. It increased the number of designations the Secretary of Agriculture may make, it extends designation periods and increases certain tax code benefits which attach to the designations. It expressly provides that the eligibility requirements for Round III empowerment zones are to be the same as for Round II, with no change.

In addition to the changes for which comments were invited in the published proposed rule, this Final Rule conforms 7 CFR part 25 to reflect the provisions of the Community Renewal Tax Relief Act of 2000. These conforming changes are technical in nature such the Secretary has determined it appropriate that they be incorporated in this final rulemaking without subjecting them to the notice and comment process.

Discussion of Comments

Eleven comments were received in response to the published proposed rulemaking. Ten were from representatives of empowerment zones or enterprise communities (EZ/ECs); one was from a Rural Development State Director. Of the ten, five were from the same community and the other five represented different communities.

Ten of the eleven comments received were opposed to the proposed requirement that not less than 55% of the membership of the board of directors of the lead entity be determined by broad-based election. One respondent raised concerns about the requirements associated with the National Environmental Protection Act (NEPA). One respondent requested that EZ/EC program funds be considered eligible match funding for other federal programs. The use of EZ/EC funds as matching funds for other federal programs is currently prohibited. See 7 CFR 3019.23(a)(5) and OMB Circular A–110 issued by the Office of Management and Budget.

Objections to the board composition requirement were varied. One respondent argued that USDA's approval of the strategic plan at the time of designation included the proposed corporate organization of the lead entity, this approval was incorporated into the Memorandum of Agreement, and this agreement cannot be changed absent mutual consent.

Another respondent expressed concern that imposing a 55% elected board is excessive control on the part of USDA and counter to the empowerment principle that community-based decisions should be supported. One specifically argued that the boards should be comprised of ''movers and shakers'' rather than run by committee. Yet another stated that elections are not necessary because representative boards are being appointed now.

The regulatory amendment requiring 55% elected representation on the board of the lead entity was developed as a direct result of program reviews done for the first round of designated communities. In several of the most needy communities, the board members did not reflect the racial or economic diversity present in the community. Their decisions often did not reflect the principles of the EZ/EC program, or the best interest of the low-income residents. Rather, funding decisions and community management had reverted to traditional, less representative, power structures.

Designations are granted contingent upon final USDA approval of the applicant's strategic plan and the signing of a Memorandum of Agreement (MOA). The MOA documents the relationship and respective responsibilities of USDA and the designated community. It is not contractually binding and so states in the text of the document.

Public support for the policies of the lead entity is critical for the success of the strategic plan. USDA recognizes that appointed boards might be necessary in the start-up phase of an EZ/EC, but has learned from experience that it is possible to conduct board elections at the required public meetings at little or no additional cost to the community. Some appointments may yet be necessary to address special needs representation, such as youth or low-income representation, or to enjoy the benefit of legal, engineering, or other specific expertise on the board. USDA has observed that ''movers and shakers'' are capable of being elected to the board of lead entities.

Two respondents cited election-related problems that are specific to tribal entities. One questioned USDA's authority to override decisions made by tribal governments to appoint boards. In the case of areas covering a group of distinct tribes, with separate governance structures, disbursed populations, historical animosities and uneven minority distribution within the populace, achieving a representative board is possible through appointments, but less likely via elections.

USDA acknowledges the tribal governance issues, and has incorporated an exception for tribal entities if there is compelling evidence that the objectives intended by the election requirement cannot be realized except through an appointment process.

One respondent requested requirements for environmental assessments or environmental impact statements be waived for some projects, citing redundant environmental requirements imposed by state and other Federal partners. It was suggested that USDA accept the determinations made pursuant to environmental reviews conducted by others for purposes of EZ/EC program requirements.

USDA cannot waive the requirements of NEPA. The EZ/EC program has three options as far as NEPA is concerned. USDA could prepare yet another stand alone environmental regulation specific to the EZ/EC program, or use one of the two environmental regulations in effect within the Rural Development mission area at USDA. The final rule adopts the environmental review processes in effect for the Rural Utilities Service

(RUS) at 7 CFR part 1794. The environmental regulation that applies to other Rural Development agencies is referred to only for purposes of determining what level of environmental review is required for a given project. Once that threshold is determined, the notice and other provisions for environmental assessments, environmental impact statements, etc., contained in the RUS regulation are to be followed. The RUS regulation was chosen because it affords the greatest flexibility in implementing NEPA—most specifically with respect to whom can prepare the review document.

As is the case with most federal environmental regulations implementing NEPA, an agency head can adopt as its own a determination made by another federal agency, provided the review has met federal requirements. NEPA expressly contemplates that where multiple federal agencies are involved, efforts are to be made to avoid redundancy and determine a ''lead agency''. Unless expressly authorized by law, NEPA requires an agency head to evaluate the environmental consequences of the federal action taken by that agency. It has happened that a non-federal entity was authorized by law to make federal NEPA determinations, but it is not so authorized for the EZ/EC program.

List of Subjects in 7 CFR Part 25

Community development, Economic development, Empowerment zones, Enterprise communities, Housing, Indians, Intergovernmental relations, Reporting and recordkeeping requirements, Rural development.

In accordance with the reasons set out in the preamble, 7 CFR part 25 is amended as follows:

PART 25—RURAL EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES

1. The authority citation for part 25 is revised to read as follows:

Authority: 5 U.S.C. 301; 26 U.S.C. 1391; Sec. 766, Pub. L. 105–277, 112 Stat. 2681; Pub. L. 106–554 [Title I of H.R. 5562], 114 Stat. 2763.

Subpart A—General Provision

§ 25.1 [Amended]

2. Amend § 25.1 by revising paragraph (a) to read as follows:

§ 25.1 Applicability and scope.

(a) Applicability. This part contains policies and procedures applicable to rural empowerment zones and enterprise communities, authorized under the Omnibus Budget Reconciliation Act of 1993, title XIII, subchapter C, part I (Round I), the Taxpayer Relief Act of 1997, title IX, subtitle F (Round II), the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (Public Law 105–277) (Round IIS), and the Community Renewal Tax Relief Act of 2000 (Public Law 106–554) (Round III).

* * * * *

§ 25.3 [Amended]

3. Amend § 25.3 by revising the definitions of ''brownfield'' (and placing it in correct alphabetical order), ''designation'', ''designation date'' and by adding in alphabetical order definitions for ''designation period'', ''funding official'', ''Office of Community Development'', ''Round IIS'', ''Round III'', ''state director'' and ''USDA EZ/EC grant program'' to read as follows:

§ 25.3 Definitions.

* * * * *

Brownfield means a ''qualified contaminated site'' meeting the requirements of section 941 of the Taxpayer Relief Act of 1997, (26 U.S.C. 198(c)), where the site is located in an empowerment zone or enterprise community.

* * * * *

Designation means the process by which the Secretary designates rural areas as empowerment zones or enterprise communities pursuant to eligibility criteria established by subchapter U of the Internal Revenue Code (26 U.S.C. 1391 *et seq.*).

Designation date means December 21, 1994, in the case of Round I designations, and December 24, 1998, in the case of Round II and Round IIS designations.

Designation period means, in the case of empowerment zones, the lesser of such time as has elapsed from the designation date to December 31, 2009 or from the designation date to the effective date of an applicable notice of revocation pursuant to 7 CFR 25.405(e) and, in the case of enterprise communities, the lesser of ten years or such time as has elapsed from the designation date to the effective date of an applicable notice of revocation pursuant to 7 CFR 25.405(e).

* * * * *

Funding official means the state director in the state where the designated rural area is located, or if the designated rural area is located in more than one state, the state where the headquarters office of the lead managing entity is located.

* * * * *

Office of Community Development or *OCD* means the office of the Deputy Administrator, Community Development, as identified in 7 CFR 2003.26(b)(4).

* * * * *

Round IIS identifies designations of rural enterprise communities pursuant to section 766 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (Public Law 105–277).

Round III identifies designations of empowerment zones pursuant to section 111 of the Community Renewal Tax Relief Act of 2000 (Public Law 106–554).

* * * * *

State director means the state director for the Rural Development mission area within USDA, as identified in 7 CFR 2003.10.

* * * * *

USDA EZ/EC grant program means the grant program authorized by section 766 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (Public Law 105–277).

§ 25.4 [Amended]

4. Amend § 25.4 by revising paragraphs (a) and (b)(2) and adding paragraphs (b)(3), (b)(4) and (b)(5) to read as follows:

§ 25.4 Secretarial review and designation.

(a) *Designation.* The Secretary will review applications for the designation of nominated rural areas to determine the effectiveness of the strategic plans submitted by applicants; such designations of rural empowerment zones and enterprise communities as are made shall be from the applications submitted in response to the notice inviting applications or other applicable notice published in the **Federal Register**. The Secretary may elect to designate as champion communities those nominated areas which are not designated as either a rural empowerment zone or enterprise community and whose applications meet the criteria contained in § 25.301.

(b) * * *

(2) *Round II.* The Secretary may, prior to January 1, 1999, designate up to five rural empowerment zones in addition to those designated in Round I.

(3) *Round IIS.* The Secretary may designate up to 20 rural enterprise communities in addition to those designated in Round I.

(4) *Round III.* The Secretary may, prior to January 1, 2002, designate up to two rural empowerment zones in addition to those designated in Round I and Round II.

(5) *Champion communities.* The number of champion communities is limited to the number of applicants which are not designated empowerment zones or enterprise communities.

* * * * *

Subpart B—Area Requirements

§ 25.103 [Amended]

5. Amend § 25.103 by revising the introductory text of paragraphs (b)(2) and (b)(3) to read as follows:

§ 25.103 Area size and boundary requirements.

* * * * *

(b) * * *

(2) For purposes of applying paragraph (a)(1) of this section to Round II, Round IIS and Round III designations: * * *

(3) For purposes of applying paragraph (a)(2) of this section to Round II, Round IIS and Round III designations, the following shall not be treated as violating the continuous boundary requirement nor the limit on the number of noncontiguous parcels:

* * * * *

§ 25.104 [Amended]

6. Amend § 25.104 as follows:

a. Amend the heading of paragraphs (a)(2) and (b)(2) by adding ‘‘, Round IIS and Round III’’.

b. Revise the introductory text of paragraphs (a), (b) and (c), and revise paragraph (c)(2) to read as follows:

§ 25.104 Poverty rate.

(a) *General.* Eligibility of an area on the basis of poverty shall be established in accordance with the following poverty rate criteria specific to Round I, Round II, Round IIS and Round III nominated areas:

* * * * *

(a) *Special rules.* The following special rules apply to the determination of poverty rate for Round I, Round II, Round IIS and Round III nominated areas:

* * * * *

(c) *General rules.* The following general rules apply to the determination of poverty rate for Round I, Round II, Round IIS and Round III nominated areas.

* * * * *

(2) *Noncontiguous parcels.* Each such parcel (excluding, in the case of Round II, Round IIS and Round III, up to three noncontiguous developable sites not exceeding 2,000 acres in the aggregate) must separately meet the poverty criteria contained in this section.

* * * * *

Subpart C—Nomination Procedure

§ 25.202 [Amended]

7. Amend § 25.202 by revising paragraph (b)(7) to read as follows:

§ 25.202 Strategic plan.

* * * * *

(b) * * *

(7) Include such other information as required by USDA in the notice inviting applications or other applicable notice.

* * * * *

§ 25.203 [Amended]

8. Revise § 25.203 to read as follows:

§ 25.203 Submission of applications.

General. A separate application for designation as an empowerment zone or enterprise community must be submitted for each rural area for which such designation is requested. The application shall be submitted in a form to be prescribed by USDA in the notice inviting applications or other applicable notice as published in the **Federal Register** and must contain complete and accurate information.

Subpart D—Designation Process

§ 25.300 [Amended]

9. Amend § 25.300 by revising paragraphs (a) and (b) to read as follows:

§ 25.300 USDA action and review of nominations for designation.

(a) *Establishment of submission procedures.* USDA will establish a time period and procedure for the submission of applications for designation as empowerment zones or enterprise communities, including submission deadlines and addresses, in a notice inviting applications or other applicable notice, to be published in the **Federal Register**.

(b) *Acceptance for processing.* USDA will accept for processing those applications as empowerment zones and enterprise communities which USDA determines have met the criteria required under this part. USDA will notify the states and local governments whether or not the nomination has been accepted for processing. The application must be received by USDA on or before the close of business on the date established by the notice inviting applications or other applicable notice published in the **Federal Register**. The applications must be complete, inclusive of the strategic plan, as required by § 25.202, and the certifications and written assurances required by § 25.200(b).

* * * * *

Subpart E—Post-Designation Requirements

§ 25.404 [Amended]

10. Amend § 25.404 as follows:

a. Redesignate paragraph (a) as (c) and paragraph (b) as (d).

b. Add new paragraphs (a) and (b) to read as follows:

§ 25.404 Validation of designation.

(a) *Maintaining the principles of the program.* The empowerment zone, enterprise community or champion community (the designated community) must maintain a process for ensuring ongoing broad-based participation by community residents consistent with the approved application and planning process outlined in the strategic plan.

(1) *Continuous improvement.* The designated community must maintain a process for evaluating and learning from its experiences. It must detail the methods by which the community will assess its own performance in implementing its benchmarks, the process it will use for reviewing goals and benchmarks and revising its strategic plan.

(2) *Participation.* The designated community must develop as part of its strategic plan a written plan for assuring continuous broad-based community participation in the implementation of the strategic plan and the means by which the strategic plan is implemented, including board membership in the lead entity and other key partnership entities.

(b) *Administration of the strategic plan.* The strategic plan must be administered in a manner consistent with the principles of the program contained in § 25.202(a).

(1) *Lead entity.* The lead entity must have legal status and authority to receive and administer funds pursuant to Federal, state and other government or nonprofit programs.

(2) *Capacity.* The lead entity must have the capacity to implement the strategic plan, as demonstrated by audited financial statements as of the most recent fiscal year or other documentation that may be requested by USDA.

(3) *Board membership.* The membership of the board must be representative of the entire socio-economic spectrum in the designated community including business, social service agencies, health and education entities, low income and minority residents. Board membership may be

determined by either broad-based election or by appointment to meet this diversity requirement; however, not more than 45 percent of board members may be selected by appointment. Elections of community residents to the board may be done by any locally acceptable process; however, at least one board member from each of the designated community's census tracts must be elected and representative of the low income residents in their census tract. The Deputy Administrator, Office of Community Development, may waive the 45 percent maximum appointment limit only for Tribal Governmental Organizations where the Deputy Administrator determines, in writing, that a more representative board would be obtained through the appointment process.

(4) *Partnerships.* The relationship between the designated community's lead entity board and local governments and other major regional and community organizations operating in the same geographic area is critical to the community's success in implementing its strategic plan. Every effort should be made to identify and maintain relationships with local partners. Documentation including, but not limited to, minutes of meetings, benchmark activity reports and annual reports of the lead entity must reflect the contributions of local partnership entities.

(5) *Public information.* The designated community must have written procedures in place describing the means by which citizens of the community and partnership organizations will be kept informed of the community's activities and progress in implementing the strategic plan, consistent with the principal objective of community based partnerships pursuant to § 25.202(a)(2). These procedures must be kept current and compliance with them documented on an ongoing basis.

* * * * *

11. Subpart G of part 25, consisting of §§ 25.600 through 25.999 is added to read as follows:

Subpart G—Round II and Round IIS Grants

Sec.

25.600 Purpose.
25.601 Delegation of authority.
25.602 Eligible recipients.
25.603 Grant approval and obligation of funds.
25.604 Disbursement of grant funds.
25.605 Grant program reporting requirements.
25.606 Financial management and records.
25.607 Suspension or termination of grant funds.
25.608–25.619 [Reserved]
25.620 Eligible grant purposes.
25.621 Ineligible grant purposes.
25.622 Other considerations.
25.623 Programmatic changes.
25.624–25.999 [Reserved]

§ 25.600 Purpose.

This subpart outlines USDA policies and authorizations and contains procedures for the USDA EZ/EC grant program.

§ 25.601 Delegation of authority.

(a) *Program administration.* The Deputy Administrator, Office of Community Development, shall be responsible for the overall development of policy and administration of the USDA EZ/EC grant program.

(b) *Funding official.* Unless otherwise provided, the state director is responsible for implementing the authorities in this subpart, consistent with the guidance issued by the Office of Community Development. Except for grant approval and environmental determination authorities, state directors may re-delegate their duties to qualified staff members.

(c) *Environmental review determinations.* The funding official is responsible for making environmental review determinations.

(d) *Authority to issue regulations.* The Under Secretary, Rural Development, may promulgate regulations under this part.

§ 25.602 Eligible recipients.

(a) *General.* The grants made under this subpart shall be made to the lead managing entities on behalf of the Round II rural empowerment zones and Round IIS rural enterprise communities, respectively, in accordance with an approved strategic plan. Such grants shall be available to successor entities approved in writing by USDA.

(b) *Exception.* The funding official, with the approval of the Office of Community Development, may elect to award all or part of the available grant funds to an alternate grantee.

(c) *Subrecipients.* The grantee shall relay funds to subrecipients, as provided in the approved strategic plan, as soon as practicable.

§ 25.603 Grant approval and obligation of funds.

Grants may be made at such time as the nominated area has been designated and such other prerequisites as USDA shall determine have been met, including but not limited to:

(a) The empowerment zone or enterprise community has entered into a memorandum of agreement satisfactory to USDA;

(b) The empowerment zone or enterprise community has conformed its strategic plan to be consistent with the level of federal grant aid available and such conforming amendments (if any) have met with the approval of the Office of Community Development and the funding official;

(c) Completion of the environmental review process, including all appropriate public notices;

(d) The proposed grantee has agreed, in form and substance satisfactory to the Office of Community Development, to any funding conditions imposed by USDA;

(e) The grantee has submitted a request for obligation of funds, in form and substance satisfactory to the Office of Community Development, inclusive of the following certification:

> ''The grantee certifies that it and all direct or substantial subrecipients are in compliance and will continue to comply with all applicable laws, regulations, executive orders and other generally applicable requirements, including those contained in 7 CFR parts 25, 3015, 3016, 3017, 3018, 3019 and 3052 and any agreement to meet funding conditions, in effect at the time of the grant or as subsequently amended.''

§ 25.604 Disbursement of grant funds.

(a) The funding official will determine, based on 7 CFR parts 3015, 3016 and 3019, as applicable, whether disbursement of a grant will be by advance or reimbursement.

(b) A ''request for advance or reimbursement,'' in form and substance satisfactory to USDA, must be completed by the grantee on behalf of itself and all applicable subrecipients and submitted to the funding official.

(c) Requests for advance or reimbursement must identify:

(1) The amount requested for each benchmark activity;

(2) The cumulative amount advanced to date (not inclusive of the current amount requested) for each benchmark activity;

(3) The total USDA EZ/EC grant obligated for each benchmark activity;

(4) The total approved budget for the applicable project or program (inclusive of non USDA EZ/EC grant program sources);

(5) An estimated percentage of completion or progress made in accomplishing the benchmark goal associated with each benchmark activity;

(6) Certification that the lead managing entity and the subrecipients (where applicable) are in compliance

with all applicable laws and regulatory requirements; and

(7) Such other information as the funding official may require.

(d) Requests for advance or reimbursement may include only activities or projects which are identified in an approved strategic plan.

§ 25.605 Grant program reporting requirements.

Grantees may incorporate grant reporting requirements in the reports submitted pursuant to § 25.400, or submit them separately. In complying with the requirements of 7 CFR parts 3015, 3016, or 3019, as applicable, grantees must submit, in lieu of the forms prescribed therein, the equivalent of such forms prescribed by the Office of Community Development pursuant to this subpart as such may be adapted to the USDA EZ/EC grant program and which may be submitted and retained in electronic form.

§ 25.606 Financial management and records.

(a) In complying with the requirements of 7 CFR parts 3015, 3016, or 3019, as applicable, grantees must submit, in lieu of the forms prescribed therein, the equivalent of such forms prescribed by the Office of Community Development pursuant to this subpart as such may be adapted to the USDA EZ/EC grant program and which may be submitted and retained in electronic form.

(b) Grantees must retain financial records, supporting documents, statistical records and all other records pertinent to the grant for a period of at least 3 years after the end of the designation period, except that the records shall be retained beyond the 3 year period if audit findings have not been resolved or if directed by the United States. Records may be retained and submitted in electronic form if allowed by Generally Accepted Government Accounting Principles.

§ 25.607 Suspension or termination of grant funds.

(a) Grants under this subpart may be suspended or terminated by the funding official, in all or in part, in accordance with this subpart and the applicable provisions of 7 CFR parts 3015, 3016 and 3019, as applicable.

(b) The funding official may elect to suspend or terminate the entirety of a grant, or funding of a particular benchmark activity, but nevertheless fund the remainder of a request for advance or reimbursement, where the funding official has determined:

(1) That grantee or subrecipient of the grant funds has demonstrated insufficient progress toward achieving the related benchmark goal or in any other way failed to comply with the strategic plan;

(2) There is reason to believe that other sources of joint funding have not been or will not be forthcoming on a timely basis;

(3) The strategic plan calls for a revised use of the grant funds; or

(4) Such other cause as the funding official identifies in writing to the grantee (including but not limited to the use of federal grant funds for ineligible purposes).

§§ 25.608–25.619 [Reserved]

§ 25.620 Eligible grant purposes.

Eligible grant purposes are:

(a) Services directed at the goals of—

(1) Achieving or maintaining economic self-support to prevent, reduce, or eliminate dependency;

(2) Achieving or maintaining self sufficiency, including reduction or prevention of dependency;

(3) Preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests, or preserving, rehabilitating or reuniting families;

(b) Projects and activities identified in the strategic plan for the area; and

(c) Activities that benefit residents of the area for which the grant is made.

§ 25.621 Ineligible grant purposes.

Grant funds may not be used:

(a) As a source of local matching funds required for other federal grants;

(b) To fund political activities;

(c) To duplicate current services or replace or substitute for financial support provided from other sources. If the current service is inadequate, however, grant funds may be used to augment financial support or service levels beyond what is currently provided;

(d) To pay costs of preparing the application package for designation under this program;

(e) To pay costs of a project which were incurred prior to the execution date of the applicable memorandum of agreement;

(f) To pay for assistance to any private business enterprise which does not have at least 51 percent ownership by those who are either citizens of the United States or reside in the United States after being legally admitted for permanent residence;

(g) To pay any judgment or debt owed to the United States;

(h) To assist in the relocation of businesses;

(i) To support or promote gambling; or

(j) For political lobbying.

§ 25.622 Other considerations.

(a) *Civil rights compliance requirements.* All grants made under this subpart are subject to Title VI of the Civil Rights Act of 1964 and 7 CFR part 1901, subpart E.

(b) *Environmental review.* All grants made under this subpart are subject to the environmental requirements in effect for the water and environmental programs of the Rural Utilities Service at 7 CFR part 1794. The threshold levels of environmental review, for projects funded by the USDA EZ/EC grant program (or EZ/EC SSBG funds where the Secretary is authorized to execute the responsibilities under the National Environmental Policy Act of 1969), which projects, by their nature, would qualify for assistance under any program administered by the Rural Housing Service or Rural Business Service within USDA, shall be determined in accordance with 7 CFR part 1940, subpart G as follows:

(1) Projects meeting the descriptions found at 7 CFR 1940.310(b), (c), (d) and (e) shall be considered categorically excluded (without an environmental report) for purposes of 7 CFR 1794.21.

(2) Projects meeting the descriptions found at 7 CFR 1940.311 shall be considered categorically excluded (with an environmental report) for purposes of 7 CFR 1794.22.

(3) Projects meeting the description found at 7 CFR 1940.312 shall require the preparation of an environmental assessment (EA) for purposes of 7 CFR 1794.23.

(4) Projects which would normally require the preparation of an environmental impact statement (EIS) for purposes of 7 CFR 1940.313 shall require an EIS for purposes of 7 CFR 1794.25.

(c) *Other USDA regulations.* This program is subject to the provisions of the following regulations, as applicable:

(1) 7 CFR part 3015, ''Uniform Federal Assistance Regulations'';

(2) 7 CFR part 3016, ''Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments'';

(3) 7 CFR part 3017, ''Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)'';

(4) 7 CFR part 3018, ''New Restrictions on Lobbying'';

(5) 7 CFR part 3019, ''Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations; and

(6) 7 CFR part 3052, ''Audits of States, Local Governments, and Non-Profit Organizations.''

§ 25.623 Programmatic changes.

Prior approval from USDA is required for all changes to the scope or objectives of an approved strategic plan or benchmark activity. Failure to obtain prior approval of changes to the strategic plan or benchmarks, including changes to the scope of work or a project budget may result in suspension, termination, and recovery of USDA EZ/EC grant funds.

§§ 25.624–25.999 [Reserved]

Dated: March 18, 2002.

Ann M. Veneman,

Secretary.

[FR Doc. 02–7023 Filed 3–22–02; 8:45 am]

BILLING CODE 3410–01–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 01–054–2]

Phytophthora Ramorum; Quarantine and Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and notice of public hearings; correction.

SUMMARY: In an interim rule published in the **Federal Register** and effective on February 14, 2002, we amended the domestic quarantine regulations by quarantining 10 counties in the State of California and a portion of 1 county in the State of Oregon because of the presence of *Phytophthora ramorum* and by regulating the interstate movement of regulated and restricted articles from the quarantined area. The interim rule contained errors in the Supplementary Information section and in the rule portion. This document corrects those errors.

EFFECTIVE DATE: February 14, 2002.

FOR FURTHER INFORMATION CONTACT: Mr. Jonathan Jones, Operations Officer, Invasive Species and Pest Management, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737; (301) 734–8247.

SUPPLEMENTARY INFORMATION: In an interim rule published in the **Federal Register** on February 14, 2002 (67 FR 6827–6837, Docket No. 01–054–1), we amended the domestic quarantine regulations in 7 CFR part 301 by adding a subpart, ''Phytophthora Ramorum'' (§§ 301.92 through 301.92–10, referred to below as the regulations). The regulations quarantine portions of the States of California and Oregon because of *Phytophthora ramorum* and restrict the interstate movement of regulated and restricted articles from quarantined areas.

P. ramorum is a harmful fungus that has been found in several hosts, including manzanita (*Arctostaphylos manzanita*). In the Supplementary Information section and the rule portion of the interim rule, we incorrectly listed all species of *Arctostaphylos* as regulated and restricted articles by identifying manzanita as *Arctostaphylos* spp. Therefore, in order for the regulations to accurately identify this specific host, we are correcting the errors in the rule portion of the interim rule by replacing *Arctostaphylos* spp. with *Arctostaphylos manzanita.*

In FR Doc. 02–3721, published on February 14, 2002 (67 FR 6827–6837), make the following corrections:

PART 301—[CORRECTED]

1. On page 6835, in the first column, in § 301.92–2, in paragraphs (a)(1) and (b)(1), correct ''(*Arctostaphylos spp.*),'' to read ''(*Arctostaphylos manzanita*),''.

2. On page 6837, in the first column, in § 301.92–10, in paragraph (b), correct ''(*Arctostaphylos* spp.),'' to read ''(*Arctostaphylos manzanita*),''.

Done in Washington, DC, this 19th day of March, 2002.

W. Ron DeHaven,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02–7110 Filed 3–22–02; 8:45 am]

BILLING CODE 3410–34–U

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 989

[Docket No. FV02–989–3 FIR]

Raisins Produced From Grapes Grown in California; Extension of Redemption Date for Unsold 2001 Diversion Certificates

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim final rule that extended the deadline for raisin handlers to redeem diversion certificates issued under the 2001 raisin diversion program (RDP). The deadline is specified under the Federal marketing order for California raisins (order). The order regulates the handling of raisins produced from grapes grown in California and is administered locally by the Raisin Administrative Committee (RAC). This action gave producers additional time to sell their certificates to handlers and thus be compensated for diverting their 2001 production, which is the intent of the RDP.

EFFECTIVE DATE: Effective April 24, 2002.

FOR FURTHER INFORMATION CONTACT: Maureen T. Pello, Senior Marketing Specialist, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (559) 487–5901, Fax: (559) 487–5906; 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) 720–5698.

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) 720–5698, or E-mail: *Jay.Guerber@usda.gov.*

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 989 (7 CFR part 989), both as amended, regulating the handling of raisins produced from grapes grown in California, 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 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 continues in effect an interim final rule that extended the deadline for handlers to redeem diversion certificates issued under the 2001 RDP for Natural (sun-dried) Seedless (NS) raisins. The deadline was extended from December 17, 2001, to January 18, 2002, and applied only to certificates unsold by producers to handlers as of December 18, 2001. 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. Such 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 continues in effect an interim final rule that extended the deadline for handlers to redeem diversion certificates issued under the 2001 NS RDP. The deadline was extended from December 17, 2001, to January 18, 2002, and applied only to certificates unsold by producers as of December 18, 2001. This action gave producers additional time to sell their certificates to handlers and thus be compensated for diverting their 2001 production, which is the intent of the RDP. This action was recommended by the RAC at a meeting on December 11, 2001, by a near unanimous vote of 36 in favor, 2 opposed (believed the RAC should adhere to the current deadline), and 1 abstained. All certificates were redeemed by January 18, 2002.

Volume Regulation Provisions

The order provides authority for volume regulation designed to promote orderly marketing conditions, stabilize prices and supplies, and improve producer returns. When volume regulation is in effect, a certain percentage of the California raisin crop may be sold by handlers to any market (free tonnage) while the remaining percentage must be held by handlers in a reserve pool (reserve) for the account of the RAC. Reserve raisins are disposed of through various programs authorized under the order. For example, reserve raisins may be sold by the RAC to handlers for free use or to replace part of the free tonnage they exported; carried over as a hedge against a short crop the following year; or may be disposed of in other outlets not competitive with those for free tonnage raisins, such as government purchase, distilleries, or animal feed. Net proceeds from sales of reserve raisins are ultimately distributed to producers.

Raisin Diversion Program

The RDP is another program concerning reserve raisins authorized under the order and may be used as a means for controlling overproduction. Authority for the program is provided in § 989.56 of the order. Paragraph (e) of that section provides authority for the RAC to establish, with the approval of USDA, such rules and regulations as may be necessary for the implementation and operation of an RDP. Accordingly, additional procedures and deadlines are specified in § 989.156.

Pursuant to these sections, the RAC must meet by November 30 each crop year to review raisin data, including information on production, supplies, market demand, and inventories. If the RAC determines that the available supply of raisins, including those in the reserve pool, exceeds projected market needs, it can decide to implement a diversion program, and announce the amount of tonnage eligible for diversion during the subsequent crop year. Producers who wish to participate in the RDP must submit an application to the RAC prior to December 20. The RAC conducts a lottery if the tonnage applied far exceeds what has been allotted. RAC staff then notifies producers whether they have been accepted into the program.

Approved producers curtail their production by vine removal or some other means established by the RAC. Such producers receive a certificate the following fall from the RAC which represents the quantity of raisins diverted. Producers sell these certificates to handlers who pay producers for the free tonnage applicable to the diversion certificate minus the established harvest cost for the diverted tonnage. Handlers redeem the certificates by presenting them to the RAC by December 15 (Monday, December 17, 2001, for the 2001 RDP since December 15 fell on a Saturday) and paying an amount equal to the established harvest cost plus payment for receiving, storing, fumigating, handling, and inspecting the tonnage represented on the certificate. The RAC then gives the handler raisins from the prior year's reserve pool in an amount equal to the tonnage represented on the diversion certificate. The new crop year's volume regulation percentages are applied to the diversion tonnage acquired by the handler (as if the handler had bought raisins directly from a producer).

2001 NS Diversion Program

The 2000–01 California NS raisin crop was the largest on record with final deliveries of raisins from producers to handlers totaling 432,616 tons. This compares to the 10-year average of 344,303 tons. With this large crop, 203,330 tons of NS raisins were set aside in a reserve pool. Of that reserve tonnage, 89,076 tons were ultimately allocated to a diversion program. As of December 1, 2001, 70,529 tons of diversion certificates had been acquired by handlers. It was reported at the December 11, 2001, RAC meeting, by RAC staff that the status of about 2,000 tons of 2001 diversion certificates was unknown.

RAC Recommendation

The RAC met on December 11, 2001, and addressed a concern expressed by some producers with the 2001 RDP. Some producers were having trouble selling their 2001 diversion certificates to handlers. There was concern that some certificates may remain unsold and unredeemed by the December 15 deadline (or Monday, December 17, 2001, for the 2001 RDP since December 15 fell on a Saturday). Several reasons were mentioned as to why this was occurring. The California raisin industry as a whole is experiencing a severe economic downturn. Two short crops in 1998 and 1999 along with other factors caused producer prices to drop drastically for the 2000 crop, marking the first time in about 13 years that prices had fallen. The value of handler inventories has likewise fallen which has contributed to handler difficulties in securing financing to purchase diversion certificates from producers. In addition, some handlers do not need any more raisins to meet their market needs. In some instances, producers tried to negotiate a premium price for their certificates with handlers.

After deliberating various options (discussed in the following section of this rule regarding the Regulatory Flexibility Analysis), the RAC recommended extending the deadline for handlers to redeem 2001 diversion certificates from December 17, 2001, to January 18, 2002. The extension applied only to 2001 certificates unsold by producers as of December 18, 2001. Producers still holding certificates had to have the certificates verified and stamped appropriately by the RAC by December 21, 2001, to indicate that such certificates were valid until January 18, 2002. Handlers could then purchase these certificates from producers and redeem them for 2000–01 crop reserve raisins following prescribed procedures

in § 989.156(k). This action gave producers still holding certificates additional time to sell their certificates to handlers, and gave handlers additional time to secure financing to purchase the certificates from producers and redeem them with the RAC. All certificates were redeemed by January 18, 2002. Thus, producers will be compensated for diverting their 2001 production, which is the intent of the RDP. Section 989.156(k) was changed accordingly for the 2001 RDP only.

Final 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 final 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 20 handlers of California raisins who are subject to regulation under the order and approximately 4,500 raisin producers in the regulated area. Small agricultural firms are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less that $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $750,000. Thirteen of the 20 handlers subject to regulation have annual sales estimated to be at least $5,000,000, and the remaining 7 handlers have sales less than $5,000,000. No more than 7 handlers, and a majority of producers, of California raisins may be classified as small entities.

This rule continues to revise §§ 989.156(k) of the order's rules and regulations regarding the RDP. Under an RDP, producers receive certificates from the RAC for curtailing their production to reduce burdensome supplies. The certificates represent diverted tonnage. Producers sell the certificates to handlers who, in turn, redeem the certificates with the RAC for raisins from the prior year's reserve pool. This rule continues in effect an interim final rule that extended the deadline for handlers to redeem 2001 diversion certificates with the RAC from December 17, 2001, to January 18, 2002, and applied only to certificates unsold by producers to handlers as of December 18, 2001. All certificates were redeemed by January 18, 2002. Authority for this action is provided in § 989.56(e) of the order.

Regarding the impact of this action on affected entities, producers who curtailed 2001 production and had trouble selling their diversion certificates to handlers had additional time to sell their certificates to handlers. Handlers pay producers for the free tonnage applicable to the diversion certificate minus the established harvest cost for the diverted tonnage. For the 2001 RDP, the industry average free tonnage price applied to diversion certificates was $854 per ton, and applicable harvest costs as established by the RAC were $340 per ton. Preliminary volume regulation percentages for the 2001–02 crop were announced by the RAC at 56 percent free and 44 percent reserve. Thus, using these figures, if a producer was issued a certificate for 100 tons of raisins, he/she would be paid $138.24 per ton by the handler, or a total of $13,824 (($854 per ton × 100 tons × .56) minus (100 tons × $340 per ton harvest cost)). Extending the deadline gave producers additional time to sell their certificates and earn some income for not producing a 2001 crop.

Regarding the impact of this action on handlers, handlers experiencing financial difficulty had additional time to arrange for financing through likely extending lines of credit with financial institutions. Handlers pay producers for the free tonnage applicable to the diversion certificate minus the $340 per ton harvest cost. Handlers redeem the certificates for 2000–01 crop NS reserve raisins and pay the RAC the $340 per ton harvest cost, plus payment for bins ($20 per ton) and for receiving, storing, fumigating, handling (currently totaling $46 per ton) and inspecting (currently $9.00 per ton) the tonnage represented on the certificate (or a total of $415 per ton). In the above example, the handler would redeem the 100-ton certificate with the RAC, pay the RAC $41,500 ($415 per ton × 100 tons), and receive 44 tons (.44 × 100 tons) of raisins from the 2000–01 reserve pool.

In addition, the $41,500 in the above example paid by the handler to the RAC would be allocated to the 2000–01 reserve pool and be used to pay remaining pool expenses or be distributed to 2000–01 reserve pool equity holders (producers). Thus, all such equity holders could potentially benefit from this action.

Several alternatives to the recommended action were considered by the RAC and/or by the RAC's Administrative Issues Subcommittee. It was proposed that the RAC purchase unsold diversion certificates from producers. However, the order currently provides no authority for this. In addition, there are concerns as to how this would impact future raisin diversion programs, in particular, whether the integrity of the RDP could be maintained.

It was also proposed that a late fee be added to handlers' costs for redeeming diversion certificates after December 17, 2001. However, the order provides no authority for such a late charge. Another option considered was to take no action and adhere to the December deadline. Some industry members believe that there is no guarantee that producers can sell their harvested crop each season, and there should likewise be no ''guarantee'' that producers can sell their diversion certificates.

There was also consideration of other extension dates besides January 18, 2002. However, after much deliberation, the majority of RAC members believe that extending the deadline to January 18, 2002, was the best solution to this situation. This date gives the RAC sufficient time before it recommends final volume regulation percentages to ensure that all redeemed diversion certificates are properly reported as 2001 acquisitions by handlers and included in the 2001–02 crop estimate.

This rule imposes no additional reporting or recordkeeping requirements on either small or large raisin handlers. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection requirement referred to in this rule (i.e., the application) has been approved by the Office of Management and Budget (OMB) under OMB Control No. 0581–0178. 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. Finally, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

Further, the RAC's meeting on December 11, 2001, and the RAC's Administrative Issues Subcommittee meeting on December 5, 2001, where this action was deliberated were all public meetings widely publicized throughout the raisin industry. All interested persons were invited to attend the meetings and participate in the industry's deliberations.

An interim final rule concerning this action was published in the **Federal Register** on December 19, 2001 (66 FR

65423). Copies of the rule were mailed by RAC staff to all RAC members and alternates, the Raisin Bargaining Association, handlers and dehydrators. In addition, the rule was made available through the Internet by the Office of the Federal Register and USDA. That rule provided for a 15-day comment period that ended on January 3, 2002. One comment was received.

The commenter opposed extending the redemption deadline, expressing concern with changing the rules to accommodate a few producers while the majority of producers were able to sell their certificates by the December deadline. The commenter, who is also a handler, also expressed concern that the extension would apply to producers who had tried to negotiate a premium price for their diversion certificates. The commenter stated that, in such instances, it released the producers from their sales contract.

Similar concerns regarding producers who tried to negotiate a premium price for their diversion certificates with handlers were raised at the RAC meeting by RAC members as well. However, other reasons were given at the meeting as to why some producers were having trouble selling their certificates. As stated earlier in this rule, the California raisin industry as a whole is experiencing a severe economic downturn. Two short crops in 1998 and 1999 along with other factors caused producer prices to drop drastically for the 2000 crop, marking the first time in about 13 years that prices had fallen. The value of handler inventories has likewise fallen which has contributed to handler difficulties in securing financing to purchase diversion certificates from producers. In addition, some handlers do not need any more raisins to meet their market needs. In light of the unusual circumstances currently facing the California raisin industry, the majority of RAC members favored extending the deadline until January 18, 2002. The intent of the RDP is to divert tonnage and reduce supplies, while providing some compensation to producers. Extending the deadline resulted in redemption of all certificates, thus helping to achieve the program's intent.

The commenter also expressed concern that the RAC's statistical report regarding acquisitions of diversion certificates did not appear to reconcile with the RAC staff's report on the status of all diversion certificates. Such a discrepancy would not adversely affect this rulemaking, but may raise compliance issues.

Accordingly, no changes will be made to the rule, based on the comment received.

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.

After consideration of all relevant material presented, including the information and recommendation submitted by the RAC, the comment received, and other available information, it is hereby found that finalizing this interim final rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 989

Grapes, Marketing agreements, Raisins, Reporting and recordkeeping requirements.

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

Accordingly, the interim final rule amending 7 CFR part 989 which was published at 66 FR 65423 on December 19, 2001, is adopted as a final rule without change.

Dated: March 18, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–7107 Filed 3–22–02; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1219

[FV–01–706 FR Correction]

Hass Avocado Promotion, Research and Information Order; Referendum Procedures; Correction

AGENCY: Agricultural Marketing Service, Agriculture.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule that was published on February 19, 2002 [67 FR 7261] by publishing the correct Harmonized Tariff Schedule number for Hass avocados used to determine importer eligibility to vote in the referendum. The rule established referendum procedures to be used in connection with the Hass Avocado Promotion, Research, and Information Order.

EFFECTIVE DATE: March 25, 2002.

FOR FURTHER INFORMATION CONTACT: Julie A. Morin, Research and Promotion Branch, FV, AMS, USDA, Stop 0244, 1400 Independence Avenue, SW., Room 2535 South Building, Washington, DC 20250–0244; telephone (202) 720–9915; facsimile (202) 205–2800; or julie.morin@usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The Department of Agriculture (Department) published a final rule in the **Federal Register** on February 19, 2002 [67 FR 7261], establishing referendum procedures for the referendum on the implementation of the Hass Avocado Promotion, Research, and Information Order [7 CFR Part 1219]. The proposed Order is authorized under the Hass Avocado Promotion, Research, and Information Act of 2000 [7 U.S.C. 7801–7813].

Need for Correction

As published, there was a typographical error in the final rule. In § 1219.101(b) the definition of eligible importer, the Harmonized Tariff Schedule number identifying Hass avocados is incorrect. Accordingly, this correction document contains the correct Hass avocado Harmonized Tariff Schedule number.

Correction

FR Doc. 02–3796, published on February 19, 2002 [67 FR 7261], is corrected as follows:

§ 1219.101 [Corrected]

1. On page 7264, in the second column, in the Definitions for Subpart B—Referendum Procedures, section number § 1219.101(b) is correctly revised to read as follows:

(b) *Eligible importer* means any person who imported Hass avocados that are identified by the number 0804.40.00.10 in the Harmonized Tariff Schedule of the United States for at least one year prior to the referendum. Importation occurs when Hass avocados originating outside of the United States are released from custody by the U.S. Customs Service and introduced into the stream of commerce in the United States. Included are persons who hold title to foreign-produced Hass avocados immediately upon release by the U.S. Customs Service, as well as any persons who act on behalf of others, as agents or brokers, to secure the release of Hass avocados from the U.S. Customs Service when such Hass avocados are entered or

withdrawn for consumption in the United States.

Dated: March 19, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–7105 Filed 3–22–02; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–CE–32–AD; Amendment 39–12683; AD 2002–06–06]

RIN 2120–AA64

Airworthiness Directives; Rockwell Collins, Inc. TDR–94 and TDR–94D Mode S Transponders

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Rockwell Collins TDR–94 and TDR–94D Mode S transponders that derive altitude information from a Gillham (gray code) encoded pressure altitude source and are installed on airplanes. This AD requires you to have the unit modified to prevent erroneous altitude reporting. This AD is the result of reports that erroneous altitude resolutions could occur when the affected transponders are utilized in areas with other airplanes equipped with certain aircraft collision avoidance system (ACAS) or traffic alert and collision avoidance system (TCAS) configurations. The actions specified by this AD are intended to prevent these erroneous altitude resolutions from causing a reduction in the intended ACAS or TCAS Change 7 separation margins. Such a condition could result in air traffic control or the pilot making flight decisions that put the airplane in unsafe flight conditions.

DATES: This AD becomes effective on May 3, 2002.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of May 3, 2002.

ADDRESSES: You may get the service information referenced in this AD from Rockwell Collins Inc., Business and Regional Systems, 400 Collins Road Northeast, Cedar Rapids, Iowa 52498. You may view this information at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–CE–32–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: Roger A. Souter, FAA, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone: (316) 946–4134; facsimile: (316) 946–4407; e-mail: *roger.souter@faa.gov*.

SUPPLEMENTARY INFORMATION:

Discussion

What Events Have Caused This AD?

The FAA has received information that erroneous altitude resolutions could occur on certain Rockwell Collins TDR–94 and TDR–94D Mode S transponders installed in airplanes with Gillham (gray code) encoded sources. This information indicates that these transponders are utilized in areas with other airplanes equipped with certain aircraft collision avoidance system (ACAS) or traffic alert and collision avoidance system (TCAS) configurations. In these situations, the transponders could receive incorrect TCAS resolution advisories. This could result in a reduction in the intended ACAS or TCAS Change 7 minimum separation margins.

Gillham altitude sources have a 100-foot resolution. The affected transponder will set the altitude resolution status to indicate a 25-foot resolution when connected to a Gillham altitude source. For those units that have digital sources of altitude information, the altitude resolution status is set correctly.

These Rockwell Collins TDR–94 and TDR–94D Mode S transponders could be installed on, but not limited to, the following airplanes:

—Aerospatiale ATR42 series airplanes;
—deHavilland DHC–7 and DHC–8 series airplanes; and
—Short Brothers Models SD3–60 and SD3–60 SHERPA airplanes.

What Is the Potential Impact if FAA Took No Action?

As described above, such erroneous altitude resolutions could cause a reduction in the intended ACAS or TCAS Change 7 separation margins and result in air traffic control or the pilot making flight decisions that put the airplane in unsafe flight conditions.

Has FAA Taken Any Action to This Point?

We issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Rockwell Collins TDR–94 and TDR–94D Mode S transponders that derive altitude information from a Gillham (gray code) encoded pressure altitude source and are installed on airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on November 5, 2001 (66 FR 55898). The NPRM proposed to require you to have the actions of Rockwell Collins Service Bulletin No. 17 (TDR–94/94D–34–17), dated February 8, 1999, incorporated on any affected Mode S transponder that is installed on a type-certificated airplane where Gillham pressure altitude encoding sources are used.

Was the Public Invited To Comment?

The FAA encouraged interested persons to participate in the making of this amendment. The following presents the comments received on the proposal and FAA's response to each comment:

Comment Issue No. 1: Add Revision 1 of Service Bulletin 17 as an Acceptable Method of Compliance

What Is the Commenter's Concern?

A commenter states that Rockwell Collins Service Bulletin No. 17 (TDR–94/94D–34–17), Revision No. 1, dated May 15, 2000, should be included as an acceptable method of compliance. The commenter states that the only change revision 1 makes to the original service bulletin is in the Material Information.

What Is FAA's Response to the Concern?

The FAA concurs that Revision 1 of the service bulletin should be included as an acceptable method of compliance with this AD. We will incorporate this bulletin into the AD.

Comment Issue No. 2: Add Another Service Bulletin as an Acceptable Method of Compliance

What Is the Commenter's Concern?

The commenter states that Rockwell Collins Service Bulletin 20 (TDR–94/94D–34–20), Revision 1, dated May 2, 2001, should also be included as an acceptable method of compliance with this AD. Service Bulletin 20 allows modification of TDR–94 and TDR–94D Mode S Transponders from the –004 or –005 status to the –006 status. Service Bulletin 20 includes all –005 status functionality required in Service Bulletin 17.

What Is FAA's Response to the Concern?

The FAA concurs that Rockwell Collins Service Bulletin 20 (TDR–94/94D–34–20), Revision 1, dated May 2,

2001, should be included as an acceptable method of compliance with this AD. We will incorporate this bulletin into the AD.

FAA's Determination

What Is FAA's Final Determination on This Issue?

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

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

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

Cost Impact

How Many Airplanes Does This AD Impact?

We estimate that 1,400 affected Rockwell Collins TDR–94 and TDR–94D Mode S transponders could be installed on airplanes in the U.S. registry.

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

We estimate the following costs to accomplish the modification:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
3 workhours × $60 per hour = $180	$295	$475	$665,000

The manufacturer will provide warranty credit for parts and labor for work done in accordance with Rockwell Collins Service Bulletin No. 17, dated February 8, 1999, Service Bulletin 17, Revision No. 1, dated May 15, 2000, and to the extent noted in Service Bulletin 20, Revision No. 1, dated May 2, 2001.

Compliance Time of This AD

Why Is the Compliance Time of This AD Presented in Calendar Time Instead of Hours Time-In-Service (TIS)?

The compliance of this AD is presented in calendar time instead of hours TIS because the condition exists regardless of airplane operation. The erroneous altitude indications could occur regardless of the number of times and hours the airplane was operated or the age of the Mode S transponder. For these reasons, 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 in a reasonable time period on all airplanes that have an affected Rockwell Collins TDR–94 and TDR–94D Mode S transponder installed, and where Gillham pressure altitude encoding sources are used.

Regulatory Impact

Does This AD Impact Various Entities?

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

Does This AD Involve a Significant Rule or Regulatory Action?

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2002–06–06 Rockwell Collins, Inc.: Amendment 39–12683; Docket No. 2000–CE–32–AD.

(a) *What airplanes are affected by this AD?* This AD applies to TDR–94 Mode S transponders (Collins part number (CPN) 622–9352–004) and TDR–94D Mode S transponders (CPN 622–9210–004) that derive altitude information from a Gillham (gray code) encoded pressure altitude source and are installed on, but not limited to, the following airplanes that are certificated in any category:

(1) Aerospatiale ATR42 series airplanes;

(2) deHavilland DHC–7 and DHC–8 series airplanes; and

(3) Short Brothers Models SD3–60 and SD3–60 SHERPA airplanes.

(b) *Who must comply with this AD?* Anyone who wishes to operate any airplane with one of the affected TDR–94 or TDR–94D Mode S Transponder units installed must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to prevent erroneous altitude resolutions from causing a reduction in the intended aircraft collision avoidance system (ACAS) or traffic alert and collision avoidance system (TCAS) Change 7 minimum separation margins. Such a condition could result in air traffic control or the pilot making flight decisions that put the airplane in unsafe flight conditions.

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

Actions	Compliance	Procedures
(1) Determine whether the altitude information from any TDR–94 Mode S transponder (CPN 622–9352–004) or TDR–94D Mode S transponder (CPN 622–9120–004) is derived from a digital air data source or a Gillham (gray code) encoded source.	Within the next 3 months after May 3, 2002 (the effective date of this AD).	As specified in Rockwell Collins Service Bulletin No. 17 (TDR–94/94D–34–17), dated February 8, 1999, Service Bulletin 17, Revision No. 1, dated May 15, 2000, or Service Bulletin 20 (TDR–94/94D–34–20), Revision No. 1, dated May 2, 2001. Collins Product Information Letter No. 71, dated January 1999, references Service Bulletin 17, dated February 8, 1999
(2) If the altitude information is derived from a Gillham (gray code) encoded source, have the unit modified to prevent erroneous altitude reporting. The modification encompasses converting the TDR–94 transponder from Collins part number (CPN) 622–9352–004 to CPN 622–9352–005 or converting CPN 622–9352–004/005 to CPN 622–9352–006; and converting the TDR 94D transponder from CPN 622–9210–004 to CPN 622–9210–005 or converting CPN 622–9210–004/005 to CPN 622–9210–006.	At the next transponder check required by 14 CFR 91.413 and occurs 3 months after May 3, 2002 (the effective date of this AD) or within the next 9 months after May 3, 2002 (the effective date of this AD), whichever occurs first.	In accordance with Rockwell Collins Service Bulletin No. 17 (TDR–94/94D–34–17), dated February 8, 1999, Service Bulletin 17, Revision No. 1, dated May 15, 2000, or Service Bulletin 20 (TDR–94/94D–34–20), Revision No. 1, dated May 2, 2001. Collin Product Information Letter No. 71, dated January 1999, references Service Bulletin 17, dated February 8, 1999.
(3) If the altitude information from all affected transponders is derived from a digital air data source, no modification action is required by this AD.	Not applicable	Not applicable.
(4) Do not install any TDR–94 Mode S transponder (CPN 622–9352–004) or TDR–94D Mode S transponder (CPN 622–9210–004) on any airplane if the altitude information is derived from a Gillham (gray code) encoded source, unless the modification required by paragraph (d)(2) of this Ad is incorporated.	As of May 6, 2002 (the effective date of this AD).	Accomplish the modification in accordance with Rockwell Collins Service Bulletin No. 17 (TDR–94/94D–34–17), dated February 8, 1999, Service Bulletin 17, Revision No. 1, dated May 15, 2000, or Service Bulletin 20 (TDR–94/94D–34–20), Revision No. 1, dated May 2, 2001. Collins Product Information Letter No. 71, dated January 1999, references Service Bulletin 17, dated February 8, 1999.

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

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

(f) *Where can I get information about any already-approved alternative methods of compliance?* You can contact Roger A. Souter, FAA, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone: (316) 946–4134; facsimile: (316) 946–4407; e-mail: roger.souter@faa.gov.

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

(h) *Are any service bulletins incorporated into this AD by reference?* Actions required by this AD must be done in accordance with Rockwell Collins Service Bulletin No. 17 (TDR–94/94D–34–17), dated February 8, 1999, Rockwell Collins Service Bulletin Service Bulletin 17 (TDR–94/94D–34–17), Revision No. 1, dated May 15, 2000, or Service Bulletin 20 (TDR–94/94D–34–20), Revision No. 1, dated May 2, 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 Rockwell Collins Inc., Business and Regional Systems, 400 Collins Road Northeast, Cedar Rapids, Iowa 52498. You can look at copies at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

(i) *When does this amendment become effective?* This amendment becomes effective on May 3, 2002.

Issued in Kansas City, Missouri, on March 12, 2002.

Dorenda D. Baker,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–6625 Filed 3–22–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Parts 734, 740, 742, 743, and 774

[Docket No. 020228045–2053–02]

RIN 0694–AC56

Corrections to Rule Entitled: Revisions to License Exception CTP: Implementation of Presidential Announcement of January 2, 2002

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: On March 8, 2002 the Bureau of Export Administration (BXA) published a final rule revising License Exception CTP. This rule corrects errors in instruction 9.

DATES: This rule is effective March 25, 2002.

FOR FURTHER INFORMATION CONTACT: Sharron Cook in the Office of Exporter Services, Bureau of Export Administration, at (202) 482–2440.

SUPPLEMENTARY INFORMATION:

In rule FR Doc. 02–5562 published on March 8, 2002, (67 FR 10608), BXA makes the following corrections.

PART 742—[CORRECTED]

On page 10610, in the third column, under part 742, in instruction 9, revise the phrase ''in paragraph (b)(3)(iv)(A)'' to read ''in paragraph (b)(3)(iv)(A),'' and by revising the phrase ''with a CTP greater than 85,000 MTOPS'' to read ''with a CTP greater than 190,000 MTOPS'' in paragraph (b)(3)(i)(B).

Dated: March 19, 2002.

Eileen M. Albanese,

Director, Office of Exporter Services, Export Administration.

[FR Doc. 02–7111 Filed 3–22–02; 8:45 am]

BILLING CODE 3510–33–M

RAILROAD RETIREMENT BOARD

20 CFR Part 345

RIN 3220–AB52

Employers' Contributions and Contribution Reports

AGENCY: Railroad Retirement Board.

ACTION: Final rule.

SUMMARY: The Railroad Retirement Board (Board) amends its regulations to permit the filing of contribution reports via the Internet. The Government Paperwork Elimination Act provides that Federal agencies are required by October 21, 2003, to provide ''for the option of the electronic maintenance, submission, or disclosure of information, when practicable as a substitute for paper''. The changes will permit the filing of Form DC–1, ''Employer's Quarterly Report of Contributions Under the Railroad Unemployment Insurance Act'' electronically.

DATES: Effective March 25, 2002.

FOR FURTHER INFORMATION CONTACT: Marguerite P. Dadabo, Assistant General Counsel, (312) 751–4945, TTD (312) 751–4701.

SUPPLEMENTARY INFORMATION: The amendments revise sections of part 345 of the Board's regulations (20 CFR part 345) to permit the filing of employer contribution reports via the Internet. The Government Paperwork Elimination Act, Pub. L. 105–277 §§ 1701–1710 (codified as 44 U.S.C. 3504n) provides that Federal agencies are required by October 21, 2003, to provide ''for the option of the electronic maintenance, submission, or disclosure of information, when practicable as a substitute for paper''. The amendments to part 345 will permit the filing of Form DC–1, ''Employer's Quarterly Report of Contributions Under the Railroad Unemployment Insurance Act'' electronically.

The revision of § 345.111 provides that if the DC–1 is filed electronically, no duplicate filing is required. The revision to § 345.113 provides that the DC–1 may be filed electronically through the Board's agent. That section is further amended to provide that if the DC–1 is filed electronically, no further authentication is required. The paper Form DC–1 must be signed. However, with submission of the DC–1 electronically, the Board intends to use a user-ID/PIN/password system for the submission of the form as a substitute for a required signature.

Employers currently use a user-ID/PIN/password system to access RRBLINK and make electronic tax deposits. Form DC–1 is being added to the existing system. The user-ID/PIN/password system was established under a Memorandum of Understanding between Firstar Bank and the U.S. Department of the Treasury. A PIN/password system is used to access the pay.gov site to which the RRBLINK system will eventually migrate. The pay.gov site is operated by the U.S. Department of the Treasury. Such a system also is consistent with the guidance provided by the Department of Justice regarding the use of electronic processes.

The revision to § 345.114 permits the use of an electronic version of the DC–1 that can be accessed from the Board's financial agent. Section 345.115 is revised to provide that the DC–1, if filed electronically, may be filed with the Board's designee.

Section 345.124 is revised to clarify that if an employer wishes to appeal the amount of the contribution, interest, or penalty, the procedure in that section is to be followed. Section 345.307 is revised to clarify that if the employer wishes to protest the contribution rate, the procedure in that section is to be followed. In addition, the title of the person who hears such a protest is revised due to an agency reorganization from the ''Director of Unemployment and Sickness Insurance'' to the ''Director of Assessment and Training''.

The Board published the proposed rule on January 16, 2002 (67 FR 2157), and invited comments by March 18, 2002. No comments were received. Accordingly, the proposed rule is being published as a final rule without change.

The Board, with the concurrence of the Office of Management and Budget, has determined that this is not a significant regulatory action under Executive Order 12866. Therefore, no regulatory analysis is required. The Office of Management and Budget has approved information collections associated with this rule under control number 3220–0012.

List of Subjects in 20 CFR Part 345

Electronic filing, Paperwork elimination, Railroad unemployment insurance, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, the Railroad Retirement Board amends title 20, chapter II, part 345 of the Code of Federal Regulations as follows:

PART 345—EMPLOYERS' CONTRIBUTIONS AND CONTRIBUTION REPORTS

1. The authority citation for part 345 continues to read as follows:

Authority: 45 U.S.C. 362(l).

2. Section 345.111 of subpart B is revised to read as follows:

§ 345.111 Contribution reports.

(a) *General.* (1) Except as provided in paragraph (a)(2) of this section, every employer shall, for each calendar quarter of each year, prepare a contribution report, in duplicate, on Form DC–1. If the Form DC–1 is filed electronically, no duplicate submission is required.

(2) Contribution reports of employers who are required by State law to pay compensation on a weekly basis shall include with respect to such compensation all payroll weeks in which all or the major part of the compensation falls within the period for which the reports are required.

(b) *Compensation to be reported on Form DC–1.* Employers shall enter on the employer's quarterly contribution report, prior to any additions or subtractions, the amount of creditable compensation appearing on payrolls or other disbursement documents for the corresponding quarter as the amount of creditable compensation from which the contribution payable for that quarter is to be computed.

(Approved by the Office of Management and Budget under control number 3220–0012)

3. Section 345.113 of subpart B is revised to read as follows:

§ 345.113 Execution of contribution reports.

(a) Each contribution report on Form DC–1 shall be signed by hand by:

(1) The individual, if the employer is an individual;

(2) The president, vice president, or other duly authorized officer, if the employer is a corporation; or

(3) A responsible and duly authorized member or officer having knowledge of its affairs if the employer is a partnership or other unincorporated organization.

(b) The Form DC–1 may be filed electronically through the Board's authorized agent. If filed electronically, no further authentication is required.

4. Section 345.114 of subpart B is revised to read as follows:

§ 345.114 Prescribed forms for contribution reports.

Each employer's contribution report, together with any prescribed copies and supporting data, shall be filled out in accordance with the instructions and regulations applicable thereto. The prescribed forms may be obtained from or accessed by contacting the Board. An employer will not be excused from making a contribution report for the reason that no form has been furnished to such employer. Application should be made to the Board for the prescribed forms in ample time to have the contribution report prepared, verified, and filed with the Board on or before the due date. Contribution reports that have not been so prepared will not be accepted and shall not be considered filed for purposes of § 345.115 of this part. In case the prescribed form has not been obtained, a statement made by the employer disclosing the period covered and the amount of compensation with respect to which the contribution is required may be accepted as a tentative contribution report if accompanied by the amount of contribution due. If filed within the prescribed time, the statements so made will relieve the employer from liability for any penalty imposed under this part for the delinquent filing of the contribution report provided that the failure to file a contribution report on the prescribed form was due to reasonable cause and not due to willful neglect, *and provided further,* that within 30 days after receipt of the tentative report, such tentative report is supplemented by a contribution report made on the proper form. (Approved by the Office of Management and Budget under control number 3220–0012)

5. Section 345.115 of subpart B is revised to read as follows:

§ 345.115 Place and time for filing contribution reports.

Each employer shall file its contribution report with the Chief Financial Officer, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, 60611–2092, or the Chief Financial Officer's designee. The employer's contribution report for each quarterly period shall be filed on or before the last day of the calendar month following the period for which it is made. If such last day falls on Saturday, Sunday, or a national legal holiday, the report may be filed on the next following business day. If mailed, reports must be postmarked on or before the date on which the report is required to be filed.

6. Section 345.124 of subpart B is revised to read as follows:

§ 345.124 Right to appeal the amount of a contribution, interest, or penalty.

(a) Except as otherwise provided, an employer may seek administrative review of any determination with respect to any contribution, interest, or penalty made under this part by filing a request for reconsideration with the Chief Financial Officer within 30 days after the mailing of notice of such determination. An employer shall have a right to appeal to the Board from any reconsideration decision under this section by filing notice of appeal to the Secretary to the Board within 14 days after the mailing of the decision on reconsideration. Upon receipt of a notice of an appeal, the Board may designate one of its officers or employees to receive evidence and report to the Board under the procedures set forth in part 319 of this chapter. An appeal of the contribution rate is made under § 345.307 of this part.

(b) Any appeal filed under this part shall not relieve the employer from filing any reports or paying any contribution required under this part nor stay the collection thereof. Upon the request of an employer, the Board may relieve the employer of any obligation required under this part pending an appeal. Unless specifically provided by the Board, such relief shall not stay the accrual of interest on any disputed amount as provided for in § 345.122 of this part.

7. Section 345.307 of subpart D is revised to read as follows:

§ 345.307 Rate protest.

(a) *Request for reconsideration.* An employer may appeal a determination of a contribution rate computed under this part by filing a request for reconsideration with the Director of Assessment and Training within 90 days after the date on which the Board notified the employer of its rate of contribution for the next ensuing calendar year. Within 45 days of the receipt of a request for reconsideration, the Director shall issue a decision on the protest.

(b) *Appeal to the Board.* An employer aggrieved by the decision of the Director of Assessment and Training under paragraph (a) of this section may appeal to the Board. Such appeal shall be filed with the Secretary to the Board within 30 days after the date on which the Director notified the employer of the decision on reconsideration. The Board may decide such appeal without a hearing or, in its discretion, may refer the matter to a hearings officer pursuant to part 319 of this chapter.

(c) *Decision of the Board final.* Subject to judicial review provided for in section 5(f) of the RUIA, the decision of the Board under paragraph (b) of this section is final with respect to all issues determined therein.

(d) *Waiver of time limits.* A request for reconsideration or appeal under this section shall be forfeited if the request or appeal is not filed within the time prescribed, unless reasonable cause, as defined in this part, for failure to file timely is shown.

(e) *Rate pending review.* Pending review of the protested rate, the employer shall continue to pay contributions at such rate. Any adjustment in the contributions paid at such rate as the result of an appeal shall be in accordance with § 345.118 of this part.

(f) The amount of a contribution, interest, or penalty may be protested in accord with § 345.124 of this part.

Dated: March 19, 2002.

By Authority of the Board, for the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 02–7069 Filed 3–22–02; 8:45 am]

BILLING CODE 7905–01–P

DEPARTMENT OF THE INTERIOR

Office of Indian Education Programs

25 CFR Part 46

RIN 1076–AE29

Technical Amendments to Adult Education Program

AGENCY: Office of Indian Education Programs, Interior.

ACTION: Final rule; corrected.

SUMMARY: This rule changes our estimate of the time it takes to fill out the application form for adult education benefits. The new estimated completion time of four hours more accurately reflects the time that applicants must spend to provide the information that we request. This more accurate estimate satisfies the requirements of the

Paperwork Reduction Act and Office of Management and Budget regulations. The application requirements themselves remain unchanged.

EFFECTIVE DATE: Effective on March 25, 2002.

FOR FURTHER INFORMATION CONTACT: William A. Mehojah, Jr., Director, Office of Indian Education Programs, 202–208–6123.

SUPPLEMENTARY INFORMATION: The final rule was published in the **Federal Register** on August 19, 1997 (62 FR 44081). At that time, 46.3 listing a burden time of 3 hours per response was published. Since then, the hour burden has been changed to 4 hours per response and approved by the Office of Management and Budget. We are amending the rule to agree with the approved hour burden. Additionally, we are correcting the address for submission of comments and deleting reference to sending comments to the Office of Management and Budget. The change will not adversely affect respondents.

Determination To Issue A Final Rule

The Department has determined that the public notice and comment provisions of the Administrative Procedure Act, 5 U.S.C. 553(b) do not apply because of the good cause exception under 5 U.S.C. 553(b)(3)(B), which allows the agency to suspend the notice and public procedure when the agency finds for good cause that those requirements are impractical, unnecessary and contrary to the public interest. This amendment brings agreement between the rule and the Information Collection Request (1076–0120) which provides an additional hour for the annual report preparation. We have published this increased burden estimate in the **Federal Register** several times and have received no adverse comments. The rule also directed comments to be sent to the Office of Management and Budget but that is no longer considered necessary by the Office of Management and Budget. For these reasons, public comment on this technical change is unnecessary.

Determination To Make Rule Effective Immediately

The Department has determined that the amended rule should be effective immediately in accordance with 5 U.S.C. 533(d) for the following reasons: (1) The changes to amend the rule have no adverse affect on the public, and (2) the public has had opportunity to comment on the response burden previously during renewal of the Information Collection Request.

Regulatory Planning and Review (Executive Order 12866)

This document is not a significant rule and is not subject to review by the Office of Management and Budget under Executive Order 12866.

(1) This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.

(3) This rule does not alter the budgetary effects or entitlements programs or the rights or obligations of their recipients. The program for adult education is not changed except to put the rule in agreement with the approved information collection.

(4) This rule does not raise novel legal or policy issues. The main impact is to put the rule in agreement with the approved information collection.

Regulatory Flexibility Act

The Department of the Interior certifies that this document 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.*). Funding will not be affected by this minor change to the rule.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

(a) Does not have an annual effect on the economy of $100 million or more.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

This rule imposes no unfunded mandates on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. This rule will not require additional costs to state, local, or tribal governments. This rule is in compliance with the provisions of the Unfunded Mandates Act of 1995 (1 U.S.C. 1531, *et seq.*).

Takings (Executive Order 12630)

In accordance with Executive Order 12630, the rule does not have significant takings implications. This rule affects adult education by making the rule agree with the approved information collection. A takings implication assessment is not required.

Federalism (Executive Order 12612)

This rule does not have significant Federalism effects. A Federalism assessment is not required. This rule affects only the small adult education programs of the tribes.

Civil Justice Reform (Executive Order 12988)

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3 (a) and 3 (b)(2) of Executive Order 12988.

Paperwork Reduction Act

This regulation requires a collection of information from 10 or more parties, and submission under the Paperwork Reduction Act is required. OMB form 83–I for this collection has been reviewed by the Department and approved by the Office of Management and Budget as 1076–0120.

National Environmental Policy Act

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. It has no effect on the environment. A detailed statement under the National Environmental Policy Act of 1969 is not needed.

Consultation and Coordination With Indian Tribal Governments (Executive Order 13175)

The rewriting of this rule is designed to ensure that the rule agrees with the approved information collection. The rewriting of this rule directs comments to the bureau in accordance with the Office of Management and Budget direction. The addition of 1 hour to the burden has been published in the **Federal Register** several times, allowing the tribes affected and other members of the public to comment.

Clarity of This Regulation

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your

comments on how to make this proposed rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the proposed rule clearly stated? (2) Does the proposed rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the proposed rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Would the rule be easier to understand if it were divided into more (but shorter) sections? (A ''section'' appears in bold type and is preceded by the symbol ''§'' and a numbered heading; for example, § 46.3 Information Collection) (5) Is the description of the rule in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the proposed rule? What else could we do to make the rule easier to understand? Send a copy of any comments that concern how we could make this rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street NW., Washington, DC 20240. You may also e-mail the comments to this address: *Exsec@ios.doi.gov*

List of Subjects in 25 CFR Part 46

Indians—education, adult education.

Dated: March 7, 2002.

Neal A. McCaleb,

Assistant Secretary—Indian Affairs.

For the reasons set out in the preamble, Part 46 of Title 25 of the Code of Federal Regulations is amended as follows:

PART 46—ADULT EDUCATION PROGRAM

1. The authority citation for part 46 continues to read as follows:

Authority: 43 U.S.C. 1457; 25 U.S.C. 2, 9, 13.

2. Section 46.3 is revised to read as follows:

§ 46.3 Information collection.

Information collection requirements contained in this part have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned control number 1076–0120. This information is being collected to assess the need for adult education programs. The information collection is used to manage program resources and for fiscal accountability and appropriate direct services documentation. Response to this request is necessary to obtain or retain a benefit. Public reporting burden for this form is estimated to average 4 hours per response including time for reviewing instructions, gathering, maintaining data, completing and reviewing the form. Direct comments regarding the burden estimate or any other aspect of this form to the BIA Information Collection Clearance Officer, 1849 C Street NW., Washington, DC 20240.

[FR Doc. 02–7000 Filed 3–22–02; 8:45 am]

BILLING CODE 4310–6W–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD07–02–021]

Drawbridge Operation Regulations: Hatchett Creek (US 41), Gulf Intracoastal Waterway, Venice, Sarasota County, FL

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Seventh Coast Guard District, has approved a deviation from the regulations governing the operation of the new Hatchett Creek (US 41) bridge across the Gulf Intracoastal Waterway in Venice, Florida. This deviation allows the drawbridge owner to only open one leaf of the bridge from March 18, 2002, until May 15, 2002, to complete construction of the new bascule leaves. A double leaf opening is available with 6 hours notice to bridge tender.

DATES: This rule is effective from 12:01 a.m. on March 18, 2002, until 11:59 p.m. on May 15, 2002.

ADDRESSES: Comments and material received from the public, as well as comments indicated in this preamble as being available in the docket, are part of docket [CGD07–02–021] and are available for inspection or copying at Commander (obr), Seventh Coast Guard District, 909 SE. 1st Avenue, Room 432, Miami, FL 33131 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Barry Dragon, Chief, Operations Section, Seventh Coast Guard District, Bridge Branch at (305) 415–6743.

SUPPLEMENTARY INFORMATION: The Florida Department of Transportation requested that the Coast Guard temporarily allow the Hatchett Creek bridge to only open a single leaf of the bridge from March 18, 2002, until May 15, 2002. Double leaf openings will be available with 6 hour advance notice to the bridge tender. This temporary deviation from the existing bridge regulations is necessary to complete construction of the new bascule leaves. The Hatchett Creek (US 41), bridge has a horizontal clearance of 45 feet between the fender and the down span.

The District Commander has granted a temporary deviation from the operating requirements listed in 33 CFR 117.5 to allow the owner to complete construction of the new bascule leaves. Under this deviation, the Hatchett Creek (US 41) bridge need only open a single leaf of the bridge from March 18, 2002, until May 15, 2002. Double leaf openings will be available with a 6 hour advanced notice to the bridge tender.

Dated: March 13, 2002.

Greg Shapley,

Chief, Bridge Administration, Seventh Coast Guard District.

[FR Doc. 02–7001 Filed 3–22–02; 8:45 am]

BILLING CODE 4910–15–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO 152–1152a; FRL–7163–2]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is announcing it is approving the State Implementation Plan (SIP) revision submitted by the state of Missouri which provides for the attainment and maintenance of the sulfur dioxide (SO_2) National Ambient Air Quality Standard (NAAQS) in Springfield (Greene County), Missouri. This revision approves a Consent Agreement which requires SO_2 emission reductions from a major air emissions source in Springfield. Approval of this SIP revision will make the Consent Agreement Federally enforceable.

DATES: This direct final rule will be effective May 24, 2002, unless EPA receives adverse comments by April 24, 2002. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Comments may be mailed to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

Copies of documents relative to this action are available for public

inspection during normal business hours at the above-listed Region 7 location. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Wayne Kaiser at (913) 551–7603.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This section provides additional information by addressing the following questions:

What is a SIP?
What is the Federal approval process for a SIP?
What does Federal approval of a state regulation or control strategy mean to me?
What is the NAAQS for SO_2?
What NAAQS exceedances occurred in Springfield, Missouri?
What is the control strategy?
What is contained in the SIP submittal?
Have the requirements for approval of a SIP revision been met?
What action is EPA taking?

What Is a SIP?

Section 110 of the Clean Air Act (CAA) requires states to develop air pollution regulations and control strategies to ensure that state air quality meets the national ambient air quality standards established by EPA. These ambient standards are established under section 109 of the CAA, and they currently address six criteria pollutants. These pollutants are: carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

Each Federally-approved SIP protects air quality primarily by addressing air pollution at its point of origin. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

What Is the Federal Approval Process for a SIP?

In order for state regulations and control strategies to be incorporated into the Federally-enforceable SIP, states must formally adopt them consistent with state and Federal requirements. This process generally includes a public notice, public hearing, public comment period, and a formal adoption by a state-authorized rulemaking body.

Once a state regulation or control strategy is adopted, the state submits it to us for inclusion into the SIP. We must provide public notice and seek additional public comment regarding the proposed Federal action on the state submission. If adverse comments are received, they must be addressed prior to any final Federal action by us.

All state regulations and supporting information approved by EPA under section 110 of the CAA are incorporated into the Federally-approved SIP. Records of such SIP actions are maintained in the Code of Federal Regulations (CFR) at Title 40, Part 52, entitled ''Approval and Promulgation of Implementation Plans.'' The Missouri SIP is published in 40 CFR part 52, subpart AA.

The actual state regulations and control strategies which are approved are not reproduced in their entirety in the CFR outright but are ''incorporated by reference,'' which means that we have approved a given state regulation or control strategy with a specific effective date.

What Does Federal Approval of a State Regulation or Control Strategy Mean to Me?

Enforcement of the state regulation or control strategy before and after it is incorporated into the Federally-approved SIP is primarily a state responsibility. However, after the regulation is Federally approved, we are authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violations as described in section 304 of the CAA.

What Is the NAAQS for SO_2?

As mentioned above, we have established ambient air quality standards for a number of pollutants, including SO_2. These standards are set at levels to protect public health and welfare. The standards are published in 40 CFR part 50. If ambient air monitors measure violations of the standard, states are required to identify the cause of the problem and to take measures which will bring the area back within the level of the standard. The 24-hour standard for SO_2 is 0.14 parts per million, not to be exceeded more than once per year. There is also a 3-hour and an annual standard.

What NAAQS Exceedances Occurred in Springfield, Missouri?

In 1996, there were two exceedances of the 24-hour SO_2 standard at separate monitors in the vicinity of the James River power station. The source of the SO_2 emissions identified as contributing to the exceedances of the NAAQS was the Springfield, Missouri, City Utilities James River power generating station. There are five boilers at this facility.

What Is the Control Strategy?

The Missouri Department of Natural Resources (MDNR) negotiated enforceable emission limitations and other control measures, means, and techniques, as well as schedules and timetables for compliance, sufficient to ensure that the NAAQS for SO_2 will be achieved and maintained in the future. These measures incorporate the use of low sulfur coal and fuel blending. Compliance will be determined through coal sampling and fuel certification, and continuous emissions monitoring.

The control strategy reduces the allowable SO_2 that can be emitted to the atmosphere on a 24-hour average from the five boiler units. Units 1–4 are limited to 1.5 lb/mmBtu of heat input and Unit 5 is limited to 2.0 lb/mmBtu of heat input. The pre-existing limit was 9.2 lb/mmBtu. Two additional SO_2 monitors will be installed in the vicinity of the James River station, for a total of five monitors.

These control strategy requirements were incorporated into a Consent Agreement issued by MDNR to City Utilities. In addition to the conditions above, the Consent Agreement contains monitoring, reporting, and recordkeeping requirements sufficient to determine compliance. These provisions shall also be incorporated into the facility's Title V operating permit.

What Is Contained in the SIP Submittal?

The MDNR submitted a request to us to approve the Consent Agreement as a revision to the Missouri SIP. Additional information is contained in the state submittal and in the EPA Technical Support Document (TSD) for this notice which can be obtained by contacting us at the address above.

Have the Requirements for Approval of a SIP Revision Been Met?

The state submittal has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submittal also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained above and in more detail in the TSD, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

What Action Is EPA Taking?

We are approving a revision to the Missouri SIP which requires source-specific SO_2 emission reductions which will result in attainment and maintenance of the SO_2 NAAQS in Springfield (Greene County), Missouri.

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 CAA. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

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

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

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 May 24, 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 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: March 14, 2002.

James B. Gulliford,

Regional Administrator, Region 7.

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 AA—Missouri

2. In § 52.1320(d) the table is amended by adding a new entry to the end of the table to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(d) * * *

EPA-APPROVED STATE SOURCE-SPECIFIC PERMITS AND ORDERS

Name of source	Order/permit No.	State effective date	EPA approval date	Explanation
*	*	*	*	*
Springfield City Utilities James River Power Station SO_2.	Consent Agreement	12/06/01	3/25/02 and FR cite.	

* * * * *

[FR Doc. 02–7092 Filed 3–22–02; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO 114–1114b; FRL–7162–9]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving as an amendment to the Missouri State Implementation Plan (SIP) a revision to the Missouri construction permit rule. EPA is also responding to comments received during the public comment period. This revision will strengthen the SIP with respect to attainment and maintenance of established air quality standards, ensure consistency between the state and Federally-approved rules, and ensure Federal enforceability of the state's air program rule revisions pursuant to section 110 of the Clean Air Act.

EFFECTIVE DATE: This rule is effective on April 24, 2002.

FOR FURTHER INFORMATION CONTACT: Wayne Kaiser at (913) 551–7603.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This section provides additional information by addressing the following questions:

What is a SIP?
What is the Federal approval process for a SIP?
What does Federal approval of a state regulation mean to me?
What is being addressed in this document?
Have the requirements for approval of a SIP revision been met?
What action is EPA taking?

What Is a SIP?

Section 110 of the Clean Air Act (CAA) requires states to develop air pollution regulations and control strategies to ensure that state air quality meets the national ambient air quality standards established by EPA. These ambient standards are established under section 109 of the CAA, and they currently address six criteria pollutants. These pollutants are: carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

Each state must submit these regulations and control strategies to us for approval and incorporation into the Federally-enforceable SIP.

Each Federally-approved SIP protects air quality primarily by addressing air pollution at its point of origin. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

What Is the Federal Approval Process for a SIP?

In order for state regulations to be incorporated into the Federally-enforceable SIP, states must formally adopt the regulations and control strategies consistent with state and Federal requirements. This process generally includes a public notice, public hearing, public comment period, and a formal adoption by a state-authorized rulemaking body.

Once a state rule, regulation, or control strategy is adopted, the state submits it to us for inclusion into the SIP. We must provide public notice and seek additional public comment regarding the proposed Federal action on the state submission. If adverse comments are received, they must be addressed prior to any final Federal action by us.

All state regulations and supporting information approved by EPA under section 110 of the CAA are incorporated into the Federally-approved SIP. Records of such SIP actions are maintained in the Code of Federal Regulations (CFR) at Title 40, part 52, entitled ''Approval and Promulgation of Implementation Plans.'' The actual state regulations which are approved are not reproduced in their entirety in the CFR outright but are ''incorporated by reference,'' which means that we have approved a given state regulation with a specific effective date.

What Does Federal Approval of a State Regulation Mean to Me?

Enforcement of the state regulation before and after it is incorporated into the Federally-approved SIP is primarily a state responsibility. However, after the regulation is Federally approved, we are authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violations as described in section 304 of the CAA.

What Is Being Addressed in This Document?

Background

On April 6, 2001, we published a proposal and a direct final **Federal Register** document to approve Missouri rule 10 CSR 10–6.060, Construction Permits Required, as a revision to the Missouri State Implementation Plan (SIP). Among other revisions, this submission established minimum emission cutoffs for the state's minor new source review (NSR) program. In general, Missouri did not previously have exemptions to its minor NSR program based on emission levels. The revisions, in relevant part, exempt sources with emission levels below 0.5 pounds per hour or 876 pounds per year of a regulated pollutant from the minor source permitting program. Because adverse comments were submitted on our approval of the rule, the direct final rule was withdrawn on June 1, 2001 (66 FR 29705).

Two comment letters were received—one from the Associated Industries of Missouri (AIM) and one from the Regulatory Environmental Group For Missouri (REGFORM). The REGFORM comments were received two days after the close of the comment period, but since its comments were similar to those submitted by AIM, they will also be addressed here.

Response to Comments

Comment 1: The AIM comment was general in nature and pertained to the portion of the rule relating to the emission levels below which permit review for new construction or modification is not required. AIM stated that this issue had been the subject of discussion of a work group involving industry, citizen groups and the Missouri Department of Natural Resources (MDNR), which led up to the revision of the rule, and the work group is again meeting and the ''insignificant levels'' issue is again being reviewed. Since the rule may be revised again, AIM believes it is inappropriate to incorporate the rule in the SIP at this time. The comments from REGFORM also concerned the ''insignificant levels.'' REGFORM commented that the aforementioned work group was again meeting and that we should not approve this revision, but instead wait until a new rule is promulgated after the work group has completed its deliberations.

Response to Comment 1: The CAA contains two limitations relating to EPA action on SIP submittals which are relevant to the comment. First, section 110(k)(2) provides, in part, that EPA must act on a SIP submission within 12 months after EPA determines that the SIP submission is ''complete.'' Second, section 110(k)(3) provides that we must approve a SIP revision which meets the requirements of the CAA.

Because of the 12-month deadline for EPA action, we would be unable to merely defer action on the submission until the work group reaches consensus on rule changes, and MDNR makes rule changes (MDNR rulemaking process generally takes about one year; MDNR has not begun that process yet and has made no decision to begin the rulemaking process), even if we had a justification for deferring action pending that process. We also note that deferring action would leave in place the current rule, which contains no exemptions based on emission levels, leaving sources subject to a more stringent rule than the revised rule which we are approving into the SIP.

Although the commenters did not suggest that EPA disapprove the rule, we note that disapproval would be the alternative available to EPA under section 110 (k)(2), and that the commenters have not provided any basis for EPA to disapprove the revision. The commenters state that it is inappropriate to approve the revision now, since it may be revised in the future. However, SIP revisions are always subject to future changes, and the CAA provides no basis for us to disapprove a rule merely because it might be changed later. For the reasons stated in the proposal and this final rule, we have determined that the SIP revision meets the requirements of the CAA, and we are approving it under section 110 (k)(3). If MDNR makes further revisions to the rule and submits the revisions to EPA, we will evaluate the revisions and determine whether to incorporate the revisions into the SIP through future rulemaking.

Comment 2: REGFORM also specifically expressed concern about the insignificant level of 0.5 pounds per hour, below which a source is not subject to the rule requirements. REGFORM asserts that establishing a threshold in pounds per hour considerably restricts permit applicants' ability to qualify for an exemption, even if the source is meeting the yearly limit.

Response to Comment 2: EPA recognizes that a per hour emission rate may be more restrictive than a daily or annual rate. However, there is nothing which restricts the state from setting an hourly limit. The state decided that the 0.5 hourly exemption level was appropriate and considered comments on the 0.5 hourly exemption during its public comment period. (The state's response to comments is contained in the July 29, 1999, Missouri Air Conservation Commission Briefing Document.) The state concluded that a short-term applicability limit was needed to ensure protection of short-term air quality standards. The commenter did not provide any information indicating that the state's choice of a short-term limit is inconsistent with the CAA. Therefore, EPA concludes that it cannot disapprove or defer action on this provision merely because it may be more restrictive than the annual applicability limits.

Summary: The comments submitted fail to provide sufficient technical or statutory reasons to not fully approve the revised rule in the Missouri SIP. We therefore are taking final action to approve this rule revision as an amendment to the Missouri SIP.

Have the Requirements for Approval of a SIP Revision Been met?

The state submittal has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submittal also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained in the April 6, 2001, **Federal Register** notice and in more detail in the technical support document which is part of this docket, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

What Action Is EPA Taking?

We are taking final action to approve this rule as a revision to the Missouri SIP.

Administrative Requirements

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

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

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

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

This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 24, 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 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: March 14, 2002.

James B. Gulliford,

Regional Administrator, Region 7.

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 AA—Missouri

2. In § 52.1320(c) the table is amended under Chapter 6 by revising the entry for ''10–6.060'' to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED MISSOURI REGULATIONS

Missouri citation	Title	State effective date	EPA approval date	Explanation
Missouri Department of Natural Resources				
*	*	*	*	*
Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods, and Air Pollution Control Regulations for the State of Missouri				
*	*	*	*	*
10–6.060	Construction Permits Required.	11/30/99	03/25/02 and FR cite.	Section 9, pertaining to hazardous air pollutants, is not part of the SIP.
*	*	*	*	*

* * * * *

[FR Doc. 02–7094 Filed 3–22–02; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 87–260; RM–5728]

Radio Broadcasting Services; Olive Branch, MS

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: The Federal Communications Commission published in the **Federal Register** of June 22, 1988, a document concerning updating the FM Table of Allotments for Section 73.202(b) under Mississippi. The spelling of the community was incorrect. This document corrects the spelling of the community.

DATES: Effective on March 25, 2002.

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

SUPPLEMENTARY INFORMATION: On June 22, 1988, the Commission published a document (53 FR 23369) amending § 73.202(b), the FM Table of Allotments, by adding Channel 239A at Olive Branch, Mississippi. The name of the community was listed in the FM Table of Allotments as ''Olive Brance'' in lieu of Olive Branch. This document corrects the spelling of the community.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 02–7019 Filed 3–22–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–1480; MM Docket No. 00–158; RM–9337, RM–9892]

Radio Broadcasting Services; Alamo Community, NM

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: The Federal Communications Commission published in the **Federal Register** of September 15, 2000, 65 FR 55930, a document concerning updating Section 73.202(b), the FM Table of Allotments for Radio Broadcasting Services; Alamo Community, New Mexico of the Commission Rules. The docket number listed in the heading was published incorrectly. The correct docket number is set forth above.

DATES: Effective on March 25, 2002.

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

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 02–7018 Filed 3–22–02; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 67, No. 57
Monday, March 25, 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 1219

[FV–01–705 PR#2 Correction]

Proposed Hass Avocado Promotion, Research and Information Order; Correction

AGENCY: Agricultural Marketing Service, Agriculture.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a proposed rule that was published on February 19, 2002 [67 FR 7290] by publishing the correct Harmonized Tariff Schedule number for Hass avocados used to identify those avocados which are subject to import assessments.

EFFECTIVE DATE: March 25, 2002.

FOR FURTHER INFORMATION CONTACT: Julie A. Morin, Research and Promotion Branch, FV, AMS, USDA, Stop 0244, 1400 Independence Avenue, SW., Room 2535 South Building, Washington, DC 20250–0244; telephone (202) 720–9915; facsimile (202) 205–2800; or *julie.morin@usda.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Department of Agriculture (Department) published a proposed rule on the Hass Avocado Promotion, Research, and Information Order [7 CFR Part 1219] in the **Federal Register** on February 19, 2002 [67 FR 7290]. The proposed Order is authorized under the Hass Avocado Promotion, Research, and Information Act of 2000 [7 U.S.C. 7801–7813].

Need for Correction

As published, there was a typographical error in the proposed rule. In § 1219.54(c)(2) import assessments, the Harmonized Tariff Schedule number identifying Hass avocados is incorrect. Accordingly, this correction document contains the correct Hass avocado Harmonized Tariff Schedule number.

Correction

FR Doc. 02–3797, published on February 19, 2002 [67 FR 7290], is corrected as follows:

§ 1219.54 [Corrected]

1. On page 7307, in the first column, in the Assessment—Import Assessments, section number § 1219.54(c)(2) is correctly revised to read as follows:

(2) The import assessment shall be uniformly applied to imported fresh Hass avocados that are identified by the number 0804.40.00.10 in the Harmonized Tariff Schedule of the United States or any other numbers to identify fresh Hass avocados. Assessments on other types of imported fresh avocados or on processed Hass avocados, such as prepared, preserved, or frozen Hass avocados or Hass avocado paste, puree, and oil will be added at the recommendation of the Board with the approval of the Secretary.

Dated: March 19, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–7106 Filed 3–22–02; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 948

[WV–088–FOR]

West Virginia Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; reopening of public comment period.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSM) are reopening the public comment period on an amendment to the West Virginia surface mining regulatory program (the West Virginia program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). The program amendment consists of the State's responses to several required program amendments codified in the Federal regulations. The amendment is intended to render the West Virginia program no less effective than the Federal requirements. We are reopening the comment period to provide an opportunity to review and comment on a status report from West Virginia Department of Environmental Protection (WVDEP) of actions taken by the State in an attempt to satisfy the required program amendments, and other related documents. We are also providing opportunity to comment on the State's responses to two required program amendments that we inadvertently omitted from a previous announcement of a public comment period.

This document gives the times and locations that the West Virginia program, the proposed amendments to that program, the status report provided by WVDEP, and other related documents are available for your inspection, and the comment period during which you may submit written comments on the amendment.

DATES: We will accept written comments until 4:30 p.m. (local time), on April 9, 2002.

ADDRESSES: You may mail or hand-deliver written comments to Mr. Roger W. Calhoun, Director, Charleston Field Office at the address listed below.

You may review copies of the West Virginia program, this amendment, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Charleston Field Office.

Mr. Roger W. Calhoun, Director, Charleston Field Office, Office of Surface Mining Reclamation and Enforcement, 1027 Virginia Street, East, Charleston, West Virginia 25301, Telephone: (304) 347–7158. E-mail: *chfo@osmre.gov.*

West Virginia Department of Environmental Protection, 10 McJunkin Road, Nitro, West Virginia 25143, Telephone: (304) 759–0510.

In addition, you may review copies of the proposed amendment, the status report provided by WVDEP, and the other related documents during regular

business hours at the following locations:

Office of Surface Mining Reclamation and Enforcement, Morgantown Area Office, 75 High Street, Room 229, P.O. Box 886, Morgantown, West Virginia 26507, Telephone: (304) 291–4004. (By Appointment Only)

Office of Surface Mining Reclamation and Enforcement, Beckley Area Office, 313 Harper Park Drive, Suite 3, Beckley, West Virginia 25801, Telephone: (304) 255–5265.

FOR FURTHER INFORMATION CONTACT: Mr. Roger W. Calhoun, Director, Charleston Field Office; Telephone: (304) 347–7158.

SUPPLEMENTARY INFORMATION:

I. Background on the West Virginia Program
II. Description of the Proposed Amendment
III. Public Comment Procedures
IV. Procedural Determinations

I. Background on the West Virginia Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, ''* * * a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to the Act.'' See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the West Virginia program on January 21, 1981. You can find background information on the West Virginia program, including the Secretary's findings, the disposition of comments, and conditions of approval of the West Virginia program in the January 21, 1981, **Federal Register** (46 FR 5915). You can also find later actions concerning West Virginia's program and program amendments at 30 CFR 948.10, 948.12, 948.13, 948.15, and 948.16.

II. Description of the Proposed Amendment

By letter dated November 30, 2000 (Administrative Record Number WV–1189), the WVDEP submitted an amendment to its program. The amendment consists of the State's written response to several required regulatory program amendments codified in the Federal regulations at 30 CFR 948.16. We announced receipt of the proposed amendment on January 3, 2001 (66 FR 335). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the adequacy of the amendment (Administrative Record Number WV–1194).

On January 15, 2002, we met with the WVDEP to discuss our concerns with the proposed amendment and to obtain the State's responses to our concerns (Administrative Record Number WV–1271). The WVDEP submitted a draft status report on February 15, 2002 (Administrative Record Number WV–1274). By letters dated February 26, 2002, and March 8, 2002 (Administrative Record Numbers WV–1277 and WV–1280, respectively), the WVDEP sent us updated status reports, with attachments, that outline the actions taken by WVDEP in an attempt to satisfy the required program amendments. That information is summarized below. On various dates we provided WVDEP with related materials such as West Virginia 2001 Bulletin No. 32 concerning agricultural statistics (Administrative Record Number WV–1269); Natural Resources Conservation Service (NRCS) listing of prime farmland soils in West Virginia (Administrative Record Number WV–1278); and ''Technical Guides of Reference Areas and Technical Standards for Evaluating Surface Mine Vegetation in OSM Regions I and II'' (Administrative Record Number WV–1277).

We also discussed with the WVDEP the State's responses to several required program amendments that were submitted to us by letter dated May 2, 2001 (Administrative Record Number WV–1209). We announced receipt and provided an opportunity to comment on the amendments submitted on May 2, 2001, in the May 24, 2001, **Federal Register** (66 FR 28682) (Administrative Record Number WV–1213). In that announcement, we inadvertently omitted identifying the State's responses to the required program amendments codified at 30 CFR 948.16(gggg) and (hhhh). Therefore, we are taking this opportunity to announce receipt and provide an opportunity to comment on the State's responses to the required amendments codified at 30 CFR 948.16(gggg) and (hhhh).

We have organized the information provided by WVDEP according to the required program amendment codified at 30 CFR 948.16 that is being addressed. We will begin each discussion by quoting the required amendment. We will then include WVDEP's response to that required amendment, followed by a description of any attachments that were provided by WVDEP. Finally, whenever we add our own words in the form of a note, we will place our note within brackets.

Required Amendments Addressed in the November 30, 2000, Submittal

1. 30 CFR 948.16(dd) Revegetation.

30 CFR 948.16(dd)—West Virginia shall submit proposed revisions to Subsection 38–2–9.3 of its surface mining reclamation regulations or otherwise propose to amend its program to establish productivity success standards for grazing land, pasture land and cropland; require use of the 90 percent statistical confidence interval with a one-sided test using a 0.10 alpha error in data analysis and in the design of sampling techniques; and require that revegetation success be judged on the basis of the vegetation's effectiveness for the postmining land use and in meeting the general revegetation and reclamation plan requirements of Subsections 9.1 and 9.2. Furthermore, * * *, West Virginia shall submit for OSM approval its selected productivity and revegetation sampling techniques to be used when evaluating the success of ground cover, stocking, or production as required by 30 CFR 816.116 and 817.116.

WVDEP response:

Productivity: The WVDEP has developed a policy (Attachment 1) that will use productivity standards developed by the Natural Resources Conservation Service (NRCS) or other publications of the United States Department of Agriculture. These standards will be compared to yields obtained from the particular site.

Ground cover: WVDEP has reviewed the modified Rennie-Farmer Method in addition to methods used in other states and has developed a policy (Attachment 1) which references section 3 of ''Technical Guides of Reference Areas and Technical Standards for Evaluating Surface Mine Vegetation in OSM Regions I and II,'' by Robert E. Farmer, Jr. *et al.,* OSM J5701442/TV–54055A, 1981, U.S. Department of the Interior, Office of Surface Mining Reclamation and Enforcement.

Attachment 1: Productivity and Ground Cover Success Standards

The productivity success standards for grazing land and hayland will be based upon determinations for similar map units as published in the productivity tables in NRCS soil surveys for the county or from average county yields recognized by the United States Department of Agriculture (USDA). The yields for grazing land or hayland will be measured in material produced per acre or animal units supported. The success of production shall be equal to or greater than that of the standard obtained from the tables. Evaluation methods for productivity to be utilized are described in section 1 of ''Technical Guides of Reference Areas and Technical Standards for Evaluating Surface Mine Vegetation in OSM

Regions I and II'' by Robert E. Farmer, Jr. *et. al.,* OSM J5701442/TV–54055A, 1981, U.S. Department of the Interior, Office of Surface Mining Reclamation and Enforcement.

The productivity success standard for cropland shall be determined using yields for reference crops from unmined areas. Reference crop yields shall be determined from the current yields records of representative local farms in the surrounding area or from the average county yields recognized by the USDA. The success of production shall be equal to or greater than that of the reference crop from unmined areas. Evaluation methods for productivity to be utilized are described in section 1 of ''Technical Guides of Reference Areas and Technical Standards for Evaluating Surface Mine Vegetation in OSM Regions I and II'' by Robert E. Farmer, Jr. *et. al.,* OSM J5701442/TV–54055A, 1981, U.S. Department of the Interior, Office of Surface Mining Reclamation and Enforcement.

The company shall be responsible for providing DEP with copies of the productivity tables and/or data used to determine reference crop yield. Where the USDA or other agricultural data for productivity does not exist for a particular county, the applicant will work with the DEP and the USDA to develop standards for the proposed area.

Ground cover success shall be based on the Rennie and Farmer technique described in section 3 of ''Technical Guides of Reference Areas and Technical Standards for Evaluating Surface Mine Vegetation in OSM Regions I and II'' by Robert E. Farmer, Jr. *et. al.,* OSM J5701442/TV–54055A, 1981, U.S. Department of the Interior, Office of Surface Mining Reclamation and Enforcement.

2. 30 CFR 948.16(ee) Prime farmland.

30 CFR 948.16(ee)—West Virginia shall submit documentation that the U.S. Soil Conservation Service (SCS), now the NRCS, has been consulted with respect to the nature and extent of the prime farmland reconnaissance inspection required under Subsection 38–2–10.1 of the State's surface mining reclamation regulations. In addition, the State shall either delete paragraphs (a)(2) and (a)(3) of Subsection 38–2–10.2 or submit documentation that the SCS State Conservationist concurs with the negative determination criteria set forth in these paragraphs.

WVDEP response:

Comments from NRCS resolve this issue (WV administrative Record No. 1203). The NRCS stated in their comment letter dated February 9, 2001, to OSM that all prime farmlands in the State have been mapped and are available. WVDEP has contacted the NRCS and has drafted a letter seeking further concurrence (Attachment 1A).

Attachment 1A: February 25, 2002, Letter From WVDEP to NRCS

In the letter that comprises this attachment, WVDEP stated that it was providing NRCS a copy of its rule concerning prime farmlands at CSR 38–2–10 (Attachment 1P). WVDEP requested that NRCS address the following: the reconnaissance inspection and two paragraphs of the negative determination section.

WVDEP described the States reconnaissance inspection process as it currently exists. Included in that description are the following criteria, one or more of which can be the basis of a prime farmland negative determination: (1) No historical use of the land as cropland; (2) the slope of the land in the permit area is greater than 10 percent; (3) other factors (*i.e.,* rocky surface, frequent flooding) disqualify the land as prime farmland; (4) a soil survey by a qualified person.

The letter further states that WVDEP reviews the applicants' information and will check county soil survey maps. The soils in the area are compared to a list from ''West Virginia's Prime Farmland Soil Mapping Units'' by NRCS (Attachment 3P). If the soils in the proposed mining area are not on the list, then the negative determinations are approved. If the negative determination is not approved, then the NRCS is consulted. If prime farmland is identified, then a much more detailed plan is required.

For counties where no mapping has been published, WVDEP's procedure is described in Attachment 2P. If the slopes are less than 10 percent and the area has historically been used as cropland then NRCS is consulted.

WVDEP further stated that the criteria for both the slope and the rocky or flooded land were based on NRCS literature. Of all the soils identified in the ''West Virginia's Prime Farmland Soil Mapping Units'' document, not one has greater than 10 percent slope and that same document says that prime farmland cannot be in areas that are flooded frequently nor areas that are rocky (10 percent cover of rock fragments coarser than 3 inches).

The letter of Attachment 1A asked for NRCS concurrence on the State's methods of reconnaissance inspections and with the State's negative determination criteria for prime farmland.

Attachment 2P: Prime Farmlands Identifications

Soil surveys prepared by the NRCS will be the basis for the final determination of prime farmlands in West Virginia involving surface mining permits. In these cases where soil surveys are not complete in a county and prime farmland involvement is possible, the NRCS will conduct a soil survey for the permit area for final determination.

If a permit application contains any areas with less than 10 percent slope and it is evident the area has been used for crops at least 5 years out of the last 20 years, it is possible that these areas could be considered prime farmland.

If this condition is present, you should check the NRCS soil survey for that county. If a soil survey does not exist for a particular county, you should consult the local NRCS District Conservationist for a prime farmland determination.

In counties where soil surveys have been published, you must locate the permit on the soils map and by utilizing the symbols on the map, determine the soil types in the proposed area. Then, comparison with the attached list of soils constituting prime farmlands in West Virginia will have to be made. If the soil type is considered prime farmland on the list, the District Conservationist for that county must be contacted for final determination.

If the permit application involves prime farmland, all provisions of sections 507(b)(16) and 515(b)(7) of Public Law 95–87 and section 10 of the West Virginia Surface Mining Regulations will apply.

Attachment 3P: West Virginia's Prime Farmland Soil Mapping Units

This publication contains a listing of West Virginia's prime farmland soil mapping units. The publication is dated April 1982.

Attachment 4P: This attachment consists of the State response to the required amendment codified at 30 CFR 948.16(ee) as submitted to OSM on November 30, 2000.

3. 30 CFR 948.16(oo). Spillway design.

30 CFR 948.16(oo)—West Virginia shall submit proposed revisions to subsection 38–2–5.4(b)(8) of its surface mining reclamation regulations to require that excavated sediment control structures which are at ground level and which have an open exit channel constructed of non-erodible material be designed to pass the peak discharge of a 25-year, 24-hour precipitation event.

WVDEP response:

The WVDEP is proposing language (Attachment 2) that all sediment control structures spillways will be designed based on a 25-year/24-hour storm except for haulroads.

Attachment 2: This attachment contains the draft language for CSR 38–

2–5.4.b.8. As amended, the proviso that excluded excavated sediment control structures is deleted. In its place is language that provides as follows: ''provided, however that this subsection does not apply to haulroads.'' As amended, CSR 38–2–5.4.b.8. provides as follows.

5.4.b.8. Be designed to safely pass a twenty-five (25) year, twenty-four (24) hour precipitation event. The combination of both principal and/or emergency spillway of the structures shall be designed to safely pass the peak discharge of a twenty-five (25) year, twenty-four (24) hour precipitation event, provided, that a single open channel spillway may be used only if it is of non-erodable construction and designed to carry sustained flows; or earth or grass-lined and designed to carry short term, infrequent flows at non-erosive velocities where sustained flows are not expected; provided, however, that this subsection does not apply to haulroads.

4. 20 CFR 948.16(nnn) Unjust hardship.

30 CFR 948.16(nnn)—West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to revise Section 22B–1–7(d) to remove unjust hardship as a criterion to support the granting of temporary relief from an order or other decision issued under Chapter 22, Article 3 of the West Virginia Code.

WVDEP response:

The WVDEP is proposing language (Attachment 3) to exclude unjust hardship as criteria to support the granting of temporary relief under WV Code 22–3.

Attachment 3: W. Va. Code 22B–1–7 Appeals to Boards

This attachment consists of the language at 22B–1–7(d) and (h) and identifies how these provisions are proposed to be amended.

Paragraph (d) is amended by adding a proviso that provides as follows: ''Provided; however, the criterion of unjust hardship cannot be used to support the granting of temporary relief for an order or other decision issued under article three chapter twenty-two of this code.''

5. 30 CFR 948.16(ooo) Temporary relief.

30 CFR 948.16(ooo)—West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to revise Section 22B–1–7(h) by removing reference to Article 3, Chapter 22.

WVDEP response:

This provision only applies to the Environmental Quality Board (EQB), which adjudicates Clean Water Act appeals. The WVDEP is proposing language (Attachment 3) to delete the reference to Article 3 Chapter 22.

Attachment 3: W. Va. Code 22B–1–7(h) Appeals to Boards

This attachment consists of the language at section 22B–1–7(d) and (h) and identifies how these provisions are proposed to be amended. Paragraph (h) is amended in the first sentence by deleting reference to article ''three'' chapter 22 of the W. Va. Code.

6. 30 CFR 948.16(sss) Water replacement waiver.

30 CFR 948.16(sss)—West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to revise CSR 38–2–14.5(h) and 22–3–24(b) to clarify that the replacement of water supply can only be waived under the conditions set forth in the definition of ''Replacement of water supply,'' paragraph (b), at 30 CFR 701.5.

WVDEP response:

The WVDEP has reevaluated its water replacement and waiver requirements at W.Va. Code § 22–3–24 and the rules. As stated in 38–2–14.5.h, the waiver of water supply provided in § 22–3–24(b) only applies to underground operations and the agency plans to propose changes for the 2003 regular legislative session that would clarify that replacement of an affected water supply that is needed for the existing land use or for the post-mining land use cannot be waived. Historically, under the state program, replacement waivers are not sought nor granted for such water supplies. However, in the interim, it is the position of the WVDEP that replacement of water supply can only be waived when consistent with the conditions described in the definition of ''Replacement of water supply,'' paragraph (b), at 30 CFR 701.5.

7. 30 CFR 948.16(vvv)(2) Certification of haul roads.

30 CFR 948.16(vvv)(2)—West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to amend CSR 38–2–4.12 to reinstate the following deleted language: ''and submitted for approval to the Director as a permit revision.''

WVDEP response:

The WVDEP has established guidelines (Series 20 Effective 1–97, page 22 of the I&E Handbook, Attachment 4) for approval of minor revisions to the original design. Minor deviations from the approved plan for haulroads (width, grade, etc.) are permissible as long they are within the construction tolerance specified in 38–3.35. [Note: typo, should be 38–2–3.35]

Attachment 4: Minor Revisions Approvable by Field Level Personnel

Policy/Procedures: Minor revisions to original designs must be within the construction tolerances specified in 38–2–3.35. If not, a permit revision is required. The following are examples of minor revisions that are approvable at the field inspector level.

1. Minor drainage structure configuration changes (*i.e.,* round vs. square, spillway on one side instead of the other, *etc.*) as long as the required sediment storage capacity is maintained. (Approved by virtue of the inspector signing off on the as-built certification)

2. Minor road width/slope configuration (as long as the width/slope do not compromise safety considerations). (Approved as an as-built certification)

3. Additional sediment control capacity (*i.e.,* additional sumps on roads, pre sumps in front of sediment ponds). (Approved as an as-built certification)

4. Species substitution on planting plans (*i.e.,* substituting legume for legume, hardwoods for hardwoods, *etc.*). Approved by letter submittal and inspector signs off on it.

5. Minor bench size changes on fills (*i.e.,* wider than twenty (20) feet. (Approved on the final certification)

6. Outlets/spillways constructed of different material than originally proposed. (Approved on the as-built certification)

7. Additional rock flumes on backfill areas (letter approval when constructed).

8. Minor encroachment of the permit boundary (*i.e.,* slips, shootovers, *etc.*). These need to be covered with a notice of violation (NOV) then shown on a progress map or on the final map. The acreage involved has to be included in the disturbed acreage number on the Phase I release application, and the bond reduction calculated accordingly.

Keep in mind that some of these changes need to be delineated on the ''map of record.'' This can be done by requesting a progress map to accompany the certification or letter, or at a mid term review, or at the time of final map submittal (Phase I release).

8. 30 CFR 948.16(vvv)(3) Slurry impoundments.

30 CFR 948.16(vvv)(3)—West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to amend the West Virginia program by clarifying that the requirements at CSR 38–2–5.4(c) also apply to slurry impoundments.

WVDEP response:

The WVDEP is proposing a change to 5.4.d.4 (Attachment 5) which clarifies that non-MSHA sized coal processing waste dams and embankments will be certified by a registered professional engineer as indicated in 30 CFR 780.25.

Attachment 5: CSR 38–2–5.4.d. Certification

This provision would be amended at subdivision 38–2–5.4.d.3. by adding the words ''except all coal processing waste dams and embankments covered by subsection 22.4.c. shall be certified by a registered professional engineer.'' As amended, CSR 38–2–5.4.d.3. would read as follows: Design and construction certification of embankment type sediment control structures may be performed only by a registered professional engineer or licensed land surveyor experienced in construction of embankments ''except all coal processing waste dams and embankments covered by subsection 22.4.c. shall be certified by a registered professional engineer.''

9. 30 CFR 948.16(vvv)(4) Coal refuse disposal.

30 CFR 948.16(vvv)(4)—West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to amend CSR 38–2–14.15(m), or otherwise amend the West Virginia program to require compliance with 30 CFR 816/817.81(b), (d), and (e) regarding coal refuse disposal, foundation investigations, and emergency procedures and to clarify that where the coal processing waste proposed to be placed in the backfill contains acid- or toxic-producing materials, such material must not be buried or stored in proximity to any drainage course such as springs and seeps, must be protected from goundwater by the appropriate use of rock drains under the backfill and along the highwall, and be protected from water infiltration into the backfill by the use of appropriate methods such as diversion drains for surface runoff or encapsulation with clay or other material of low permeability.

WVDEP response:

Clarify that where the coal processing waste proposed to be placed in the backfill contains acid- or toxic-producing materials, such materials must not be buried or stored in proximity to any drainage course such as springs and seeps.

This part of the required program amendment is satisfied by the state rule (14.15.m.2) which requires that coal processing waste will not be placed in the backfill unless it is non-acid and/or non-toxic material or rendered non-acid and/or non-toxic material and by the state rule (14.6.b) which prohibits acid-forming or toxic forming material being buried or stored in proximity to a drainage course or groundwater system.

Emergency Procedures: OSM believes that the State's emergency procedures at subsection 14.15.m.2 may be no less effective than those at 30 CFR 816.81(e).

Material from Outside the Permit Area: The state rules are clear that prior approval of the Secretary is necessary before placing coal refuse material in the backfill regardless of where the material originates. 14.15.m.2. states the following:

The coal processing waste will not be placed in the backfill unless it has been demonstrated to the satisfaction of the Secretary that: 14.15.m.2.A. the coal processing waste to be placed based upon laboratory testing to be non-toxic and/or non-acid producing; or 14.15.m.2.B. an adequate handling plan including alkaline additives has been developed and the material after alkaline addition is non-toxic and/or non-acid producing.

The WVDEP requires the permittee to identify the source of the refuse in addition to the laboratory testing. Any changes in the source of the refuse require approval of the Secretary.

Foundation: This part of the required program amendment is satisfied due to the requirement that backfill be designed and certified by a registered professional engineer so that a minimum long-term static safety factor of 1.3 is achieved for the final graded slope. All stability analyses include properties of the material to be placed, properties of the foundation (whether on solid bench or backfill) and include site conditions that will affect stability.

Acid Material Handling Plan: OSM stated that this required program amendment is based on a comment by EPA on the original submittal of the rule and that EPA did not comment on WVDEP's explanation. In WVDEP's explanation, it stated that the state rule is clear that the material must be non-acid producing or rendered non-acid producing prior to placement before the Secretary can allow placement of the material in the backfill. In addition, WVDEP stated that the rules at 14.6 apply to the handling of all acid producing material.

10. 30 CFR 948.16(zzz) Pre-subsidence surveys.

30 CFR 948.16(zzz)—West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to revise 38–2–3.12.a.1., or otherwise amend the West Virginia program to require that the map of all lands, structures, and drinking, domestic, and residential water supplies which may be materially damaged by subsidence show the type and location of all such lands, structures, and drinking, domestic, and residential water supplies within the permit and adjacent areas, and to require that the permit application include a narrative indicating whether subsidence, if it occurred, could cause material damage to or diminish the value or reasonably foreseeable use of such structures or renewable resource lands or could contaminate, diminsh, or interrupt drinking, or residential water supplies.

WVDEP response:

The WVDEP stated the identification of structures on a map as required by 3.12.a includes showing the location and type. However, for clarification, on February 4, 2002, WVDEP modified the permit application to state ''Identify Structure (location and type)'' (Attachment 6). This program amendment is currently being reviewed by OSM.

Attachment 6: Section S: Underground/Subsidence Information

Section S–2 of the permit application provides as follows: Does the subsidence survey identify any of the following within 30 degree angle of draw above the proposed underground workings? (Minimum 30 decgree angle of draw unless otherwise specified)

A. Perennial and/or intermittent streams?	Yes	No
B. Structures?	Yes	No
C. Renewal Resource Lands?	Yes	No
D. PSD or Municipal Water Works	Yes	No

If Yes to A., B., C., and/or D. above, identify (location and type) on the topographic map.

11. 30 CFR 948.16(aaaa) Water supply survey.

30 CFR 948.16(aaaa)—West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to revise CSR 38–2–3.12.a.2., or otherwise amend the West Virginia program to require that the water supply survey required by CSR 38–2–3.12.a.2. include all drinking, domestic, and residential water supplies within the permit area and adjacent area, without limitation by an angle of draw, that could be contaminated, diminished, or interrupted by subsidence.

WVDEP response:

The 30-degree angle of draw as set forth in state rule is a minimum criteria and the state reserves the right to request surveys within a larger area based on evaluation of the application. However, for clarification, the WVDEP has proposed a change to 3.12.a (Attachment 7).

Attachment 7: CSR 38–2–3.12. Subsidence Control Plan

Subsection 3.12.a.1. is proposed to be amended by adding the words ''unless a greater area is specified by the Secretary.'' In addition, a new sentence is added at the end of this paragraph which is as follows. ''A survey that identifies, on a topographic map of a scale of 1 inch = 1,000 feet or less, location and type of water supplies and a narrative indicating whether or not subsidence could contaminate, diminish or interrupt water supplies both on the

permit area and adjacent areas.'' Other changes are also made. As amended, CSR 38–2–3.12.a.1. would read as follows:

3.12.a.1. A survey that identifies, on a topographic map of a scale of 1 inch = 1,000 feet or less, structures, perennial and intermittent streams or renewable resource lands and a narrative indicating whether or not subsidence would cause material damage or diminution of value or use of such structures or renewable resource lands both on the permit area and adjacent areas within an angle of draw of at least 30 degrees unless a greater area is specified by the Secretary. Provided; however, an angle of draw less than 30 degrees can be requested by the applicant based upon results of site specific analyses and demonstration that a different angle of draw is justified. Computer program packages predicting surface movement and deformation caused by underground coal extraction can be utilized. A survey that identifies, on a topographic map of a scale of 1 inch = 1,000 feet or less, location and type of water supplies and a narrative indicating whether or not subsidence could contaminate, diminish or interrupt water supplies both on the permit area and adjacent areas.

CSR 38–2–3.12.a.2. is proposed to be amended by deleting the phrase ''the area encompassed by the applicable angle of draw'' and by replacing those words with the phrase ''the permit area and adjacent areas.'' Other minor changes are also proposed. As amended, paragraph 3.12.a.2. would provide as follows. ''A survey of the quality and quantity of water supplies that could be contaminated, diminished or interrupted by subsidence within the permit area and adjacent areas.''

12. 30 CFR 948.16(bbbb) Pre-subsidence survey report and cost.

30 CFR 948.16(bbbb)—West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to revise 38–2–3.12.a.2., or otherwise amend the West Virginia program to require that the permit applicant pay for any technical assessment or engineering evaluation used to determine the premining quality and quantity of drinking, domestic, or residential water supplies, and to require that the applicant provide copies of any technical assessment or engineering evaluation to the property owner and to the regulatory authority.

WVDEP response:

Historically, the presubsidence survey includes any assessments and engineering evaluation used and copies of the survey are to be provided to the property owner and to the WVDEP at the cost of the applicant. However, for clarification, the WVDEP has proposed a change to 3.12.a.2.B. (Attachment 7) to reflect that position.

Attachment 7: Subsidence Control Plan

Subsection CSR 38–2–3.12.a.2.B. is proposed to be amended in the fourth paragraph, by adding the words ''at the cost of the applicant'' at the beginning of the sentence. In addition, the words ''containing any technical assessments and engineering evaluation used in the survey'' are added. As amended, the fourth paragraph at CSR 38–2–3.12.a.2.B. provides as follows.

At the cost of the applicant, a written report of the survey containing any technical assessments and engineering evaluation used in the survey shall be prepared and signed by the person or persons who conducted the survey. Copies of the report shall be provided to the property owner and to the Secretary.

13. 30 CFR 948.16(iiii) Recreational facility use.

30 CFR 948.16(iiii)—West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to amend the term of ''recreational uses'' at W.Va. Code 22–3–13(c)(3) to mean ''recreational facilities use'' at SMCRA section 515(c)(3).

WVDEP response:

Neither state code nor state rules define the term ''public facility including recreational land use.'' It is the state position that the term ''public facility including recreational land use,'' implies structures or other significant developments that the public is able to use, or that confer some type of public benefit. Depending upon individual circumstances, this term may include schools, hospitals, airports, reservoirs, museums, and developed recreational sites such as picnic areas, campgrounds, ballfields, tennis courts, fishing ponds, equestrian and off-road vehicle trails, and amusement areas, together with necessary supporting infrastructure such as parking lots and rest facilities. In general, those sites with a public or public facility postmining land use will provide the public with access as a matter of right on a non-profit basis. Facilities that meet a public need, like water supply reservoirs and publicly owned prisons, and facilities that provide a benefit, like flood control structures and institutions of higher education, also qualify, even if they are not readily accessible to all members of the public or completely non-profit.

14. 30 CFR 948.16(nnnn) Abandoned coal refuse removal.

30 CFR 948.16(nnnn)—West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to either delete CSR 38–2–3.14 or revise CSR 38–2–3.14 to clearly specify that its provisions apply only to operations that do not qualify as surface mining operations as defined in 30 CFR 700.5. If the State chooses the second option it must submit a sampling protocol that will be used to determine whether the refuse piles meet the definition of coal. The protocol must be designed to ensure that no activities meeting the definition of surface coal mining operations escape regulation under WVSCMRA.

WVDEP response:

WVDEP included the words ''and if not AML eligible'' to allow for the removal of abandoned coal refuse piles under AML enhancement requirements. The State has developed a sampling protocol and set the BTU value for coal (Attachment 8).

Attachment 8: Removal of Abandoned Coal Refuse Piles

The Secretary may issue a reclamation contract, in accordance with 38–2–3.14, solely for the removal of existing abandoned coal processing waste piles; only if the average quality of the refuse material *does not* meet the minimum BTU value standards to be classified as coal and/or has a percent ash value of greater than 50, as set forth in ASTM standard D 388–99.

Refuse material that *does not* meet minimum BTU value standards to be classified as coal means; a pile of waste products of coal mining, physical coal cleaning, and coal preparation operations (e.g. culm, gob, etc.) containing coal, matrix material, clay, and other organic and inorganic material in which the material in the pile has a calculated average BTU value less than 10,500.

Calculation of the average BTU value of the pile will be based on samples taken in a minimum of five different, uniformly distributed locations. The number and spacing of sampling locations should take into account variability of the material in short distances.

Required Amendments Addressed in the May 2, 2001, Submittal

15. 30 CFR 948.16(xx) Constructed outcrop barriers.

30 CFR 948.16(xx)—West Virginia shall submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to revise subsection CSR 38–2–14.8(a) to specify design requirements for constructed outcrop barriers that will be the equivalent of natural barriers and will assure the protection of water quality and ensure the long-term stability of the backfill.

WVDEP response:

Responding to OSM's concern that the word ''inhibit'' as in ''to inhibit slides and erosion'' is less effective than the Federal standard of ''prevent'' at 30 CFR 816.99(a), WVDEP provided the following.

The state statutory language for outcrop barriers at W.Va. Code 22–3–13(b)(25) requires the retention of the natural barrier to ''inhibit'' slides and erosion. As set forth in the **Federal Register** dated January 21, 1981,

OSM agrees that provisions regarding natural barriers at W.Va. Code 22–3–13(b)(25) and (c)(4) were found to be consistent with section 515(b)(25) of SMCRA.

Standard Engineering Practices.—The constructed outcrop barriers are designed structures that have a required minimum long-term static safety factor while the natural outcrop barriers are not designed structures and are not required to have a minimum factor of safety. Furthermore, the analysis of stability includes consideration of the material to be placed, the foundation and site conditions. The WVDEP is in the process of developing guidelines for constructed outcrop barriers that will include: requirements for the outslope; sequencing of construction of the outcrop barrier; and minimum factor of safety when barrier is part of the sediment control system (Attachment 9).

[**Note:** Attachment 9 completes WVDEP's process of developing guidelines for constructed outcrop barriers.]

Attachment 9: Constructed Outcrop Barriers

Standard engineering practices for constructed outcrop barriers shall include the following:

1. The design of the constructed barrier shall take into consideration site conditions.

2. The construction of the outcrop barrier shall occur simultaneously with the removal of the natural barrier and be located at or near the edge of the lowest coal seam being mined. Temporary measures must be in place until the barrier is constructed.

3. The recommended outslope of the constructed barrier is 2v:1v

[**Note:** This is a typo, and should be 2v:1h.]

with a static safety factor of 1.3.

4. If the proposed outslope is steeper than 2v:1v

[**Note:** This is a typo, and should be 2v:1h.],

the constructed barrier shall be designed to have a static safety factor of 1.5.

5. If constructed barrier is part of the sediment control system (sediment ditch), the constructed barrier shall be designed to have a static safety factor of 1.5.

16. 30 CFR 948.16(gggg) Bonding for water replacement.

30 CFR 948.16(gggg)—West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to amend 38–2–16.2.c.4., or to otherwise amend the West Virginia program, to be no less effective than the Federal regulations at 30 CFR 817.121(c)(5) by requiring additional bond whenever protected water supplies are contaminated, diminished, or interrupted by underground mining operations conducted after October 24, 1992. The amount of the additional bond must be adequate to cover the estimated cost of replacing the affected water supply.

In the program amendment submitted by the WVDEP on May 2, 2001, WVDEP proposed to amend CSR 38–2–16.2.c.4. by deleting the existing first two sentences. In their place, the following sentences are added.

The director shall issue a notice to the permittee that subsidence related material damage has occurred to lands, structures, or water supply, and that the permittee has ninety (90) days from the date of notice to complete repairs or replacement. The director may extend the ninety (90) day abatement period but such extension shall not exceed one (1) year from the date of the notice. Provided, however, the permittee demonstrates in writing, and the director concurs that subsidence is not complete, that not all probable subsidence related material [damage] has occurred to lands or structures; or that not all reasonably anticipated changes have occurred affecting the water supply, and that it would be unreasonable to complete repairs or replacement within the ninety (90) day abatement period.

In addition, the final existing sentence is being amended by adding the following words to the end of the sentence: ''to land or structures, or the estimated cost to replace water supply.''

This amendment is intended to address the required program amendment codified at 30 CFR 948.16(gggg). For more information, see Finding 26 in the February 9, 1999, **Federal Register** (64 FR 6201, 6212–6213).

WVDEP response:

Under the state program additional bond is required whenever a protected water supply will be contaminated, diminished, or interrupted by underground mining and the amount of bond is based to be the estimated cost of replacing the water supply. However, for clarification, WVDEP has proposed a change to 16.2.c.4 (Attachment 10).

Attachment 10: CSR 38–2–16.2.c.4. Bonding for Subsidence Damage

CSR 38–2–16.2.c.4. is proposed to be amended by deleting the word ''that'' in the first sentence immediately after the word ''permittee.'' In its place, the word ''when'' is added. In addition, the first sentence is amended by adding the words ''when contamination, diminution or interruption occurs to a domestic or residential water supply'' are added immediately following the words ''structures, or.'' As amended, CSR 38–2–16.2.c.4. provides as follows.

16.2.c.4. Bonding for Subsidence Damage: The Secretary shall issue a notice to the permittee when subsidence related material damage has occurred to lands, structures, or when contamination, diminution or interruption occurs to a domestic or residential water supply, and that the permittee has ninety (90) days from the date of notice to complete repairs or replacement. The Secretary may extend the ninety (90) day abatement period but such extension shall not exceed one (1) year from the date of the notice. Provided, however, the permittee demonstrates in writing, and the Secretary concurs that subsidence is not complete, that not all probable subsidence related material [damage] has occurred to lands or structures; or that not all reasonably anticipated changes have occurred affecting the water supply, and that it would be unreasonable to complete repairs or replacement within the ninety (90) day abatement period. If extended beyond ninety (90) days, as part of the remedial measures, the permittee shall post an escrow bond to cover the estimated costs of repairs to land or structures, or the estimated cost to replace water supply.

17. 30 CFR 948.16(hhhh) Time allowed for bonding for water replacement.

30 CFR 948.16(hhhh)—West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to amend CSR 38–2–16.2.c.4., or to otherwise amend the West Virginia program, to be no less effective than the Federal regulations at 30 CFR 817.121(c)(5), by requiring that the 90-day period before which additional bond must be posted begin to run from the date of occurrence of subsidence-related material damage.

In the program amendment submitted by the WVDEP on May 2, 2001, WVDEP proposed to amend CSR 38–2–16.2.c.4. by deleting the existing first two sentences. In their place, the following sentences are added.

The director shall issue a notice to the permittee that subsidence related material damage has occurred to lands, structures, or water supply, and that the permittee has ninety (90) days from the date of notice to complete repairs or replacement. The director may extend the ninety (90) day abatement period but such extension shall not exceed one (1) year from the date of the notice. Provided, however, the permittee demonstrates in writing, and the director concurs that subsidence is not complete, that not all probable subsidence related material [damage] has occurred to lands or structures; or that not all reasonably anticipated changes have occurred affecting the water supply, and that it would be unreasonable to complete repairs or replacement within the ninety (90) day abatement period.

In addition, the last existing sentence is being amended by adding the following words to the end of the sentence: ''to land or structures, or the estimated cost to replace water supply.''

This amendment is intended to address the required program amendment codified at 30 CFR 948.16(hhhh). For more information, see Finding 26 in the February 9, 1999, **Federal Register** (64 FR 6201, 6212–6213).

WVDEP response:

OSM agreed to reevaluate its rules and other program approval decisions, especially Pennsylvania Act 54. OSM agrees that the State can provide notification to an operator of a water problem under 30 CFR 817.121(c)(5). Once an operator is notified of the problem and if repair, replacement, or compensation cannot occur within 90 days, the operator is required to post the additional bond. In addition, an extension of time beyond 90 days is allowed for the reasons set forth under 30 CFR 817.121(c)(5). The parties agreed that counsel for OSM and counsel for WVDEP-would reevaluate this issue.

[**Note:** With respect to Act 54, OSM did not reconsider its decision on Act 54, we merely checked to see if it had any relevance to this issue.]

18. 30 CFR 948.16(pppp) Bond release and premining water quality.

30 CFR 948.16(pppp)—West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to remove CSR 38–2–24.4.

WVDEP response:

OSM acknowledged that the offending language in 24.4 was deleted with the passage of H. B. 2663.

Required Amendments Not Addressed by WVDEP

19. 30 CFR 948.16(oooo) Coal removal incidental to construction.

30 CFR 948.16(oooo)—West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to remove CSR 38–2–23.

WVDEP response:

WVDEP proposed to delete the incidental mining requirements at subsection 23, but its rule advisory council recommended that the proposed deletion be removed from the final rule change. WVDEP acknowledged that these provisions have been disapproved by OSM, and they are not implementing them, as recently evidenced by the West Virginia Supreme Court decision. However, WVDEP did acknowledge that they would continue to pursue with OSM and others the approval of incidental coal removal requirements to prevent the wasting of coal. OSM said that WVDEP must provide it a schedule showing that it is attempting to get these provisions out of its program.

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the State program.

Written Comments

Send your written or electronic comments to OSM at the address given above. Your written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of your recommendation(s). We will not consider or respond to your comments when developing the final rule if they are received after the close of the comment period (*see* **DATES**). We will make every attempt to log all comments into the administrative record, but comments delivered to an address other than the Charleston Field Office may not be logged in.

Electronic Comments

Please submit Internet comments as ASCII or Word file avoiding the use of special characters and any form of encryption. Please also include ''Attn: SPATS No. WV–088–FOR'' and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Charleston Field Office at (304) 347–7158.

Availability of Comments

We will make comments, including names and addresses of respondents, available for public review during our normal business hours. We will not consider anonymous comments. If individual respondents request confidentiality, we will honor their request to the extent allowable by law. Individual respondents who wish to withhold their names or address from public review, except for the city or town, must state this prominently at the beginning of their comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

IV. Procedural Determinations

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulations.

Executive Order 12866—Regulatory Planning and Review

This rule is exempt from review by the Office of Management and Budget (OMB) under Executive Order 12866.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that, to the extent allowable by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

Executive Order 13132—Federalism

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.'' Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA. Section 503(a)(7) requires that State programs contain rules and regulations ''consistent with'' regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse affect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

Section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that a decision on a proposed State regulatory program provision does not constitute a major Federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA) (42

U.S.C. 4332(2)(C)). A determination has been made that such decisions are categorically excluded from the NEPA process (516 DM 8.4.A).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulation.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) will not cause a major increase in costs or prices for consumers, individual industries, geographic regions or Federal, State, or local government agencies; and (c) does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

This determination is based upon the fact that the State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 948

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 8, 2002.

Vann Weaver,

Acting Regional Director, Appalachian Regional Coordinating Center.

[FR Doc. 02–7088 Filed 3–22–02; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–02–024]

RIN 2115–AA97

Safety Zone: Beverly Homecoming Fireworks—Beverly, MA

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary safety zone for the Beverly Homecoming Fireworks on August 11, 2002 in Beverly, MA. The safety zone would temporarily close all waters of Beverly Harbor in a 400-yard radius of the fireworks barge located at position 42°32′36″ N, 070°51′50″ W. The safety zone would prohibit entry into or movement within this portion of Beverly Harbor during the closure period.

DATES: Comments and related material must reach the Coast Guard on or before May 1, 2002.

ADDRESSES: You may mail comments and related material to Marine Safety Office Boston, 455 Commercial Street, Boston, MA. Marine Safety Office Boston maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of the docket and will be available for inspection or copying at Marine Safety Office Boston between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Chief Petty Officer Michael Popovich, Marine Safety Office Boston, Waterways Safety and Response Division, at (617) 223–3000.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD01–02–024), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know your comments reached us, please enclose a stamped, self addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not plan to hold a public meeting. However, you may submit a request for a meeting by writing to Marine Safety Office Boston at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that a public meeting would aid this rulemaking, we will hold one at a time and place announced by a separate notice in the **Federal Register**.

Background and Purpose

This proposed regulation would establish a safety zone in Beverly Harbor within a 400-yard radius of the fireworks barge located at position 42°32′36″ N, 070°51′50″ W. The safety zone would be in effect from 8 p.m. until 10:30 p.m. on August 11, 2002.

The zone would restrict movement within this portion of Beverly Harbor and is needed to protect the maritime public from the dangers posed by a fireworks display. Marine traffic may transit safely outside of the safety zone during the effective periods. The Captain of the Port does not anticipate any negative impact on vessel traffic due to this event. Public notifications will be made prior to the effective period via safety marine information broadcasts and local notice to mariners.

Regulatory Evaluation

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

The Coast Guard expects the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the

regulatory policies and procedures of DOT is unnecessary.

Although this proposed regulation will prevent traffic from transiting a portion of Beverly Harbor during the effective periods, the affects of this regulation will not be significant for several reasons: The minimal time that vessels will be restricted from the area, vessels may safely transit outside of the safety zone, and advance notifications which will be made to the local maritime community by safety marine information broadcasts and local notice to mariners.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities. This rule would affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit or anchor in a portion of Beverly Harbor on August 11, 2002. This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: Vessel traffic can safely pass outside of the safety zone during the effective periods, the periods are limited in duration, and advance notifications which will be made to the local maritime community by safety marine information broadcasts and local notice to mariners.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Chief Petty Officer Michael Popovich at the address listed under **ADDRESSES.**

Collection of Information

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

Federalism

The Coast Guard analyzed this proposed rule under Executive Order 13132 and has determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This proposed rule would not impose an unfunded mandate.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct 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. We invite your comments on how this proposed rule might impact tribal governments, even if that impact may not constitute a ''tribal implication'' under the Order.

Energy Effects

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

Environment

The Coast Guard considered the environmental impact of this proposed rule and concluded that, under figure 2–1, (34)(g), of Commandant Instruction M16475.lD, this proposed rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. Add temporary § 165.T01–024 to read as follows:

§ 165.T01–024 Safety Zone: Beverly Homecoming Fireworks—Beverly, Massachusetts.

(a) *Location.* The following area is a safety zone: All waters of Beverly Harbor in a 400-yard radius of the fireworks barge located at position 42°32′36″ N, 070°51′50″ W.

(b) *Effective date.* This section is effective from 8 p.m. until 10:30 p.m. on August 11, 2002.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into or movement within this zone will be prohibited unless authorized by the Captain of the Port Boston.

(2) All vessel operators shall comply with the instructions of the COTP or the designated on-scene U.S. Coast Guard patrol personnel. On-scene Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, local, state, and federal law enforcement vessels.

Dated: March 1, 2002.

B.M. Salerno,

Captain, U.S. Coast Guard, Captain of the Port, Boston, Massachusetts.

[FR Doc. 02–7002 Filed 3–22–02; 8:45 am]

BILLING CODE 4910–15–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO 152–1152; FRL–7163–1]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the state of Missouri which provides for the attainment and maintenance of the sulfur dioxide (SO_2) National Ambient Air Quality Standard (NAAQS) in Springfield (Greene County), Missouri. This revision approves a Consent Agreement which requires SO_2 emission reductions from a major air emissions source in Springfield. Approval of this SIP revision will make the Consent Agreement Federally enforceable. In the final rules section of the **Federal Register**, EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no relevant adverse comments to this action. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant 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 action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed action must be received in writing by April 24, 2002.

ADDRESSES: Comments may be mailed to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Wayne Kaiser at (913) 551–7603.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule which is located in the rules section of the **Federal Register**.

Dated: March 14, 2002.

James B. Gulliford,

Regional Administrator, Region 7.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 020313055–2055–01; I.D. 021902F]

RIN 0648–AO62

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Charter Vessel and Headboat Permit Moratorium

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues this proposed rule to implement Amendment 14 to the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (Amendment 14) and Amendment 20 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (Amendment 20). This proposed rule would establish a 3–year moratorium on the issuance of charter vessel or headboat (for-hire) permits for the reef fish fishery and coastal migratory pelagics fishery in the exclusive economic zone (EEZ) of the Gulf of Mexico. In addition, as a consequence of the proposed moratorium, the current charter vessel/headboat permit system for coastal migratory pelagic fish would be restructured to provide separate permits for the Gulf of Mexico and South Atlantic. The intended effect of this rule is to cap the number of for-hire vessels operating in these respective fisheries at the current level while the Gulf of Mexico Fishery Management Council (Council) evaluates the need for further management actions that may be needed to rebuild these fishery resources, and to promote attainment of optimum yield.

DATES: Comments must be received no later than 5 p.m., eastern daylight savings time, on May 9, 2002.

ADDRESSES: Written comments on the proposed rule must be sent to Phil Steele, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702. Comments also may be sent via fax to 727-570-5583. Comments will not be accepted if submitted via e-mail or Internet. Copies of the initial regulatory flexibility analysis (IRFA) prepared by NMFS for this proposed rule are available from the same address.

Comments on the collection-of-information requirements contained in this rule should be sent to Robert Sadler, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702, and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (Attention: NOAA Desk Officer).

Copies of Amendments 14 and 20, which include an environmental assessment, and a regulatory impact review (RIR), and copies of two related minority reports opposing implementation of the proposed moratorium may be obtained from the Gulf of Mexico Fishery Management Council, Suite 1000, 3018 U.S. Highway 301 North, Tampa, FL 33619; telephone: 813–228–2815; fax: 813–225–7015; e-mail: *Gulf.Council@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Phil Steele, telephone: 727–570–5305, fax: 727–570–5583, e-mail: *Phil.Steele@noaa.gov.*

SUPPLEMENTARY INFORMATION: The fishery for reef fish is managed under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (Reef Fish FMP) that was prepared by the Council. The fisheries for coastal migratory pelagic resources are managed under the Fishery Management Plan for the Coastal

Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (Coastal Migratory Pelagics FMP) that was prepared jointly by the Council and the South Atlantic Fishery Management Council. These FMPs were approved by NMFS and implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

Background

The Council, in cooperation with the Gulf charter vessel/headboat industry, developed Amendments 14 and 20 to address issues of increased fishing mortality and fishing effort in the for-hire sector of the recreational fishery. There are an estimated 3,220 recreational for-hire vessels in the Gulf of Mexico. Of these for-hire vessels, there are an estimated 1,275 charter vessels and 92 headboats; the remainder are probably smaller guide boats that usually fish inshore. The number of charter boats operating in the Gulf of Mexico has increased from 516 in 1981 to 1,275 in 1998 (147 percent), while the number of headboats has remained relatively stable during the same period. Further, the number of individual angler charter vessel trips increased by approximately 51 percent (through 1998) over the average number of trips from the previous decade.

During this same period, there has been an increase in the number of fish stocks identified as overfished or approaching an overfished state. In the January 2001 report to Congress on the Status of U.S. Fisheries, red snapper and red grouper were classified as being overfished and undergoing overfishing. Gag grouper was classified as undergoing overfishing and approaching an overfished state. King mackerel was classified as overfished and vermillion snapper was classified as undergoing overfishing. Further, the Council was notified, by a letter from NMFS in January, 2001, that greater amberjack was overfished.

While all sectors have contributed to the overfished status of these important fisheries, higher catch rates by the for-hire sector in recent years have substantially increased the proportion of landings attributed to that sector. The percent of recreational red grouper landed by number by charter vessel and headboats increased from 14 percent (1988–1989) to 32 percent (1996–1997); the percent of recreational red snapper landed by number increased from 34 percent (1981–1982) to 62 percent (1988–1989) to 71 percent (1996–1997). This increase in catch rate by the recreational for-hire sector has contributed to the progressively earlier closures of the red snapper recreational fishery each year. This fishery was closed on November 27 in 1997, September 30 in 1998, and August 29 in 1999. This progressively longer closure period is adversely impacting the charter vessel headboat sector that is dependent on this stock. Additionally, for king mackerel, the percent of total recreational landings by number landed by charter vessel and headboats increased from 17 percent in 1983, to 32 percent in 1988, and to 62 percent in 1997, almost doubling between each period. The landings for gag grouper increased from 15 percent during 1981–1982 to 33 percent during 1995–1996, i.e., essentially doubling between the first and last period. Further, the recreational for-hire vessels historically have landed most of the recreational landings of vermillion snapper (90 percent) and greater amberjack (63 percent) during the period 1995/1996.

In conjunction with existing bag limits and size limits, the proposed rule would further moderate short-term future increases in fishing effort in the for-hire sector of the recreational fishery by limiting the number of vessels in the fishery. The proposed moratorium is a form of limited access management that is intended to temporarily stabilize this effort. It would allow the Council the time necessary to develop a more comprehensive approach to help restore overfished stocks possibly including further effort limitation, and would promote attainment of optimum yield during the interim.

Provisions of the Proposed Charter Vessel/Headboat Moratorium in the Gulf of Mexico EEZ

This proposed rule would establish a 3–year moratorium on the issuance of charter vessel/headboat permits for Gulf reef fish or Gulf coastal migratory pelagic fish. Beginning 150 days after the effective date of the final rule that would implement this proposed moratorium, the only valid charter vessel/headboat permits for those two fisheries would be those permits issued under the provisions of the moratorium. In addition, any person who has a valid charter vessel/headboat permit for coastal migratory pelagic fish (valid in the Gulf or South Atlantic) should note that this proposed rule would result in a restructuring of that permit--voiding the existing permit, effective 150 days after the effective date of the final rule implementing this moratorium, and creating two new separate permits: one for Gulf coastal migratory pelagic fish (subject to the moratorium provisions); and one for South Atlantic coastal migratory pelagic fish (not subject to the moratorium provisions). See Change Proposed by NMFS--Requirement for a New Permit for South Atlantic Coastal Migratory Pelagic Fish for additional details.

Eligibility Requirements for the Gulf Charter Vessel/Headboat Permits

Under the proposed moratorium, initial eligibility for a charter vessel/headboat permit for Gulf coastal migratory pelagic fish or Gulf reef fish would be limited to the following—

(1) An owner of a vessel that had a valid charter vessel/headboat permit for Gulf reef fish or coastal migratory pelagic fish, or whose application for such permit had been received by NMFS, at some time during the period March 29, 2000, through March 29, 2001, and who has such a valid permit on the effective date of the final rule that would implement this proposed moratorium.

(2) Any person who can provide NMFS with documentation verifying that, prior to March 29, 2001, he/she had a charter vessel or headboat under construction and that the associated expenditures were at least $5,000 as of that date. If the vessel owner was constructing the vessel, the vessel owner must provide NMFS with receipts for the required expenditures. If the vessel was being constructed by someone other than the owner, the owner must provide NMFS with a copy of the contract and/or receipts for the required expenditures.

(3) An historical captain, defined for the purposes of this proposed rule as a person who provides NMFS with documentation verifying that—

(A) Prior to March 29, 2001, he/she was issued either a United States coast Guard (USCG) Operator of Uninspected Passenger Vessel license (commonly referred to as a 6-pack license) or a USCG Masters license and operated, as a captain, a federally permitted charter vessel or headboat in the Gulf reef fish and/or coastal migratory pelagic fisheries that was not permitted in his/her name or the name of a corporation in which he/she was a shareholder; and

(B) At least 25 percent of his/her earned income was derived from charter vessel or headboat fishing in one of the years 1997, 1998, 1999, or 2000.

NMFS' permit records would be the sole basis for determining eligibility based on permit or application history (i.e., eligibility criterion 1). No more than one owner of a currently permitted vessel would be credited with meeting the permit history criterion based on a vessel's permit history. An owner would not be issued initial charter vessel/

headboat permits for Gulf coastal migratory pelagic fish or Gulf reef fish under the moratorium in excess of the number of federally permitted charter vessels and/or headboats that he/she owned simultaneously at some time during the period March 29, 2000, through March 29, 2001.

Application Requirements and Procedures

An applicant who desires a charter vessel/headboat permit for Gulf coastal migratory pelagic fish or Gulf reef fish would be required to submit an application for such permit to the Regional Administrator, Southeast Region, NMFS (RA) postmarked or hand-delivered not later than 90 days after the effective date of the final rule implementing this proposed moratorium. Failure to apply in a timely manner would preclude permit issuance even when the applicant meets the eligibility criteria for such permit. Application forms would be available from the RA. The information requested on the application form varies according to the eligibility criterion that the application is based upon as indicated in proposed § 622.4(r)(5).

On or about the effective date of any final rule implementing this moratorium, the RA would automatically mail an application to each owner of a vessel who, based on NMFS' permit records, is eligible based on the permit history or permit application criterion. The RA would also mail each such owner a notice that his/her existing charter vessel/headboat permit(s) for coastal migratory pelagic fish and/or Gulf reef fish would expire 150 days after any effective date of the final rule implementing this moratorium and that the new permit(s) required under such a moratorium would be required as of that date. A vessel owner who believes he/she qualifies for a charter vessel/headboat permit for Gulf coastal migratory pelagic fish and/or Gulf reef fish based on permit or application history, but who does not receive an application from the RA, would have to request an application from the RA and provide documentation of eligibility.

Any person applying based on the eligibility criteria related to vessel construction or historical captain status would have to request a permit application from the RA and provide the required documentation of vessel construction and associated costs, as indicated in proposed § 622.4(r)(2)(ii), or documentation of historical captain status, as indicated in proposed § 622.4(r)(2)(iii), as applicable. Information to document historical captain status would include income tax records pertinent to verifying earned income; a copy of the applicable USCG license and/or Certificate of Inspection; and a notarized affidavit signed by a vessel owner certifying the period the applicant served as captain of a charter vessel or headboat permitted for Gulf reef fish and/or coastal migratory pelagic fish, whether the charter vessel or headboat was permitted for Gulf reef fish or coastal migratory pelagic fish or both, and whether the charter vessel or headboat was uninspected (i.e., 6-pack) or had a USCG Certificate of Inspection.

Issuance of Initial Permits/Letter of Eligibility

If a complete application is submitted in a timely manner and the applicable eligibility requirements specified in proposed § 622.4(r)(2) are met, the RA would issue a charter vessel/headboat permit for Gulf coastal migratory pelagic fish and/or Gulf reef fish or a letter of eligibility for such fisheries, as appropriate, and mail it to the applicant not later than 140 days after the date the final rule is effective (i.e., at least 10 days before the permit(s) is required).

A person whose eligibility is based on historical captain status would be issued a letter of eligibility by the RA. The letter of eligibility could be redeemed through the RA for a charter vessel/headboat permit for Gulf coastal migratory pelagic fish and/or Gulf reef fish, with a historical captain endorsement. The letter of eligibility would be valid for the duration of the moratorium; would be valid only for a vessel of the same authorized passenger capacity as the vessel used to document earned income requirement in proposed § 622.4(r)(2)(iii)(B); and would be valid only for the fisheries certified on the application under proposed § 622.4(r)(2)(iii)(A) (i.e., only those fisheries in which the required participation was documented). A charter vessel/headboat permit for Gulf coastal migratory pelagic fish or Gulf reef fish with a historical captain endorsement would be valid only on a vessel that the historical captain operates as a captain.

Appeals Process Regarding Initial Eligibility

An applicant would be allowed to request an appeal of the RA's determination regarding initial permit eligibility by submitting a written request for reconsideration to the RA with copies of the appropriate records for establishing eligibility. Such request would have to be postmarked or hand-delivered within 30 days after the date of the RA's notification of ineligibility and could include a request for an oral hearing. If an oral hearing is granted, the RA would notify the applicant of the place and date of the hearing and would provide the applicant a maximum of 30 days prior to the hearing to provide information in support of the appeal.

The RA could independently review the appeal or could appoint one or more appellate officers to review the appeal and make independent recommendations to the RA. The RA and appellate officer(s) could only deliberate whether the eligibility criteria were applied correctly. Hardship or other factors would not be considered in determining eligibility. The RA would make the final determination regarding granting or denying the appeal. The RA would notify the applicant of the decision regarding the appeal within 30 days after receipt of the request for appeal or within 30 days after the conclusion of the oral hearing, if applicable.

Transferability of Permits

A charter vessel/headboat permit for Gulf coastal migratory pelagic fish or Gulf reef fish that does not have a historical captain endorsement would be transferable, with or without sale of the permitted vessel, except that no transfer would be allowed to a vessel with a greater authorized passenger capacity than that of the vessel from which the permit was transferred.

A charter vessel/headboat permit for Gulf coastal migratory pelagic fish or Gulf reef fish that has a historical captain endorsement could only be transferred to a vessel operated by the historical captain, could not be transferred to a vessel with a higher authorized passenger capacity than the vessel from which the permit was transferred, and would not otherwise be transferable.

To request that the RA transfer a charter vessel/headboat permit for Gulf coastal migratory pelagic fish or Gulf reef fish, the owner of a vessel that is to receive the transferred permit would have to complete the transfer information on the reverse of the permit and return the permit and a completed application for transfer to the RA.

Permit Renewal

Permit renewal would be contingent upon the permitted vessel and/or captain, as appropriate, being included in an active survey frame for, and, if selected to report, providing the information required in NMFS' Marine Recreational Fishing Vessel Directory Telephone Survey (charter vessels only), NMFS' Southeast Headboat Survey (logbooks), Texas Parks and Wildlife

Marine Recreational Fishing Survey, or a data collection system that replaces one or more of those surveys.

A permit that is not renewed or that is revoked by NMFS would not be reissued during the moratorium. A permit would be considered to be not renewed when an application for renewal, as required, is not received by the RA within 1 year of the expiration date of the permit.

Vessel Decal Requirement

Upon issuance, renewal, or transfer of a permit under this proposed moratorium, the RA would issue the owner or eligible historical captain of the permitted vessel a vessel decal for the applicable permitted fishery or fisheries. The vessel decal would have to be displayed on the port side of the deckhouse or hull and would have to be maintained so that it is clearly visible.

Change Proposed by NMFS—Requirement for a New Permit for South Atlantic Coastal Migratory Pelagic Fish

Formerly, the charter vessel/headboat permit for coastal migratory pelagic fish applied in the EEZ of both the Gulf of Mexico and South Atlantic. The establishment of a separate charter vessel/headboat permit for Gulf coastal migratory pelagic fish under this proposed moratorium would necessitate that a separate charter vessel/headboat permit for South Atlantic coastal migratory pelagic fish also be established and that the former charter vessel/headboat permit for coastal migratory pelagic fish (applicable in both the Gulf and South Atlantic) be voided. All of these actions would be effective 150 days after the effective date of the final rule implementing the proposed moratorium. The new separate charter vessel/headboat permit for South Atlantic coastal migratory pelagic fish would not be subject to the provisions of the moratorium.

Approximately 5 months prior to the date that the new permit would be required, the RA, based on NMFS' permit records, would mail an application for an initial charter vessel/headboat permit for South Atlantic coastal migratory pelagic fish to each owner of a vessel with a valid charter vessel/headboat permit for coastal migratory pelagic fish. Any such owner who desires an initial charter vessel/headboat permit for South Atlantic coastal migratory pelagic fish would have to submit the completed application to the RA. To avoid any lapse in authorization to fish for coastal migratory species in the South Atlantic EEZ (i.e., valid permit status), such owners would have to submit the completed application to the RA postmarked or hand-delivered not later than 90 days after the effective date of the final rule implementing the moratorium. For completed applications received by that deadline, the RA would issue the permit no later than 140 days after the effective date of the final rule implementing this moratorium (i.e., at least 10 days before the permit is required). Applications will be accepted at any time, but if received after the deadline (90 days after effective date), the permit may not be issued prior to the date that the permit is first required. These special procedures would apply only to the application and issuance of the initial permit; subsequent permitting activities would be conducted in accordance with the standard permitting procedures as specified in 50 CFR 622.4(b) through (l).

An owner or operator of a vessel who desires a charter vessel/headboat permit for South Atlantic coastal migratory pelagic fish and who does not have a valid charter vessel/headboat permit for coastal migratory pelagic fish would be required to obtain a permit application from the RA. For additional permitting procedures, see 50 CFR 622.4(b) through (l).

Minority Reports

Two nearly identical minority reports objecting to the implementation of the proposed charter vessel/headboat permit moratorium were submitted--each signed by two Council members, a total of three different Council members. The primary objections expressed in these minority reports were that the moratorium is not necessary, would not accomplish its stated goal, would reduce competition in the for-hire industry, would create a windfall profit for a select group of people and deny others the right to pursue an occupation of their own choice, would result in unnecessary social engineering, and would violate national standards 4 and 8 of the Magnuson-Stevens Act. Copies of the minority reports are available from the Council (see **ADDRESSES**).

Classification

At this time, NMFS has not determined whether Amendments 14 and 20, that this proposed rule would implement, are consistent with the national standards of the Magnuson-Stevens Act and other applicable laws. NMFS, in making that determination, will take into account the data, views, and comments received during the comment period on Amendments 14 and 20.

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

NMFS prepared an IRFA that describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. Paperwork and reporting requirements are described below in the PRA discussion. This proposed rule would not duplicate any other requirements. A summary of the analysis follows.

The Magnuson-Stevens Act provides the statutory basis for the rule. The objective of the proposed rule is to cap the number of for-hire vessels permitted to fish for reef fish or coastal migratory pelagics in the EEZ of the Gulf of Mexico at the current level while the Council assesses the actions necessary to restore overfished reef fish and king mackerel stocks and determine whether a more comprehensive effort management system is appropriate for these fisheries. The proposed rule would: create a new for-hire vessel permit for the Gulf EEZ for vessels fishing for reef fish and/or coastal migratory pelagics; establish a 3–year moratorium on the issuance of new for-hire vessel permits effective the date that the final rule implementing Amendments 14 and 20 becomes effective; establish eligibility requirements for the permits that would accommodate owners of vessels that possessed or had applied for charter/headboat reef fish and/or coastal migratory pelagic permits on or before March 29, 2001 and who possess such permit(s) as of the effective date of the final rule implementing this moratorium, new for-hire vessels contracted for or under construction prior to March 29, 2001, and historical captains; allow full transference of permits during the moratorium with or without the vessel but without any increase in the passenger capacity of the recipient vessel (permits with a historical captain endorsement may only be transferred to a vessel operated by the historical captain); not allow permit renewal during the moratorium for permits not renewed within one year of expiration; allow an appeal process to resolve issues related to initial eligibility; and, establish reporting and permit renewal conditions.

The creation of a for-hire permit and implementation of a 3–year moratorium for the issuance of new permits would provide some stability for the for-hire sector in terms of number of

participating vessels while the need for a more comprehensive controlled access or effort management system is evaluated. The specific number of vessels accommodated by the rule is unknown since it is not known how many individuals will qualify and seek permits under the boat construction or historical captain provisions. The moratorium will also not produce a hard cap on effort in the form of angler trips since current vessels may be operating under less than full passenger capacity and will retain the flexibility to increase the frequency of partial-day trips. Nevertheless, the rule will limit expansion to the capacity of current participants. This will allow identification and enumeration of vessels in these fisheries to support essential data collection and establish a more stable environment for assessing the status of the fishery in support of subsequent regulation.

The proposed rule would effectively allow status quo operation by current participants in the fishery who had such permits (or applied for such) at some time during March 29, 2000, to March 29, 2001, and who also have a valid permit on the date the final rule becomes effective. The eligibility provisions for new vessel construction and historical captains will further protect the opportunities of individuals who have demonstrated a dependence on the fishery through capital investment or historical participation. The only impediment to the status quo business practices of such initial qualifiers is the limitation on vessel passenger capacity upgrades under the current permit. Such upgrade would be possible, however, through the purchase of the appropriate permit from another vessel. The liberal provisions for permit transfer support business upgrade, allow the entrance of new operators or buy-outs by more efficient operators, and create a marketable asset that may enhance the value of the vessel and client lists should a participant decide to sell his/her business. The eligibility and transfer provisions are, thus, consistent with the intent to allow status quo participation while it is determined whether current effort levels are appropriate, rather than legislate reductions. The appeals process will afford valid participants the opportunity to address record discrepancies that adversely affect their eligibility. Finally, the renewal provisions support the fishery management process by aiding in the collection of essential harvest and participation information.

Business operations in the for-hire sector consist primarily, if not exclusively, of small business entities. For-hire vessel operations are considered small business entities if they generate receipts of less than $6.0 million per year. The average gross revenues for charter boats operating in 1997 was $83,000 for vessels in Alabama through Texas (based on average numbers of trips per vessel and average fee per trip) and $68,000 for vessels in Florida, while the average gross revenues for head boats/party boats was $328,000 in Alabama through Texas and $324,000 in Florida. Current revenues may exceed those of 1997, but the revenue performance of the fishery clearly qualifies the participants as small business entities.

All for-hire vessels that fish for reef fish or coastal migratory pelagics in the Gulf of Mexico EEZ will be affected by the proposed rule. However, all of these vessels are currently required to possess the appropriate for-hire permits for the fisheries in which they participate. Hence, the proposed rule only creates one additional permit, by requiring vessels expecting to fish for coastal migratory pelagics in both the Gulf of Mexico and South Atlantic to obtain two permits, one for each subregion, instead of the current single permit which allows fishing in either subregion. This will require an additional $20 application fee for the second permit. As of the control date of March 29, 2001, there were 2,226 permitted for-hire vessels, of which 1,737 had both reef fish and coastal migratory pelagic charter permits, 123 had only the reef fish charter permit, and 366 had only the coastal migratory pelagic charter permit. These totals are substantially greater than those at the previous control date of November 18, 1998, when there were only 940 permitted for-hire vessels, of which 723 had both permits, 58 had only the reef fish permit and 159 had only the coastal migratory pelagic permit. While total permit numbers more than doubled during this time span, a potentially substantial portion of the increase is likely attributable to vessels that were previously operating in the fishery without the proper permits, since a frequent comment at public hearings was that operators were unaware of the current permit requirements. Thus, not all of the increase is believed to be due to either new participation or speculative purchase. It is not currently known how many vessels obtained their first for-hire permit after the cut-off date and would, therefore, not be eligible for the initial receipt of the permit. Nor is it known how many vessels might be expected to enter the fishery during the proposed moratorium period in the absence of a moratorium. The large increase in permits suggests that a substantial number of vessels interested in participating in the fishery have already established qualification, and the liberal qualification and transfer provisions of the rule should allow further entry by interested individuals, albeit at a larger cost due to the need to purchase a permit from a current operation.

Six alternatives to the proposed moratorium were considered. These were: a 5–year moratorium instead of the proposed 3–year moratorium; status quo; a 50–percent income requirement for renewal in lieu of a moratorium; for-hire species quotas; a 3 or–5 year moratorium in combination with species quotas; and a 3–year moratorium with mandatory expiration should the red snapper restrictions become more severe. Since the status quo alternative would not accomplish the Council's goals, among the remaining alternatives, including the proposed rule, the proposed rule was determined to have the least impact on small entities. The 5-year alternative would provide a more stable planning horizon for industry participants, but extend the period during which capacity expansion would be limited and restrictions on new entry would be imposed. The 50–percent income requirement would result in contraction of existing participants beyond the intent of the Council, which is to stabilize rather than contract the fishery while a more comprehensive evaluation is conducted and management program is designed. Species quotas would subject the fishery to disruptive closures. Linkage to the red snapper management environment was determined to be indefensible and, therefore, would not allow implementation of the proposed rule and would forego the perceived benefits of stabilization. In summary, the proposed rule would best accomplish the Council's intent while minimizing impacts.

Seven alternatives to the proposed form of the permit (i.e., a new for-hire permit with species endorsements) were considered. These were: limiting the new permit to the coastal migratory pelagic fishery; status quo; a new for-hire permit with species endorsements that encompass transferable and non-transferable endorsements; income-based renewal requirements; an option to allow commercial participants in the coastal migratory pelagic fishery to qualify for the for-hire permit; a fully transferable new permit with endorsements (i.e., no separate classes of transferability); and a special

guideboat permit (with no moratorium) for vessels carrying fewer than 4 anglers with species endorsements. Maintaining the status quo would not support the Council's goals. Income requirements were rejected since they would result in contraction of the fishery rather than stabilize participation. The allowance for commercial operators to qualify would allow expansion of participation, which is, again, contrary to the Council's intent. Limiting the permit to the coastal migratory pelagic fishery would not be sufficiently inclusive to accomplish the Council's goals. The guideboat permit would allow unlimited expansion of this sector and, although these vessels may infrequently fish in the EEZ, would run counter to the Council's intent to stabilize all for-hire participation in the EEZ and pressure on respective stocks. The remaining alternatives reflect variations on the types of endorsements required (species covered) or class of endorsements (transferability conditions). The variations on endorsement types primarily affects paperwork requirements and these effects are insignificant. The transferability effects will be discussed below. In summary, the proposed rule best accomplishes the Council's intent while minimizing impacts.

Ten alternatives to the initial eligibility requirements were considered. These were: allowing all persons who held a for-hire permit on the date of implementation of the amendment; allowing all persons who held a for-hire permit on either September 16, 1999 or November 11, 1999; using a control date of November 18, 1998 and allowing for continuous participation under permit, vessel replacement by current permitted participant and issuance of new permit, purchase of permitted vessel, or purchase of a new vessel and issuance of a new permit; establishment and eligibility requirements for a Class 1 (fully transferable) species endorsement; establishment and eligibility requirements for a Class 2 (non-transferable) species endorsement; historical captain permit/endorsement provisions (2 alternatives); boat-under-construction provisions (2 alternatives); and allowing all persons who held a for-hire permit on or before January 1, 2002. Since the intent of the Council is to accommodate actual participation existent at the time of amendment development and the perception was strong that many active participants did not possess the required permits, control dates more restrictive than the proposed control date would increase the negative impacts on the fishery through the exclusion of active participants, contrary to the intent of the Council. More liberal control dates, however, while reducing the potential universe of excluded vessels, would also be contrary to the Council's intent of stabilizing participation at the level existent at the time of amendment development. Restrictions on transferability could result in contraction of the fleet, contrary to the intent of stabilization, and would increase the negative impacts on the fishery. The alternative historical captain provisions would have increased the burden of eligibility and increased the negative impacts. The alternative provisions for boats under construction are more restrictive than those of the proposed rule and would have increased the negative impacts on the fishery. In summary, the proposed rule accomplishes the Council's intent while minimizing impacts.

Five alternatives to the permit/endorsement transferability allowance were considered. These were: limiting the transfer to vessels owned by the same permit holder; transfer of permits/endorsements with or without transfer of the vessel; prohibition of transfer for the first year of the moratorium; prohibition of transfer throughout the moratorium; and, transfer provisions based on endorsement class. Allowing transfer between vessels held by the same permittee would reduce the costs and profitability impacts associated with capacity upgrade, but would run counter to the intent of the Council to stabilize the fishery at the current level of effort, in this case, angler platform opportunities. If operations were allowed to freely upgrade passenger capacity, while the number of vessel/small business participants would remain stable, the effective angler effort, which ultimately determines fish harvest pressure, would be allowed to increase unimpeded. This is counter to the Council's intent. All other alternatives would increase the negative impacts on the fishery relative to the proposed rule. In summary, one alternative is counter to the Council's intent, while all other alternatives would increase the negative impacts on the fishery. Thus, the proposed rule accomplishes the Council's intent while minimizing impacts.

Five alternatives to the passenger restrictions on permit transfers were considered. These were: no restriction; no transfers between different classes (based on passenger capacity) of USCG certified; allowing passenger capacity upgrade if USCG certification is received; transfer only between vessels of equal or lower passenger capacity based on USCG certification; and establishment of two classes – uninspected/uncertified and certified with transfers limited to within class. Since stability of the fishery is the stated intent of the Council, any alternative that allows passenger capacity to increase would, while mitigating the adverse impacts of upgrade limitations, be counter to the Council's intent. The proposed rule simplifies the passenger-related transfer restrictions while accomplishing the Council's intent and minimizing impacts.

Two alternatives to the re-issue of non-renewed or revoked permits were considered. These were: re-issue of 50 percent of these permits to either a list of interested persons or to persons that were either excluded from the initial issuance of permits or can document prior experience in the for-hire fishery. Not re-issuing these permits would increase the negative impacts on the fishery associated with vessels excluded from participation. The proposed alternative will simplify the management of the program, but the primary Council justification for its selection is that any reduction in fishery effort will help address problems related to too much competition in the fishery. Increased profitability may accrue to remaining participants. Whether these increased profits will exceed the foregone profits by excluded entities cannot be determined.

Six alternatives to the appeals process were considered. These were: no appeal; establish an appeals board that makes recommendations to the Regional Administrator (RA) on permit eligibility; an appeals process limited to owners and operators of vessels prior to the control date or persons who contracted for the construction of a vessel prior to the control date November 28, 1998; an appeals process that accommodates both hardships and data and/or record disputes between vessel owners and NMFS; no hardship appeals; and no appeals process if the control date selected is January 1, 2002. Not allowing an appeals process will increased the negative impacts on persons excluded from the initial issuance of permits.

The proposed rule accommodates the impact mitigation benefits of the various alternatives with the exception of the disallowance of hardship appeals. Disallowance of hardship appeals will simplify the management of the program, while increasing the impacts on those excluded. The number of potential hardship appeals cannot be precisely estimated, but is not expected to be large. The proposed rule, therefore, while not fully mitigating the impacts

on excluded participants, will mitigate the impacts on those excluded due to permit record discrepancies and establish a more simplified management program.

Two alternatives to the reporting and renewal requirements were considered. These were: require charter logbooks; and status quo. Logbooks are already mandatory for the headboat fishery. Requiring logbooks for the charter sector would increase the economic burden on the charter sector without mitigating the impacts of potential permit non-renewal. Allowing the status quo would allow all charter vessels to renew their permit without having to participate in any data collection programs and, thus, would mitigate any adverse effects that would accrue to any vessels not having their permit renewed. Such action would not, however, satisfy the Council's intent to support comprehensive systematic data collection for this fishery. Thus, the proposed rule will satisfy the Council's intent while minimizing impacts.

This proposed rule contains five collection-of-information requirements subject to the Paperwork Reduction Act (PRA)—namely a requirement to submit a charter vessel/headboat permit application, submission of information on vessel construction, submission of information on historical captain eligibility, submission of appeals of NMFS' initial denial of a charter vessel/headboat permit, and mandatory responses to NMFS' (voluntary) Marine Recreational Fishing Vessel Directory Telephone Survey (charter vessels only). Requests to collect this information have been submitted to OMB for approval. The public reporting burdens for these collections of information are estimated to average 20 minutes, 2 hours, 2 hours, 5 hours, and 7 minutes per response, respectively, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information. In addition, § 622.5(b)(1) of this proposed rule revises slightly (i.e., revises the names of the applicable permits consistent with this proposed rule) the requirement for charter vessel/headboat submission of a fishing trip record if selected by the Science and Research Director. The requirement applicable to headboats has been approved by OMB under control number 0648-0016 with an estimated time per response of 12 minutes. NMFS does not currently have PRA approval to select any charter vessels for this reporting and would obtain OMB clearance prior to making any selection.

Public comment is sought regarding: whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments regarding this burden estimate or any other aspect of the collection of information requirement, including suggestions for reducing the burden, to NMFS and to OMB (see **ADDRESSES**).

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person 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.

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

Dated: March 19, 2002.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is proposed to be amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC

1. The authority citation for part 622 continues to read as follows:

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

2. In § 622.4, paragraphs (a)(1) and (g) are revised and paragraph (r) is added to read as follows:

§ 622.4 Permits and fees.

(a) * * *

(1) *Charter vessel/headboat permits.* (i) For a person aboard a vessel that is operating as a charter vessel or headboat to fish for or possess, in or from the EEZ, species in any of the following species groups, a valid charter vessel/headboat permit for that species group must have been issued to the vessel and must be on board—

(A) Gulf coastal migratory pelagic fish.

(B) South Atlantic coastal migratory pelagic fish.

(C) Gulf reef fish.

(D) South Atlantic snapper-grouper.

(ii) See paragraph (r) of this section regarding a moratorium on Gulf charter vessel/headboat permits and the associated provisions.

(iii) See paragraph (r)(12) of this section for an explanation of the requirement for the new charter vessel/headboat permit for South Atlantic coastal migratory pelagic fish and for procedures for initial application and issuance of that permit.

(iv) A charter vessel or headboat may have both a charter vessel/headboat permit and a commercial vessel permit. However, when a vessel is operating as a charter vessel or headboat, a person aboard must adhere to the bag limits. See the definitions of ''Charter vessel'' and ''Headboat'' in §622.4 for an explanation of when vessels are considered to be operating as a charter vessel or headboat, respectively.

* * * * *

(g) *Transfer.* A vessel permit, license, or endorsement or dealer permit issued under this section is not transferable or assignable, except as provided in paragraph (m) of this section for a commercial vessel permit for Gulf reef fish, in paragraph (n) of this section for a fish trap endorsement, in paragraph (o) of this section for a Gulf king mackerel gillnet endorsement, in paragraph (p) of this section for a red snapper license, in paragraph (q) of this section for a king mackerel permit, in paragraph (r) of this section for a charter vessel/headboat permit for Gulf coastal migratory pelagic fish or Gulf reef fish, in § 622.17(c) for a commercial vessel permit for golden crab, or in § 622.18(e) for a commercial vessel permit for South Atlantic snapper-grouper. A person who acquires a vessel who desires to conduct activities for which a permit or endorsement is required must apply for a permit or endorsement in accordance with the provisions of this section. If the acquired vessel is currently permitted, the application must be accompanied by the original permit and a copy of the vessel's new USCG documentation or state registration.

* * * * *

(r) *Moratorium on charter vessel/headboat permits for Gulf coastal migratory pelagic fish and Gulf reef fish.* The provisions of this paragraph (r) are applicable through the date that is 3 years after the effective date of the final rule that contains this paragraph (r).

(1) *Applicability.* Beginning 150 days after the effective date of the final rule that contains paragraph (r)(1) of this section, the only valid charter vessel/headboat permits for Gulf coastal migratory pelagic fish or Gulf reef fish

are those that have been issued under the moratorium criteria in paragraph (r) of this section. No applications for additional charter vessel/headboat permits for these fisheries will be accepted. Existing permits may be renewed, are subject to the transferability provisions in paragraph (r)(9) of this section, and are subject to the requirement for timely renewal in paragraph (r)(10) of this section.

(2) *Initial eligibility.* Initial eligibility for a charter vessel/headboat permit for Gulf coastal migratory pelagic fish or Gulf reef fish is limited to the following—

(i) An owner of a vessel that had a valid charter vessel/headboat permit for Gulf reef fish or coastal migratory pelagic fish, or whose application for such permit had been received by NMFS, at some time during the period March 29, 2000, through March 29, 2001, and who has such a valid permit on the effective date of the final rule that contains this paragraph (r)(2)(i)of this section.

(ii) Any person who can provide NMFS with documentation verifying that, prior to March 29, 2001, he/she had a charter vessel or headboat under construction and that the associated expenditures were at least $5,000 as of that date. If the vessel owner was constructing the vessel, the vessel owner must provide NMFS with receipts for the required expenditures. If the vessel was being constructed by someone other than the owner, the owner must provide NMFS with a copy of the contract and/or receipts for the required expenditures.

(iii) A historical captain, defined for the purposes of paragraph (r) of this section as a person who provides NMFS with documentation verifying that—

(A) Prior to March 29, 2001, he/she was issued either a USCG Operator of Uninspected Passenger Vessel license (commonly referred to as a 6-pack license) or a USCG Masters license and operated, as a captain, a federally permitted charter vessel or headboat in the Gulf reef fish and/or coastal migratory pelagic fisheries that was not permitted in his/her name or the name of a corporation in which he/she was a shareholder; and

(B) At least 25 percent of his/her earned income was derived from charter vessel or headboat fishing in one of the years, 1997, 1998, 1999, or 2000.

(3) *Special conditions applicable to eligibility based on historical captain status.* A person whose eligibility is based on historical captain status will be issued a letter of eligibility by the RA. The letter of eligibility may be redeemed through the RA for a charter vessel/headboat permit for Gulf coastal migratory pelagic fish and/or Gulf reef fish, with a historical captain endorsement. The letter of eligibility is valid for the duration of the moratorium; is valid only for a vessel of the same authorized passenger capacity as the vessel used to document earned income in paragraph (r)(2)(iii)(B) of this section; and is valid only for the fisheries certified on the application under paragraph (r)(2)(iii)(A) of this section. A charter vessel/headboat permit for Gulf coastal migratory pelagic fish or Gulf reef fish with a historical captain endorsement is valid only on a vessel that the historical captain operates as a captain.

(4) *Determination of eligibility based on permit history.* NMFS' permit records are the sole basis for determining eligibility based on permit or application history. An owner of a currently permitted vessel who believes he/she meets the permit or application history criterion based on ownership of a vessel under a different name, as may have occurred when ownership has changed from individual to corporate or vice versa, must document his/her continuity of ownership. No more than one owner of a currently permitted vessel will be credited with meeting the permit history criterion based on a vessel's permit history. An owner will not be issued initial charter vessel/headboat permits for Gulf coastal migratory pelagic fish or Gulf reef fish under the moratorium in excess of the number of federally permitted charter vessels and/or headboats that he/she owned simultaneously at some time during the period March 29, 2000 through March 29, 2001.

(5) *Application requirements and procedures*—(i) *General.* An applicant who desires a charter vessel/headboat permit for Gulf coastal migratory pelagic fish or Gulf reef fish must submit an application for such permit to the RA postmarked or hand-delivered not later than 90 days after the effective date of the final rule implementing this moratorium. Application forms are available from the RA. The information requested on the application form varies according to the eligibility criterion that the application is based upon as indicated in paragraphs (r)(5)(ii), (iii), and (iv) of this section; however, all applicants must provide a copy of the applicable, valid USCG Operator of Uninspected Passenger Vessel license or Masters license and valid USCG Certificate of Inspection. Failure to apply in a timely manner will preclude permit issuance even when the applicant meets the eligibility criteria for such permit.

(ii) *Application based on the prior permit/application history criterion.* On or about the effective date of the final rule implementing this moratorium, the RA will mail an application for a charter vessel/headboat permit for Gulf coastal migratory pelagic fish and/or Gulf reef fish to each owner of a vessel who, according to NMFS' permit records, is eligible based on the permit or application history criterion in paragraph (r)(2)(i) of this section. Information requested on the application is consistent with the standard information required in paragraph (b)(3)(ii) of this section. The RA will also mail each such owner a notice that his/her existing charter vessel/headboat permit(s) for coastal migratory pelagic fish and/or Gulf reef fish will expire 150 days after the effective date of the final rule implementing this moratorium and that the new permit(s) required under this moratorium will be required as of that date. A vessel owner who believes he/she qualifies for a charter vessel/headboat permit for Gulf coastal migratory pelagic fish and/or Gulf reef fish based on permit or application history, but who does not receive an application from the RA, must request an application from the RA and provide documentation of eligibility. The RA will mail applications and notifications to vessel owner addresses as indicated in NMFS' permit records.

(iii) *Application based on a charter vessel/headboat under construction prior to March 29, 2001.* A person who intends to obtain a charter vessel/headboat permit for Gulf coastal migratory pelagic fish and/or Gulf reef fish based on the vessel-under-construction eligibility criterion in paragraph (r)(2)(ii) of this section must obtain an application from the RA. Information requested on the application includes the standard information required in paragraph (b)(3)(ii) of this section and the documentation of construction and associated costs as specified in paragraph (r)(2)(ii) of this section.

(iv) *Application based on historical captain status.* A person who intends to obtain a charter vessel/headboat permit for Gulf coastal migratory pelagic fish and/or Gulf reef fish based on historical captain status must obtain an application from the RA. Information requested on the application includes the standard information required in paragraph (b)(3)(ii) of this section and documentation of the criteria specified in paragraphs (r)(2)(iii)(A)and (B) of this section. Such documentation includes income tax records pertinent to verifying earned income; a copy of the

applicable USCG license and/or Certificate of Inspection; and a notarized affidavit signed by a vessel owner certifying the period the applicant served as captain of a charter vessel or headboat permitted for Gulf reef fish and/or coastal migratory pelagic fish, whether the charter vessel or headboat was permitted for Gulf reef fish or coastal migratory pelagic fish or both, and whether the charter vessel or headboat was uninspected (i.e., 6-pack) or had a USCG Certificate of Inspection.

(v) *Incomplete applications.* If an application that is postmarked or hand-delivered in a timely manner is incomplete, the RA will notify the applicant of the deficiency. If the applicant fails to correct the deficiency within 20 days of the date of the RA's notification, the application will be considered abandoned.

(6) *Issuance of initial permits.* If a complete application is submitted in a timely manner and the applicable eligibility requirements specified in paragraph (r)(2) of this section are met, the RA will issue a charter vessel/headboat permit for Gulf coastal migratory pelagic fish and/or Gulf reef fish or a letter of eligibility for such fisheries, as appropriate, and mail it to the applicant not later than 140 days after the date the final rule is effective.

(7) *Notification of ineligibility.* If the applicant does not meet the applicable eligibility requirements of paragraph (r)(2) of this section, the RA will notify the applicant, in writing, of such determination and the reasons for it not later than 120 days after the date the final rule is effective.

(8) *Appeal process.* (i) An applicant may request an appeal of the RA's determination regarding initial permit eligibility, as specified in paragraph (r)(2) of this section, by submitting a written request for reconsideration to the RA with copies of the appropriate records for establishing eligibility. Such request must be postmarked or hand-delivered within 30 days after the date of the RA's notification of ineligibility and may include a request for an oral hearing. If an oral hearing is granted, the RA will notify the applicant of the place and date of the hearing and will provide the applicant a maximum of 30 days prior to the hearing to provide information in support of the appeal.

(ii) A request for an appeal constitutes the appellant's authorization under section 402(b)(1)(F) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et. seq.) for the RA to make available to the appellate officer(s) such confidential records as are pertinent to the appeal.

(iii) The RA may independently review the appeal or may appoint one or more appellate officers to review the appeal and make independent recommendations to the RA. The RA will make the final determination regarding granting or denying the appeal.

(iv) The RA and appellate officer(s) are empowered only to deliberate whether the eligibility criteria in paragraph (r)(2) of this section were applied correctly. Hardship or other factors will not be considered in determining eligibility.

(v) The RA will notify the applicant of the decision regarding the appeal within 30 days after receipt of the request for appeal or within 30 days after the conclusion of the oral hearing, if applicable. The RA's decision will constitute the final administrative action by NMFS.

(9) *Transfer of permits*— (i) *Permits without a historical captain endorsement.* A charter vessel/headboat permit for Gulf coastal migratory pelagic fish or Gulf reef fish that does not have a historical captain endorsement is fully transferable, with or without sale of the permitted vessel, except that no transfer is allowed to a vessel with a greater authorized passenger capacity than that of the vessel from which the permit was transferred. The determination of authorized passenger capacity will be based on the USCG Certificate of Inspection or USCG Operator of Uninspected Passenger Vessel license associated with the vessels involved in the transfer. If no valid Certificate of Inspection is provided for a vessel, that vessel will be considered an uninspected vessel with an authorized passenger capacity restricted to six or fewer passengers.

(ii) *Permits with a historical captain endorsement.* A charter vessel/headboat permit for Gulf coastal migratory pelagic fish or Gulf reef fish that has a historical captain endorsement may only be transferred to a vessel operated by the historical captain, cannot be transferred to a vessel with a higher authorized passenger capacity than the vessel from which the permit was transferred, and is not otherwise transferable.

(iii) *Procedure for permit transfer.* To request that the RA transfer a charter vessel/headboat permit for Gulf coastal migratory pelagic fish or Gulf reef fish, the owner of a vessel that is to receive the transferred permit must complete the transfer information on the reverse of the permit and return the permit and a completed application for transfer to the RA.

(10) *Renewal.* (i) Renewal of a charter vessel/headboat permit for Gulf coastal migratory pelagic fish or Gulf reef fish is contingent upon the permitted vessel and/or captain, as appropriate, being included in an active survey frame for, and, if selected to report, providing the information required in one of the following—

(A) NMFS'Marine Recreational Fishing Vessel Directory Telephone Survey (conducted by the Gulf States Marine Fisheries Commission);

(B) NMFS' Southeast Headboat Survey (as required by § 622.5(b)(1) of this part);

(C) Texas Parks and Wildlife Marine Recreational Fishing Survey; or

(D) A data collection system that replaces one or more of the surveys in paragraph (r)(10)(i)(A)(B) or (C) of this section.

(ii) A charter vessel/headboat permit for Gulf coastal migratory pelagic fish or Gulf reef fish that is not renewed or that is revoked will not be reissued during the moratorium. A permit is considered to be not renewed when an application for renewal, as required, is not received by the RA within 1 year of the expiration date of the permit.

(11) *Requirement to display a vessel decal.* Upon issuance, renewal, or transfer of a charter vessel/headboat permit for Gulf coastal migratory pelagic fish or Gulf reef fish, the RA will issue the owner of the permitted vessel a vessel decal for the applicable permitted fishery or fisheries. The vessel decal must be displayed on the port side of the deckhouse or hull and must be maintained so that it is clearly visible.

(12) Requirement and procedure for obtaining an initial charter vessel/headboat permit for South Atlantic coastal migratory pelagic fish. (i) General. This paragraph (r)(12) explains the necessity of requiring and the procedure for obtaining an initial charter vessel/headboat permit for South Atlantic coastal migratory pelagic fish. Formerly, the charter vessel/headboat permit for coastal migratory pelagic fish applied in the EEZ of the Gulf and South Atlantic. The establishment of a separate charter vessel/headboat permit for Gulf coastal migratory pelagic fish under the moratorium established by paragraph (r) of this section necessitates that a separate charter vessel/headboat permit for South Atlantic coastal migratory pelagic fish also be established effective 150 days after the effective date of the final rule implementing the moratorium and that the former charter vessel/headboat permit for coastal migratory pelagic fish (applicable in both the Gulf and South Atlantic) be voided effective as of that same date. The newly required charter vessel/headboat permit for

South Atlantic coastal migratory pelagic fish is not subject to the provisions of the moratorium in paragraphs (r)(1) through (11) of this section.

(ii) *Application for and issuance of an initial charter vessel/headboat permit for South Atlantic coastal migratory pelagic fish*— (A) *Owner of a vessel with a valid charter vessel/headboat permit for coastal migratory pelagic fish.* On or about the effective date of the final rule implementing the moratorium in paragraph (r) of this section, the RA, based on NMFS' permit records, will mail an application for an initial charter vessel/headboat permit for South Atlantic coastal migratory pelagic fish to each owner of a vessel with a valid charter vessel/headboat permit for coastal migratory pelagic fish. Any such owner who desires an initial charter vessel/headboat permit for South Atlantic coastal migratory pelagic fish must submit the completed application to the RA. To avoid any lapse in authorization to fish for coastal migratory species in the South Atlantic EEZ (i.e., valid permit status), such owners must submit the completed application to the RA postmarked or hand-delivered not later than 90 days after the effective date of the final rule implementing the moratorium. For completed applications received by that deadline, the RA will issue the permit no later than 140 days after the effective date of the final rule implementing this moratorium. Applications will be accepted at any time, but if received after the deadline, the permit may not be issued prior to the date that the permit is first required (i.e., 150 days after the effective date of the final rule implementing the moratorium). These special procedures apply only to the application and issuance of the initial permit; subsequent permitting activities will be conducted in accordance with the standard permitting procedures as specified in paragraph (b) through (l) of this section.

(B) *Owner or operator of a vessel without a valid charter vessel/headboat permit for coastal migratory pelagic fish.* An owner or operator of a vessel who desires a charter vessel/headboat permit for South Atlantic coastal migratory pelagic fish and who does not have a valid charter vessel/headboat permit for coastal migratory pelagic fish must obtain a permit application from the RA. For additional permitting procedures, see paragraphs (b) through (l)of this section.

3. Section 622.5 (b)(1) is revised to read as follows:

§ 622.5 Recordkeeping and reporting.

* * * * *

(b) * * *

(1) *Coastal migratory pelagic fish, reef fish, and snapper-grouper.* The owner or operator of a vessel for which a charter vessel/headboat permit for Gulf coastal migratory pelagic fish, South Atlantic coastal migratory pelagic fish, Gulf reef fish, or South Atlantic snapper-grouper has been issued, as required under § 622.4(a)(1), or whose vessel fishes for or lands such coastal migratory pelagic fish, reef fish, or snapper-grouper in or from state waters adjoining the Gulf or South Atlantic EEZ, who is selected to report by the SRD must maintain a fishing record for each trip, or a portion of such trips as specified by the SRD, on forms provided by the SRD and must submit such record as specified in paragraph (b)(2) of this section.

* * * * *

4. In § 622.7, paragraphs (b) and (f) are revised to read as follows:

§ 622.7 Prohibitions.

* * * * *

(b) Falsify information on an application for a permit, license, or endorsement or submitted in support of such application, as specified in § 622.4(b), (g), (p), (q), or (r) or in § 622.18.

* * * * *

(f) Falsify or fail to display and maintain vessel and gear identification, as specified in § 622.6(a) and (b) or § 622.4(r)(11).

* * * * *

5. Section 622.43 (a)(3)(ii) is revised to read as follows:

§ 622.43 Closures.

(a) * * *

(3) * * *

(ii) A person aboard a vessel for which valid charter vessel/headboat permits for Gulf coastal migratory pelagic fish or South Atlantic coastal migratory pelagic fish and a valid commercial vessel permit king or Spanish mackerel have been issued may continue to retain fish under a bag and possession limit specified in § 622.39(c), provided the vessel is operating as a charter vessel or headboat.

* * * * *

[FR Doc. 02–7128 Filed 3–22–02; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 67, No. 57
Monday, March 25, 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 1219

[FV–01–705 PR#2 Correction]

Proposed Hass Avocado Promotion, Research and Information Order; Correction

AGENCY: Agricultural Marketing Service, Agriculture.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a proposed rule that was published on February 19, 2002 [67 FR 7290] by publishing the correct Harmonized Tariff Schedule number for Hass avocados used to identify those avocados which are subject to import assessments.

EFFECTIVE DATE: March 25, 2002.

FOR FURTHER INFORMATION CONTACT: Julie A. Morin, Research and Promotion Branch, FV, AMS, USDA, Stop 0244, 1400 Independence Avenue, SW., Room 2535 South Building, Washington, DC 20250–0244; telephone (202) 720–9915; facsimile (202) 205–2800; or *julie.morin@usda.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Department of Agriculture (Department) published a proposed rule on the Hass Avocado Promotion, Research, and Information Order [7 CFR Part 1219] in the **Federal Register** on February 19, 2002 [67 FR 7290]. The proposed Order is authorized under the Hass Avocado Promotion, Research, and Information Act of 2000 [7 U.S.C. 7801–7813].

Need for Correction

As published, there was a typographical error in the proposed rule. In § 1219.54(c)(2) import assessments, the Harmonized Tariff Schedule number identifying Hass avocados is incorrect. Accordingly, this correction document contains the correct Hass avocado Harmonized Tariff Schedule number.

Correction

FR Doc. 02–3797, published on February 19, 2002 [67 FR 7290], is corrected as follows:

§ 1219.54 [Corrected]

1. On page 7307, in the first column, in the Assessment—Import Assessments, section number § 1219.54(c)(2) is correctly revised to read as follows:

(2) The import assessment shall be uniformly applied to imported fresh Hass avocados that are identified by the number 0804.40.00.10 in the Harmonized Tariff Schedule of the United States or any other numbers to identify fresh Hass avocados. Assessments on other types of imported fresh avocados or on processed Hass avocados, such as prepared, preserved, or frozen Hass avocados or Hass avocado paste, puree, and oil will be added at the recommendation of the Board with the approval of the Secretary.

Dated: March 19, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–7106 Filed 3–22–02; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 948

[WV–088–FOR]

West Virginia Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; reopening of public comment period.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSM) are reopening the public comment period on an amendment to the West Virginia surface mining regulatory program (the West Virginia program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). The program amendment consists of the State's responses to several required program amendments codified in the Federal regulations. The amendment is intended to render the West Virginia program no less effective than the Federal requirements. We are reopening the comment period to provide an opportunity to review and comment on a status report from West Virginia Department of Environmental Protection (WVDEP) of actions taken by the State in an attempt to satisfy the required program amendments, and other related documents. We are also providing opportunity to comment on the State's responses to two required program amendments that we inadvertently omitted from a previous announcement of a public comment period.

This document gives the times and locations that the West Virginia program, the proposed amendments to that program, the status report provided by WVDEP, and other related documents are available for your inspection, and the comment period during which you may submit written comments on the amendment.

DATES: We will accept written comments until 4:30 p.m. (local time), on April 9, 2002.

ADDRESSES: You may mail or hand-deliver written comments to Mr. Roger W. Calhoun, Director, Charleston Field Office at the address listed below.

You may review copies of the West Virginia program, this amendment, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Charleston Field Office.

Mr. Roger W. Calhoun, Director, Charleston Field Office, Office of Surface Mining Reclamation and Enforcement, 1027 Virginia Street, East, Charleston, West Virginia 25301, Telephone: (304) 347–7158. E-mail: *chfo@osmre.gov.*

West Virginia Department of Environmental Protection, 10 McJunkin Road, Nitro, West Virginia 25143, Telephone: (304) 759–0510.

In addition, you may review copies of the proposed amendment, the status report provided by WVDEP, and the other related documents during regular

business hours at the following locations:

Office of Surface Mining Reclamation and Enforcement, Morgantown Area Office, 75 High Street, Room 229, P.O. Box 886, Morgantown, West Virginia 26507, Telephone: (304) 291–4004. (By Appointment Only)

Office of Surface Mining Reclamation and Enforcement, Beckley Area Office, 313 Harper Park Drive, Suite 3, Beckley, West Virginia 25801, Telephone: (304) 255–5265.

FOR FURTHER INFORMATION CONTACT: Mr. Roger W. Calhoun, Director, Charleston Field Office; Telephone: (304) 347–7158.

SUPPLEMENTARY INFORMATION:

I. Background on the West Virginia Program
II. Description of the Proposed Amendment
III. Public Comment Procedures
IV. Procedural Determinations

I. Background on the West Virginia Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, ''* * * a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to the Act.'' See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the West Virginia program on January 21, 1981. You can find background information on the West Virginia program, including the Secretary's findings, the disposition of comments, and conditions of approval of the West Virginia program in the January 21, 1981, **Federal Register** (46 FR 5915). You can also find later actions concerning West Virginia's program and program amendments at 30 CFR 948.10, 948.12, 948.13, 948.15, and 948.16.

II. Description of the Proposed Amendment

By letter dated November 30, 2000 (Administrative Record Number WV–1189), the WVDEP submitted an amendment to its program. The amendment consists of the State's written response to several required regulatory program amendments codified in the Federal regulations at 30 CFR 948.16. We announced receipt of the proposed amendment on January 3, 2001 (66 FR 335). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the adequacy of the amendment (Administrative Record Number WV–1194).

On January 15, 2002, we met with the WVDEP to discuss our concerns with the proposed amendment and to obtain the State's responses to our concerns (Administrative Record Number WV–1271). The WVDEP submitted a draft status report on February 15, 2002 (Administrative Record Number WV–1274). By letters dated February 26, 2002, and March 8, 2002 (Administrative Record Numbers WV–1277 and WV–1280, respectively), the WVDEP sent us updated status reports, with attachments, that outline the actions taken by WVDEP in an attempt to satisfy the required program amendments. That information is summarized below. On various dates we provided WVDEP with related materials such as West Virginia 2001 Bulletin No. 32 concerning agricultural statistics (Administrative Record Number WV–1269); Natural Resources Conservation Service (NRCS) listing of prime farmland soils in West Virginia (Administrative Record Number WV–1278); and ''Technical Guides of Reference Areas and Technical Standards for Evaluating Surface Mine Vegetation in OSM Regions I and II'' (Administrative Record Number WV–1277).

We also discussed with the WVDEP the State's responses to several required program amendments that were submitted to us by letter dated May 2, 2001 (Administrative Record Number WV–1209). We announced receipt and provided an opportunity to comment on the amendments submitted on May 2, 2001, in the May 24, 2001, **Federal Register** (66 FR 28682) (Administrative Record Number WV–1213). In that announcement, we inadvertently omitted identifying the State's responses to the required program amendments codified at 30 CFR 948.16(gggg) and (hhhh). Therefore, we are taking this opportunity to announce receipt and provide an opportunity to comment on the State's responses to the required amendments codified at 30 CFR 948.16(gggg) and (hhhh).

We have organized the information provided by WVDEP according to the required program amendment codified at 30 CFR 948.16 that is being addressed. We will begin each discussion by quoting the required amendment. We will then include WVDEP's response to that required amendment, followed by a description of any attachments that were provided by WVDEP. Finally, whenever we add our own words in the form of a note, we will place our note within brackets.

Required Amendments Addressed in the November 30, 2000, Submittal

1. 30 CFR 948.16(dd) Revegetation.

30 CFR 948.16(dd)—West Virginia shall submit proposed revisions to Subsection 38–2–9.3 of its surface mining reclamation regulations or otherwise propose to amend its program to establish productivity success standards for grazing land, pasture land and cropland; require use of the 90 percent statistical confidence interval with a one-sided test using a 0.10 alpha error in data analysis and in the design of sampling techniques; and require that revegetation success be judged on the basis of the vegetation's effectiveness for the postmining land use and in meeting the general revegetation and reclamation plan requirements of Subsections 9.1 and 9.2. Furthermore, * * *, West Virginia shall submit for OSM approval its selected productivity and revegetation sampling techniques to be used when evaluating the success of ground cover, stocking, or production as required by 30 CFR 816.116 and 817.116.

WVDEP response:

Productivity: The WVDEP has developed a policy (Attachment 1) that will use productivity standards developed by the Natural Resources Conservation Service (NRCS) or other publications of the United States Department of Agriculture. These standards will be compared to yields obtained from the particular site.

Ground cover: WVDEP has reviewed the modified Rennie-Farmer Method in addition to methods used in other states and has developed a policy (Attachment 1) which references section 3 of ''Technical Guides of Reference Areas and Technical Standards for Evaluating Surface Mine Vegetation in OSM Regions I and II,'' by Robert E. Farmer, Jr. *et al.,* OSM J5701442/TV–54055A, 1981, U.S. Department of the Interior, Office of Surface Mining Reclamation and Enforcement.

Attachment 1: Productivity and Ground Cover Success Standards

The productivity success standards for grazing land and hayland will be based upon determinations for similar map units as published in the productivity tables in NRCS soil surveys for the county or from average county yields recognized by the United States Department of Agriculture (USDA). The yields for grazing land or hayland will be measured in material produced per acre or animal units supported. The success of production shall be equal to or greater than that of the standard obtained from the tables. Evaluation methods for productivity to be utilized are described in section 1 of ''Technical Guides of Reference Areas and Technical Standards for Evaluating Surface Mine Vegetation in OSM

Regions I and II'' by Robert E. Farmer, Jr. *et. al.,* OSM J5701442/TV–54055A, 1981, U.S. Department of the Interior, Office of Surface Mining Reclamation and Enforcement.

The productivity success standard for cropland shall be determined using yields for reference crops from unmined areas. Reference crop yields shall be determined from the current yields records of representative local farms in the surrounding area or from the average county yields recognized by the USDA. The success of production shall be equal to or greater than that of the reference crop from unmined areas. Evaluation methods for productivity to be utilized are described in section 1 of ''Technical Guides of Reference Areas and Technical Standards for Evaluating Surface Mine Vegetation in OSM Regions I and II'' by Robert E. Farmer, Jr. *et. al.,* OSM J5701442/TV–54055A, 1981, U.S. Department of the Interior, Office of Surface Mining Reclamation and Enforcement.

The company shall be responsible for providing DEP with copies of the productivity tables and/or data used to determine reference crop yield. Where the USDA or other agricultural data for productivity does not exist for a particular county, the applicant will work with the DEP and the USDA to develop standards for the proposed area.

Ground cover success shall be based on the Rennie and Farmer technique described in section 3 of ''Technical Guides of Reference Areas and Technical Standards for Evaluating Surface Mine Vegetation in OSM Regions I and II'' by Robert E. Farmer, Jr. *et. al.,* OSM J5701442/TV–54055A, 1981, U.S. Department of the Interior, Office of Surface Mining Reclamation and Enforcement.

2. 30 CFR 948.16(ee) Prime farmland.

30 CFR 948.16(ee)—West Virginia shall submit documentation that the U.S. Soil Conservation Service (SCS), now the NRCS, has been consulted with respect to the nature and extent of the prime farmland reconnaissance inspection required under Subsection 38–2–10.1 of the State's surface mining reclamation regulations. In addition, the State shall either delete paragraphs (a)(2) and (a)(3) of Subsection 38–2–10.2 or submit documentation that the SCS State Conservationist concurs with the negative determination criteria set forth in these paragraphs.

WVDEP response:

Comments from NRCS resolve this issue (WV administrative Record No. 1203). The NRCS stated in their comment letter dated February 9, 2001, to OSM that all prime farmlands in the State have been mapped and are available. WVDEP has contacted the NRCS and has drafted a letter seeking further concurrence (Attachment 1A).

Attachment 1A: February 25, 2002, Letter From WVDEP to NRCS

In the letter that comprises this attachment, WVDEP stated that it was providing NRCS a copy of its rule concerning prime farmlands at CSR 38–2–10 (Attachment 1P). WVDEP requested that NRCS address the following: the reconnaissance inspection and two paragraphs of the negative determination section.

WVDEP described the States reconnaissance inspection process as it currently exists. Included in that description are the following criteria, one or more of which can be the basis of a prime farmland negative determination: (1) No historical use of the land as cropland; (2) the slope of the land in the permit area is greater than 10 percent; (3) other factors (*i.e.,* rocky surface, frequent flooding) disqualify the land as prime farmland; (4) a soil survey by a qualified person.

The letter further states that WVDEP reviews the applicants' information and will check county soil survey maps. The soils in the area are compared to a list from ''West Virginia's Prime Farmland Soil Mapping Units'' by NRCS (Attachment 3P). If the soils in the proposed mining area are not on the list, then the negative determinations are approved. If the negative determination is not approved, then the NRCS is consulted. If prime farmland is identified, then a much more detailed plan is required.

For counties where no mapping has been published, WVDEP's procedure is described in Attachment 2P. If the slopes are less than 10 percent and the area has historically been used as cropland then NRCS is consulted.

WVDEP further stated that the criteria for both the slope and the rocky or flooded land were based on NRCS literature. Of all the soils identified in the ''West Virginia's Prime Farmland Soil Mapping Units'' document, not one has greater than 10 percent slope and that same document says that prime farmland cannot be in areas that are flooded frequently nor areas that are rocky (10 percent cover of rock fragments coarser than 3 inches).

The letter of Attachment 1A asked for NRCS concurrence on the State's methods of reconnaissance inspections and with the State's negative determination criteria for prime farmland.

Attachment 2P: Prime Farmlands Identifications

Soil surveys prepared by the NRCS will be the basis for the final determination of prime farmlands in West Virginia involving surface mining permits. In these cases where soil surveys are not complete in a county and prime farmland involvement is possible, the NRCS will conduct a soil survey for the permit area for final determination.

If a permit application contains any areas with less than 10 percent slope and it is evident the area has been used for crops at least 5 years out of the last 20 years, it is possible that these areas could be considered prime farmland.

If this condition is present, you should check the NRCS soil survey for that county. If a soil survey does not exist for a particular county, you should consult the local NRCS District Conservationist for a prime farmland determination.

In counties where soil surveys have been published, you must locate the permit on the soils map and by utilizing the symbols on the map, determine the soil types in the proposed area. Then, comparison with the attached list of soils constituting prime farmlands in West Virginia will have to be made. If the soil type is considered prime farmland on the list, the District Conservationist for that county must be contacted for final determination.

If the permit application involves prime farmland, all provisions of sections 507(b)(16) and 515(b)(7) of Public Law 95–87 and section 10 of the West Virginia Surface Mining Regulations will apply.

Attachment 3P: West Virginia's Prime Farmland Soil Mapping Units

This publication contains a listing of West Virginia's prime farmland soil mapping units. The publication is dated April 1982.

Attachment 4P: This attachment consists of the State response to the required amendment codified at 30 CFR 948.16(ee) as submitted to OSM on November 30, 2000.

3. 30 CFR 948.16(oo). Spillway design.

30 CFR 948.16(oo)—West Virginia shall submit proposed revisions to subsection 38–2–5.4(b)(8) of its surface mining reclamation regulations to require that excavated sediment control structures which are at ground level and which have an open exit channel constructed of non-erodible material be designed to pass the peak discharge of a 25-year, 24-hour precipitation event.

WVDEP response:

The WVDEP is proposing language (Attachment 2) that all sediment control structures spillways will be designed based on a 25-year/24-hour storm except for haulroads.

Attachment 2: This attachment contains the draft language for CSR 38–

2–5.4.b.8. As amended, the proviso that excluded excavated sediment control structures is deleted. In its place is language that provides as follows: ''provided, however that this subsection does not apply to haulroads.'' As amended, CSR 38–2–5.4.b.8. provides as follows.

5.4.b.8. Be designed to safely pass a twenty-five (25) year, twenty-four (24) hour precipitation event. The combination of both principal and/or emergency spillway of the structures shall be designed to safely pass the peak discharge of a twenty-five (25) year, twenty-four (24) hour precipitation event, provided, that a single open channel spillway may be used only if it is of non-erodable construction and designed to carry sustained flows; or earth or grass-lined and designed to carry short term, infrequent flows at non-erosive velocities where sustained flows are not expected; provided, however, that this subsection does not apply to haulroads.

4. 20 CFR 948.16(nnn) Unjust hardship.

30 CFR 948.16(nnn)—West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to revise Section 22B–1–7(d) to remove unjust hardship as a criterion to support the granting of temporary relief from an order or other decision issued under Chapter 22, Article 3 of the West Virginia Code.

WVDEP response:

The WVDEP is proposing language (Attachment 3) to exclude unjust hardship as criteria to support the granting of temporary relief under WV Code 22–3.

Attachment 3: W. Va. Code 22B–1–7 Appeals to Boards

This attachment consists of the language at 22B–1–7(d) and (h) and identifies how these provisions are proposed to be amended.

Paragraph (d) is amended by adding a proviso that provides as follows: ''Provided; however, the criterion of unjust hardship cannot be used to support the granting of temporary relief for an order or other decision issued under article three chapter twenty-two of this code.''

5. 30 CFR 948.16(ooo) Temporary relief.

30 CFR 948.16(ooo)—West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to revise Section 22B–1–7(h) by removing reference to Article 3, Chapter 22.

WVDEP response:

This provision only applies to the Environmental Quality Board (EQB), which adjudicates Clean Water Act appeals. The WVDEP is proposing language (Attachment 3) to delete the reference to Article 3 Chapter 22.

Attachment 3: W. Va. Code 22B–1–7(h) Appeals to Boards

This attachment consists of the language at section 22B–1–7(d) and (h) and identifies how these provisions are proposed to be amended. Paragraph (h) is amended in the first sentence by deleting reference to article ''three'' chapter 22 of the W. Va. Code.

6. 30 CFR 948.16(sss) Water replacement waiver.

30 CFR 948.16(sss)—West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to revise CSR 38–2–14.5(h) and 22–3–24(b) to clarify that the replacement of water supply can only be waived under the conditions set forth in the definition of ''Replacement of water supply,'' paragraph (b), at 30 CFR 701.5.

WVDEP response:

The WVDEP has reevaluated its water replacement and waiver requirements at W.Va. Code § 22–3–24 and the rules. As stated in 38–2–14.5.h, the waiver of water supply provided in § 22–3–24(b) only applies to underground operations and the agency plans to propose changes for the 2003 regular legislative session that would clarify that replacement of an affected water supply that is needed for the existing land use or for the post-mining land use cannot be waived. Historically, under the state program, replacement waivers are not sought nor granted for such water supplies. However, in the interim, it is the position of the WVDEP that replacement of water supply can only be waived when consistent with the conditions described in the definition of ''Replacement of water supply,'' paragraph (b), at 30 CFR 701.5.

7. 30 CFR 948.16(vvv)(2) Certification of haul roads.

30 CFR 948.16(vvv)(2)—West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to amend CSR 38–2–4.12 to reinstate the following deleted language: ''and submitted for approval to the Director as a permit revision.''

WVDEP response:

The WVDEP has established guidelines (Series 20 Effective 1–97, page 22 of the I&E Handbook, Attachment 4) for approval of minor revisions to the original design. Minor deviations from the approved plan for haulroads (width, grade, etc.) are permissible as long they are within the construction tolerance specified in 38–3.35. [Note: typo, should be 38–2–3.35]

Attachment 4: Minor Revisions Approvable by Field Level Personnel

Policy/Procedures: Minor revisions to original designs must be within the construction tolerances specified in 38–2–3.35. If not, a permit revision is required. The following are examples of minor revisions that are approvable at the field inspector level.

1. Minor drainage structure configuration changes (*i.e.,* round vs. square, spillway on one side instead of the other, *etc.*) as long as the required sediment storage capacity is maintained. (Approved by virtue of the inspector signing off on the as-built certification)

2. Minor road width/slope configuration (as long as the width/slope do not compromise safety considerations). (Approved as an as-built certification)

3. Additional sediment control capacity (*i.e.,* additional sumps on roads, pre sumps in front of sediment ponds). (Approved as an as-built certification)

4. Species substitution on planting plans (*i.e.,* substituting legume for legume, hardwoods for hardwoods, *etc.*). Approved by letter submittal and inspector signs off on it.

5. Minor bench size changes on fills (*i.e.,* wider than twenty (20) feet. (Approved on the final certification)

6. Outlets/spillways constructed of different material than originally proposed. (Approved on the as-built certification)

7. Additional rock flumes on backfill areas (letter approval when constructed).

8. Minor encroachment of the permit boundary (*i.e.,* slips, shootovers, *etc.*). These need to be covered with a notice of violation (NOV) then shown on a progress map or on the final map. The acreage involved has to be included in the disturbed acreage number on the Phase I release application, and the bond reduction calculated accordingly.

Keep in mind that some of these changes need to be delineated on the ''map of record.'' This can be done by requesting a progress map to accompany the certification or letter, or at a mid term review, or at the time of final map submittal (Phase I release).

8. 30 CFR 948.16(vvv)(3) Slurry impoundments.

30 CFR 948.16(vvv)(3)—West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to amend the West Virginia program by clarifying that the requirements at CSR 38–2–5.4(c) also apply to slurry impoundments.

WVDEP response:

The WVDEP is proposing a change to 5.4.d.4 (Attachment 5) which clarifies that non-MSHA sized coal processing waste dams and embankments will be certified by a registered professional engineer as indicated in 30 CFR 780.25.

Attachment 5: CSR 38–2–5.4.d. Certification

This provision would be amended at subdivision 38–2–5.4.d.3. by adding the words ''except all coal processing waste dams and embankments covered by subsection 22.4.c. shall be certified by a registered professional engineer.'' As amended, CSR 38–2–5.4.d.3. would read as follows: Design and construction certification of embankment type sediment control structures may be performed only by a registered professional engineer or licensed land surveyor experienced in construction of embankments ''except all coal processing waste dams and embankments covered by subsection 22.4.c. shall be certified by a registered professional engineer.''

9. 30 CFR 948.16(vvv)(4) Coal refuse disposal.

30 CFR 948.16(vvv)(4)—West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to amend CSR 38–2–14.15(m), or otherwise amend the West Virginia program to require compliance with 30 CFR 816/817.81(b), (d), and (e) regarding coal refuse disposal, foundation investigations, and emergency procedures and to clarify that where the coal processing waste proposed to be placed in the backfill contains acid- or toxic-producing materials, such material must not be buried or stored in proximity to any drainage course such as springs and seeps, must be protected from goundwater by the appropriate use of rock drains under the backfill and along the highwall, and be protected from water infiltration into the backfill by the use of appropriate methods such as diversion drains for surface runoff or encapsulation with clay or other material of low permeability.

WVDEP response:

Clarify that where the coal processing waste proposed to be placed in the backfill contains acid- or toxic-producing materials, such materials must not be buried or stored in proximity to any drainage course such as springs and seeps.

This part of the required program amendment is satisfied by the state rule (14.15.m.2) which requires that coal processing waste will not be placed in the backfill unless it is non-acid and/or non-toxic material or rendered non-acid and/or non-toxic material and by the state rule (14.6.b) which prohibits acid-forming or toxic forming material being buried or stored in proximity to a drainage course or groundwater system.

Emergency Procedures: OSM believes that the State's emergency procedures at subsection 14.15.m.2 may be no less effective than those at 30 CFR 816.81(e).

Material from Outside the Permit Area: The state rules are clear that prior approval of the Secretary is necessary before placing coal refuse material in the backfill regardless of where the material originates. 14.15.m.2. states the following:

The coal processing waste will not be placed in the backfill unless it has been demonstrated to the satisfaction of the Secretary that: 14.15.m.2.A. the coal processing waste to be placed based upon laboratory testing to be non-toxic and/or non-acid producing; or 14.15.m.2.B. an adequate handling plan including alkaline additives has been developed and the material after alkaline addition is non-toxic and/or non-acid producing.

The WVDEP requires the permittee to identify the source of the refuse in addition to the laboratory testing. Any changes in the source of the refuse require approval of the Secretary.

Foundation: This part of the required program amendment is satisfied due to the requirement that backfill be designed and certified by a registered professional engineer so that a minimum long-term static safety factor of 1.3 is achieved for the final graded slope. All stability analyses include properties of the material to be placed, properties of the foundation (whether on solid bench or backfill) and include site conditions that will affect stability.

Acid Material Handling Plan: OSM stated that this required program amendment is based on a comment by EPA on the original submittal of the rule and that EPA did not comment on WVDEP's explanation. In WVDEP's explanation, it stated that the state rule is clear that the material must be non-acid producing or rendered non-acid producing prior to placement before the Secretary can allow placement of the material in the backfill. In addition, WVDEP stated that the rules at 14.6 apply to the handling of all acid producing material.

10. 30 CFR 948.16(zzz) Pre-subsidence surveys.

30 CFR 948.16(zzz)—West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to revise 38–2–3.12.a.1., or otherwise amend the West Virginia program to require that the map of all lands, structures, and drinking, domestic, and residential water supplies which may be materially damaged by subsidence show the type and location of all such lands, structures, and drinking, domestic, and residential water supplies within the permit and adjacent areas, and to require that the permit application include a narrative indicating whether subsidence, if it occurred, could cause material damage to or diminish the value or reasonably foreseeable use of such structures or renewable resource lands or could contaminate, diminsh, or interrupt drinking, or residential water supplies.

WVDEP response:

The WVDEP stated the identification of structures on a map as required by 3.12.a includes showing the location and type. However, for clarification, on February 4, 2002, WVDEP modified the permit application to state ''Identify Structure (location and type)'' (Attachment 6). This program amendment is currently being reviewed by OSM.

Attachment 6: Section S: Underground/Subsidence Information

Section S–2 of the permit application provides as follows: Does the subsidence survey identify any of the following within 30 degree angle of draw above the proposed underground workings? (Minimum 30 decgree angle of draw unless otherwise specified)

A. Perennial and/or intermittent streams?	Yes	No
B. Structures?	Yes	No
C. Renewal Resource Lands?	Yes	No
D. PSD or Municipal Water Works	Yes	No

If Yes to A., B., C., and/or D. above, identify (location and type) on the topographic map.

11. 30 CFR 948.16(aaaa) Water supply survey.

30 CFR 948.16(aaaa)—West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to revise CSR 38–2–3.12.a.2., or otherwise amend the West Virginia program to require that the water supply survey required by CSR 38–2–3.12.a.2. include all drinking, domestic, and residential water supplies within the permit area and adjacent area, without limitation by an angle of draw, that could be contaminated, diminished, or interrupted by subsidence.

WVDEP response:

The 30-degree angle of draw as set forth in state rule is a minimum criteria and the state reserves the right to request surveys within a larger area based on evaluation of the application. However, for clarification, the WVDEP has proposed a change to 3.12.a (Attachment 7).

Attachment 7: CSR 38–2–3.12. Subsidence Control Plan

Subsection 3.12.a.1. is proposed to be amended by adding the words ''unless a greater area is specified by the Secretary.'' In addition, a new sentence is added at the end of this paragraph which is as follows. ''A survey that identifies, on a topographic map of a scale of 1 inch = 1,000 feet or less, location and type of water supplies and a narrative indicating whether or not subsidence could contaminate, diminish or interrupt water supplies both on the

permit area and adjacent areas.'' Other changes are also made. As amended, CSR 38–2–3.12.a.1. would read as follows:

3.12.a.1. A survey that identifies, on a topographic map of a scale of 1 inch = 1,000 feet or less, structures, perennial and intermittent streams or renewable resource lands and a narrative indicating whether or not subsidence would cause material damage or diminution of value or use of such structures or renewable resource lands both on the permit area and adjacent areas within an angle of draw of at least 30 degrees unless a greater area is specified by the Secretary. Provided; however, an angle of draw less than 30 degrees can be requested by the applicant based upon results of site specific analyses and demonstration that a different angle of draw is justified. Computer program packages predicting surface movement and deformation caused by underground coal extraction can be utilized. A survey that identifies, on a topographic map of a scale of 1 inch = 1,000 feet or less, location and type of water supplies and a narrative indicating whether or not subsidence could contaminate, diminish or interrupt water supplies both on the permit area and adjacent areas.

CSR 38–2–3.12.a.2. is proposed to be amended by deleting the phrase ''the area encompassed by the applicable angle of draw'' and by replacing those words with the phrase ''the permit area and adjacent areas.'' Other minor changes are also proposed. As amended, paragraph 3.12.a.2. would provide as follows. ''A survey of the quality and quantity of water supplies that could be contaminated, diminished or interrupted by subsidence within the permit area and adjacent areas.''

12. 30 CFR 948.16(bbbb) Pre-subsidence survey report and cost.

30 CFR 948.16(bbbb)—West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to revise 38–2–3.12.a.2., or otherwise amend the West Virginia program to require that the permit applicant pay for any technical assessment or engineering evaluation used to determine the premining quality and quantity of drinking, domestic, or residential water supplies, and to require that the applicant provide copies of any technical assessment or engineering evaluation to the property owner and to the regulatory authority.

WVDEP response:

Historically, the presubsidence survey includes any assessments and engineering evaluation used and copies of the survey are to be provided to the property owner and to the WVDEP at the cost of the applicant. However, for clarification, the WVDEP has proposed a change to 3.12.a.2.B. (Attachment 7) to reflect that position.

Attachment 7: Subsidence Control Plan

Subsection CSR 38–2–3.12.a.2.B. is proposed to be amended in the fourth paragraph, by adding the words ''at the cost of the applicant'' at the beginning of the sentence. In addition, the words ''containing any technical assessments and engineering evaluation used in the survey'' are added. As amended, the fourth paragraph at CSR 38–2–3.12.a.2.B. provides as follows.

At the cost of the applicant, a written report of the survey containing any technical assessments and engineering evaluation used in the survey shall be prepared and signed by the person or persons who conducted the survey. Copies of the report shall be provided to the property owner and to the Secretary.

13. 30 CFR 948.16(iiii) Recreational facility use.

30 CFR 948.16(iiii)—West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to amend the term of ''recreational uses'' at W.Va. Code 22–3–13(c)(3) to mean ''recreational facilities use'' at SMCRA section 515(c)(3).

WVDEP response:

Neither state code nor state rules define the term ''public facility including recreational land use.'' It is the state position that the term ''public facility including recreational land use,'' implies structures or other significant developments that the public is able to use, or that confer some type of public benefit. Depending upon individual circumstances, this term may include schools, hospitals, airports, reservoirs, museums, and developed recreational sites such as picnic areas, campgrounds, ballfields, tennis courts, fishing ponds, equestrian and off-road vehicle trails, and amusement areas, together with necessary supporting infrastructure such as parking lots and rest facilities. In general, those sites with a public or public facility postmining land use will provide the public with access as a matter of right on a non-profit basis. Facilities that meet a public need, like water supply reservoirs and publicly owned prisons, and facilities that provide a benefit, like flood control structures and institutions of higher education, also qualify, even if they are not readily accessible to all members of the public or completely non-profit.

14. 30 CFR 948.16(nnnn) Abandoned coal refuse removal.

30 CFR 948.16(nnnn)—West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to either delete CSR 38–2–3.14 or revise CSR 38–2–3.14 to clearly specify that its provisions apply only to operations that do not qualify as surface mining operations as defined in 30 CFR 700.5. If the State chooses the second option it must submit a sampling protocol that will be used to determine whether the refuse piles meet the definition of coal. The protocol must be designed to ensure that no activities meeting the definition of surface coal mining operations escape regulation under WVSCMRA.

WVDEP response:

WVDEP included the words ''and if not AML eligible'' to allow for the removal of abandoned coal refuse piles under AML enhancement requirements. The State has developed a sampling protocol and set the BTU value for coal (Attachment 8).

Attachment 8: Removal of Abandoned Coal Refuse Piles

The Secretary may issue a reclamation contract, in accordance with 38–2–3.14, solely for the removal of existing abandoned coal processing waste piles; only if the average quality of the refuse material *does not* meet the minimum BTU value standards to be classified as coal and/or has a percent ash value of greater than 50, as set forth in ASTM standard D 388–99.

Refuse material that *does not* meet minimum BTU value standards to be classified as coal means; a pile of waste products of coal mining, physical coal cleaning, and coal preparation operations (e.g. culm, gob, etc.) containing coal, matrix material, clay, and other organic and inorganic material in which the material in the pile has a calculated average BTU value less than 10,500.

Calculation of the average BTU value of the pile will be based on samples taken in a minimum of five different, uniformly distributed locations. The number and spacing of sampling locations should take into account variability of the material in short distances.

Required Amendments Addressed in the May 2, 2001, Submittal

15. 30 CFR 948.16(xx) Constructed outcrop barriers.

30 CFR 948.16(xx)—West Virginia shall submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to revise subsection CSR 38–2–14.8(a) to specify design requirements for constructed outcrop barriers that will be the equivalent of natural barriers and will assure the protection of water quality and ensure the long-term stability of the backfill.

WVDEP response:

Responding to OSM's concern that the word ''inhibit'' as in ''to inhibit slides and erosion'' is less effective than the Federal standard of ''prevent'' at 30 CFR 816.99(a), WVDEP provided the following.

The state statutory language for outcrop barriers at W.Va. Code 22–3–13(b)(25) requires the retention of the natural barrier to ''inhibit'' slides and erosion. As set forth in the **Federal Register** dated January 21, 1981,

OSM agrees that provisions regarding natural barriers at W.Va. Code 22–3–13(b)(25) and (c)(4) were found to be consistent with section 515(b)(25) of SMCRA.

Standard Engineering Practices.—The constructed outcrop barriers are designed structures that have a required minimum long-term static safety factor while the natural outcrop barriers are not designed structures and are not required to have a minimum factor of safety. Furthermore, the analysis of stability includes consideration of the material to be placed, the foundation and site conditions. The WVDEP is in the process of developing guidelines for constructed outcrop barriers that will include: requirements for the outslope; sequencing of construction of the outcrop barrier; and minimum factor of safety when barrier is part of the sediment control system (Attachment 9).

[**Note:** Attachment 9 completes WVDEP's process of developing guidelines for constructed outcrop barriers.]

Attachment 9: Constructed Outcrop Barriers

Standard engineering practices for constructed outcrop barriers shall include the following:

1. The design of the constructed barrier shall take into consideration site conditions.

2. The construction of the outcrop barrier shall occur simultaneously with the removal of the natural barrier and be located at or near the edge of the lowest coal seam being mined. Temporary measures must be in place until the barrier is constructed.

3. The recommended outslope of the constructed barrier is 2v:1v

[**Note:** This is a typo, and should be 2v:1h.]

with a static safety factor of 1.3.

4. If the proposed outslope is steeper than 2v:1v

[**Note:** This is a typo, and should be 2v:1h.],

the constructed barrier shall be designed to have a static safety factor of 1.5.

5. If constructed barrier is part of the sediment control system (sediment ditch), the constructed barrier shall be designed to have a static safety factor of 1.5.

16. 30 CFR 948.16(gggg) Bonding for water replacement.

30 CFR 948.16(gggg)—West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to amend 38–2–16.2.c.4., or to otherwise amend the West Virginia program, to be no less effective than the Federal regulations at 30 CFR 817.121(c)(5) by requiring additional bond whenever protected water supplies are contaminated, diminished, or interrupted by underground mining operations conducted after October 24, 1992. The amount of the additional bond must be adequate to cover the estimated cost of replacing the affected water supply.

In the program amendment submitted by the WVDEP on May 2, 2001, WVDEP proposed to amend CSR 38–2–16.2.c.4. by deleting the existing first two sentences. In their place, the following sentences are added.

The director shall issue a notice to the permittee that subsidence related material damage has occurred to lands, structures, or water supply, and that the permittee has ninety (90) days from the date of notice to complete repairs or replacement. The director may extend the ninety (90) day abatement period but such extension shall not exceed one (1) year from the date of the notice. Provided, however, the permittee demonstrates in writing, and the director concurs that subsidence is not complete, that not all probable subsidence related material [damage] has occurred to lands or structures; or that not all reasonably anticipated changes have occurred affecting the water supply, and that it would be unreasonable to complete repairs or replacement within the ninety (90) day abatement period.

In addition, the final existing sentence is being amended by adding the following words to the end of the sentence: ''to land or structures, or the estimated cost to replace water supply.''

This amendment is intended to address the required program amendment codified at 30 CFR 948.16(gggg). For more information, see Finding 26 in the February 9, 1999, **Federal Register** (64 FR 6201, 6212–6213).

WVDEP response:

Under the state program additional bond is required whenever a protected water supply will be contaminated, diminished, or interrupted by underground mining and the amount of bond is based to be the estimated cost of replacing the water supply. However, for clarification, WVDEP has proposed a change to 16.2.c.4 (Attachment 10).

Attachment 10: CSR 38–2–16.2.c.4. Bonding for Subsidence Damage

CSR 38–2–16.2.c.4. is proposed to be amended by deleting the word ''that'' in the first sentence immediately after the word ''permittee.'' In its place, the word ''when'' is added. In addition, the first sentence is amended by adding the words ''when contamination, diminution or interruption occurs to a domestic or residential water supply'' are added immediately following the words ''structures, or.'' As amended, CSR 38–2–16.2.c.4. provides as follows.

16.2.c.4. Bonding for Subsidence Damage: The Secretary shall issue a notice to the permittee when subsidence related material damage has occurred to lands, structures, or when contamination, diminution or interruption occurs to a domestic or residential water supply, and that the permittee has ninety (90) days from the date of notice to complete repairs or replacement. The Secretary may extend the ninety (90) day abatement period but such extension shall not exceed one (1) year from the date of the notice. Provided, however, the permittee demonstrates in writing, and the Secretary concurs that subsidence is not complete, that not all probable subsidence related material [damage] has occurred to lands or structures; or that not all reasonably anticipated changes have occurred affecting the water supply, and that it would be unreasonable to complete repairs or replacement within the ninety (90) day abatement period. If extended beyond ninety (90) days, as part of the remedial measures, the permittee shall post an escrow bond to cover the estimated costs of repairs to land or structures, or the estimated cost to replace water supply.

17. 30 CFR 948.16(hhhh) Time allowed for bonding for water replacement.

30 CFR 948.16(hhhh)—West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to amend CSR 38–2–16.2.c.4., or to otherwise amend the West Virginia program, to be no less effective than the Federal regulations at 30 CFR 817.121(c)(5), by requiring that the 90-day period before which additional bond must be posted begin to run from the date of occurrence of subsidence-related material damage.

In the program amendment submitted by the WVDEP on May 2, 2001, WVDEP proposed to amend CSR 38–2–16.2.c.4. by deleting the existing first two sentences. In their place, the following sentences are added.

The director shall issue a notice to the permittee that subsidence related material damage has occurred to lands, structures, or water supply, and that the permittee has ninety (90) days from the date of notice to complete repairs or replacement. The director may extend the ninety (90) day abatement period but such extension shall not exceed one (1) year from the date of the notice. Provided, however, the permittee demonstrates in writing, and the director concurs that subsidence is not complete, that not all probable subsidence related material [damage] has occurred to lands or structures; or that not all reasonably anticipated changes have occurred affecting the water supply, and that it would be unreasonable to complete repairs or replacement within the ninety (90) day abatement period.

In addition, the last existing sentence is being amended by adding the following words to the end of the sentence: ''to land or structures, or the estimated cost to replace water supply.''

This amendment is intended to address the required program amendment codified at 30 CFR 948.16(hhhh). For more information, see Finding 26 in the February 9, 1999, **Federal Register** (64 FR 6201, 6212–6213).

WVDEP response:

OSM agreed to reevaluate its rules and other program approval decisions, especially Pennsylvania Act 54. OSM agrees that the State can provide notification to an operator of a water problem under 30 CFR 817.121(c)(5). Once an operator is notified of the problem and if repair, replacement, or compensation cannot occur within 90 days, the operator is required to post the additional bond. In addition, an extension of time beyond 90 days is allowed for the reasons set forth under 30 CFR 817.121(c)(5). The parties agreed that counsel for OSM and counsel for WVDEP-would reevaluate this issue.

[**Note:** With respect to Act 54, OSM did not reconsider its decision on Act 54, we merely checked to see if it had any relevance to this issue.]

18. 30 CFR 948.16(pppp) Bond release and premining water quality.

30 CFR 948.16(pppp)—West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to remove CSR 38–2–24.4.

WVDEP response:

OSM acknowledged that the offending language in 24.4 was deleted with the passage of H. B. 2663.

Required Amendments Not Addressed by WVDEP

19. 30 CFR 948.16(oooo) Coal removal incidental to construction.

30 CFR 948.16(oooo)—West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to remove CSR 38–2–23.

WVDEP response:

WVDEP proposed to delete the incidental mining requirements at subsection 23, but its rule advisory council recommended that the proposed deletion be removed from the final rule change. WVDEP acknowledged that these provisions have been disapproved by OSM, and they are not implementing them, as recently evidenced by the West Virginia Supreme Court decision. However, WVDEP did acknowledge that they would continue to pursue with OSM and others the approval of incidental coal removal requirements to prevent the wasting of coal. OSM said that WVDEP must provide it a schedule showing that it is attempting to get these provisions out of its program.

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the State program.

Written Comments

Send your written or electronic comments to OSM at the address given above. Your written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of your recommendation(s). We will not consider or respond to your comments when developing the final rule if they are received after the close of the comment period (*see* **DATES**). We will make every attempt to log all comments into the administrative record, but comments delivered to an address other than the Charleston Field Office may not be logged in.

Electronic Comments

Please submit Internet comments as ASCII or Word file avoiding the use of special characters and any form of encryption. Please also include ''Attn: SPATS No. WV–088–FOR'' and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Charleston Field Office at (304) 347–7158.

Availability of Comments

We will make comments, including names and addresses of respondents, available for public review during our normal business hours. We will not consider anonymous comments. If individual respondents request confidentiality, we will honor their request to the extent allowable by law. Individual respondents who wish to withhold their names or address from public review, except for the city or town, must state this prominently at the beginning of their comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

IV. Procedural Determinations

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulations.

Executive Order 12866—Regulatory Planning and Review

This rule is exempt from review by the Office of Management and Budget (OMB) under Executive Order 12866.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that, to the extent allowable by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

Executive Order 13132—Federalism

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.'' Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA. Section 503(a)(7) requires that State programs contain rules and regulations ''consistent with'' regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse affect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

Section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that a decision on a proposed State regulatory program provision does not constitute a major Federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA) (42

U.S.C. 4332(2)(C)). A determination has been made that such decisions are categorically excluded from the NEPA process (516 DM 8.4.A).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulation.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) will not cause a major increase in costs or prices for consumers, individual industries, geographic regions or Federal, State, or local government agencies; and (c) does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

This determination is based upon the fact that the State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 948

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 8, 2002.

Vann Weaver,

Acting Regional Director, Appalachian Regional Coordinating Center.

[FR Doc. 02–7088 Filed 3–22–02; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–02–024]

RIN 2115–AA97

Safety Zone: Beverly Homecoming Fireworks—Beverly, MA

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary safety zone for the Beverly Homecoming Fireworks on August 11, 2002 in Beverly, MA. The safety zone would temporarily close all waters of Beverly Harbor in a 400-yard radius of the fireworks barge located at position 42°32′36″ N, 070°51′50″ W. The safety zone would prohibit entry into or movement within this portion of Beverly Harbor during the closure period.

DATES: Comments and related material must reach the Coast Guard on or before May 1, 2002.

ADDRESSES: You may mail comments and related material to Marine Safety Office Boston, 455 Commercial Street, Boston, MA. Marine Safety Office Boston maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of the docket and will be available for inspection or copying at Marine Safety Office Boston between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Chief Petty Officer Michael Popovich, Marine Safety Office Boston, Waterways Safety and Response Division, at (617) 223–3000.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD01–02–024), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know your comments reached us, please enclose a stamped, self addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not plan to hold a public meeting. However, you may submit a request for a meeting by writing to Marine Safety Office Boston at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that a public meeting would aid this rulemaking, we will hold one at a time and place announced by a separate notice in the **Federal Register**.

Background and Purpose

This proposed regulation would establish a safety zone in Beverly Harbor within a 400-yard radius of the fireworks barge located at position 42°32′36″ N, 070°51′50″ W. The safety zone would be in effect from 8 p.m. until 10:30 p.m. on August 11, 2002.

The zone would restrict movement within this portion of Beverly Harbor and is needed to protect the maritime public from the dangers posed by a fireworks display. Marine traffic may transit safely outside of the safety zone during the effective periods. The Captain of the Port does not anticipate any negative impact on vessel traffic due to this event. Public notifications will be made prior to the effective period via safety marine information broadcasts and local notice to mariners.

Regulatory Evaluation

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

The Coast Guard expects the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the

regulatory policies and procedures of DOT is unnecessary.

Although this proposed regulation will prevent traffic from transiting a portion of Beverly Harbor during the effective periods, the affects of this regulation will not be significant for several reasons: The minimal time that vessels will be restricted from the area, vessels may safely transit outside of the safety zone, and advance notifications which will be made to the local maritime community by safety marine information broadcasts and local notice to mariners.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities. This rule would affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit or anchor in a portion of Beverly Harbor on August 11, 2002. This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: Vessel traffic can safely pass outside of the safety zone during the effective periods, the periods are limited in duration, and advance notifications which will be made to the local maritime community by safety marine information broadcasts and local notice to mariners.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Chief Petty Officer Michael Popovich at the address listed under **ADDRESSES.**

Collection of Information

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

Federalism

The Coast Guard analyzed this proposed rule under Executive Order 13132 and has determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This proposed rule would not impose an unfunded mandate.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct 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. We invite your comments on how this proposed rule might impact tribal governments, even if that impact may not constitute a ''tribal implication'' under the Order.

Energy Effects

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

Environment

The Coast Guard considered the environmental impact of this proposed rule and concluded that, under figure 2–1, (34)(g), of Commandant Instruction M16475.lD, this proposed rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. Add temporary § 165.T01–024 to read as follows:

§ 165.T01–024 Safety Zone: Beverly Homecoming Fireworks—Beverly, Massachusetts.

(a) *Location.* The following area is a safety zone: All waters of Beverly Harbor in a 400-yard radius of the fireworks barge located at position 42°32′36″ N, 070°51′50″ W.

(b) *Effective date.* This section is effective from 8 p.m. until 10:30 p.m. on August 11, 2002.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into or movement within this zone will be prohibited unless authorized by the Captain of the Port Boston.

(2) All vessel operators shall comply with the instructions of the COTP or the designated on-scene U.S. Coast Guard patrol personnel. On-scene Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, local, state, and federal law enforcement vessels.

Dated: March 1, 2002.

B.M. Salerno,

Captain, U.S. Coast Guard, Captain of the Port, Boston, Massachusetts.

[FR Doc. 02–7002 Filed 3–22–02; 8:45 am]

BILLING CODE 4910–15–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO 152–1152; FRL–7163–1]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the state of Missouri which provides for the attainment and maintenance of the sulfur dioxide (SO_2) National Ambient Air Quality Standard (NAAQS) in Springfield (Greene County), Missouri. This revision approves a Consent Agreement which requires SO_2 emission reductions from a major air emissions source in Springfield. Approval of this SIP revision will make the Consent Agreement Federally enforceable. In the final rules section of the **Federal Register**, EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no relevant adverse comments to this action. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant 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 action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed action must be received in writing by April 24, 2002.

ADDRESSES: Comments may be mailed to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Wayne Kaiser at (913) 551–7603.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule which is located in the rules section of the **Federal Register**.

Dated: March 14, 2002.

James B. Gulliford,

Regional Administrator, Region 7.

[FR Doc. 02–7093 Filed 3–22–02; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 020313055–2055–01; I.D. 021902F]

RIN 0648–AO62

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Charter Vessel and Headboat Permit Moratorium

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues this proposed rule to implement Amendment 14 to the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (Amendment 14) and Amendment 20 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (Amendment 20). This proposed rule would establish a 3–year moratorium on the issuance of charter vessel or headboat (for-hire) permits for the reef fish fishery and coastal migratory pelagics fishery in the exclusive economic zone (EEZ) of the Gulf of Mexico. In addition, as a consequence of the proposed moratorium, the current charter vessel/headboat permit system for coastal migratory pelagic fish would be restructured to provide separate permits for the Gulf of Mexico and South Atlantic. The intended effect of this rule is to cap the number of for-hire vessels operating in these respective fisheries at the current level while the Gulf of Mexico Fishery Management Council (Council) evaluates the need for further management actions that may be needed to rebuild these fishery resources, and to promote attainment of optimum yield.

DATES: Comments must be received no later than 5 p.m., eastern daylight savings time, on May 9, 2002.

ADDRESSES: Written comments on the proposed rule must be sent to Phil Steele, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702. Comments also may be sent via fax to 727-570-5583. Comments will not be accepted if submitted via e-mail or Internet. Copies of the initial regulatory flexibility analysis (IRFA) prepared by NMFS for this proposed rule are available from the same address.

Comments on the collection-of-information requirements contained in this rule should be sent to Robert Sadler, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702, and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (Attention: NOAA Desk Officer).

Copies of Amendments 14 and 20, which include an environmental assessment, and a regulatory impact review (RIR), and copies of two related minority reports opposing implementation of the proposed moratorium may be obtained from the Gulf of Mexico Fishery Management Council, Suite 1000, 3018 U.S. Highway 301 North, Tampa, FL 33619; telephone: 813–228–2815; fax: 813–225–7015; e-mail: *Gulf.Council@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Phil Steele, telephone: 727–570–5305, fax: 727–570–5583, e-mail: *Phil.Steele@noaa.gov.*

SUPPLEMENTARY INFORMATION: The fishery for reef fish is managed under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (Reef Fish FMP) that was prepared by the Council. The fisheries for coastal migratory pelagic resources are managed under the Fishery Management Plan for the Coastal

Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (Coastal Migratory Pelagics FMP) that was prepared jointly by the Council and the South Atlantic Fishery Management Council. These FMPs were approved by NMFS and implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

Background

The Council, in cooperation with the Gulf charter vessel/headboat industry, developed Amendments 14 and 20 to address issues of increased fishing mortality and fishing effort in the for-hire sector of the recreational fishery. There are an estimated 3,220 recreational for-hire vessels in the Gulf of Mexico. Of these for-hire vessels, there are an estimated 1,275 charter vessels and 92 headboats; the remainder are probably smaller guide boats that usually fish inshore. The number of charter boats operating in the Gulf of Mexico has increased from 516 in 1981 to 1,275 in 1998 (147 percent), while the number of headboats has remained relatively stable during the same period. Further, the number of individual angler charter vessel trips increased by approximately 51 percent (through 1998) over the average number of trips from the previous decade.

During this same period, there has been an increase in the number of fish stocks identified as overfished or approaching an overfished state. In the January 2001 report to Congress on the Status of U.S. Fisheries, red snapper and red grouper were classified as being overfished and undergoing overfishing. Gag grouper was classified as undergoing overfishing and approaching an overfished state. King mackerel was classified as overfished and vermillion snapper was classified as undergoing overfishing. Further, the Council was notified, by a letter from NMFS in January, 2001, that greater amberjack was overfished.

While all sectors have contributed to the overfished status of these important fisheries, higher catch rates by the for-hire sector in recent years have substantially increased the proportion of landings attributed to that sector. The percent of recreational red grouper landed by number by charter vessel and headboats increased from 14 percent (1988–1989) to 32 percent (1996–1997); the percent of recreational red snapper landed by number increased from 34 percent (1981–1982) to 62 percent (1988–1989) to 71 percent (1996–1997). This increase in catch rate by the recreational for-hire sector has contributed to the progressively earlier closures of the red snapper recreational fishery each year. This fishery was closed on November 27 in 1997, September 30 in 1998, and August 29 in 1999. This progressively longer closure period is adversely impacting the charter vessel headboat sector that is dependent on this stock. Additionally, for king mackerel, the percent of total recreational landings by number landed by charter vessel and headboats increased from 17 percent in 1983, to 32 percent in 1988, and to 62 percent in 1997, almost doubling between each period. The landings for gag grouper increased from 15 percent during 1981–1982 to 33 percent during 1995–1996, i.e., essentially doubling between the first and last period. Further, the recreational for-hire vessels historically have landed most of the recreational landings of vermillion snapper (90 percent) and greater amberjack (63 percent) during the period 1995/1996.

In conjunction with existing bag limits and size limits, the proposed rule would further moderate short-term future increases in fishing effort in the for-hire sector of the recreational fishery by limiting the number of vessels in the fishery. The proposed moratorium is a form of limited access management that is intended to temporarily stabilize this effort. It would allow the Council the time necessary to develop a more comprehensive approach to help restore overfished stocks possibly including further effort limitation, and would promote attainment of optimum yield during the interim.

Provisions of the Proposed Charter Vessel/Headboat Moratorium in the Gulf of Mexico EEZ

This proposed rule would establish a 3–year moratorium on the issuance of charter vessel/headboat permits for Gulf reef fish or Gulf coastal migratory pelagic fish. Beginning 150 days after the effective date of the final rule that would implement this proposed moratorium, the only valid charter vessel/headboat permits for those two fisheries would be those permits issued under the provisions of the moratorium. In addition, any person who has a valid charter vessel/headboat permit for coastal migratory pelagic fish (valid in the Gulf or South Atlantic) should note that this proposed rule would result in a restructuring of that permit--voiding the existing permit, effective 150 days after the effective date of the final rule implementing this moratorium, and creating two new separate permits: one for Gulf coastal migratory pelagic fish (subject to the moratorium provisions); and one for South Atlantic coastal migratory pelagic fish (not subject to the moratorium provisions). See Change Proposed by NMFS--Requirement for a New Permit for South Atlantic Coastal Migratory Pelagic Fish for additional details.

Eligibility Requirements for the Gulf Charter Vessel/Headboat Permits

Under the proposed moratorium, initial eligibility for a charter vessel/headboat permit for Gulf coastal migratory pelagic fish or Gulf reef fish would be limited to the following—

(1) An owner of a vessel that had a valid charter vessel/headboat permit for Gulf reef fish or coastal migratory pelagic fish, or whose application for such permit had been received by NMFS, at some time during the period March 29, 2000, through March 29, 2001, and who has such a valid permit on the effective date of the final rule that would implement this proposed moratorium.

(2) Any person who can provide NMFS with documentation verifying that, prior to March 29, 2001, he/she had a charter vessel or headboat under construction and that the associated expenditures were at least $5,000 as of that date. If the vessel owner was constructing the vessel, the vessel owner must provide NMFS with receipts for the required expenditures. If the vessel was being constructed by someone other than the owner, the owner must provide NMFS with a copy of the contract and/or receipts for the required expenditures.

(3) An historical captain, defined for the purposes of this proposed rule as a person who provides NMFS with documentation verifying that—

(A) Prior to March 29, 2001, he/she was issued either a United States coast Guard (USCG) Operator of Uninspected Passenger Vessel license (commonly referred to as a 6-pack license) or a USCG Masters license and operated, as a captain, a federally permitted charter vessel or headboat in the Gulf reef fish and/or coastal migratory pelagic fisheries that was not permitted in his/her name or the name of a corporation in which he/she was a shareholder; and

(B) At least 25 percent of his/her earned income was derived from charter vessel or headboat fishing in one of the years 1997, 1998, 1999, or 2000.

NMFS' permit records would be the sole basis for determining eligibility based on permit or application history (i.e., eligibility criterion 1). No more than one owner of a currently permitted vessel would be credited with meeting the permit history criterion based on a vessel's permit history. An owner would not be issued initial charter vessel/

headboat permits for Gulf coastal migratory pelagic fish or Gulf reef fish under the moratorium in excess of the number of federally permitted charter vessels and/or headboats that he/she owned simultaneously at some time during the period March 29, 2000, through March 29, 2001.

Application Requirements and Procedures

An applicant who desires a charter vessel/headboat permit for Gulf coastal migratory pelagic fish or Gulf reef fish would be required to submit an application for such permit to the Regional Administrator, Southeast Region, NMFS (RA) postmarked or hand-delivered not later than 90 days after the effective date of the final rule implementing this proposed moratorium. Failure to apply in a timely manner would preclude permit issuance even when the applicant meets the eligibility criteria for such permit. Application forms would be available from the RA. The information requested on the application form varies according to the eligibility criterion that the application is based upon as indicated in proposed § 622.4(r)(5).

On or about the effective date of any final rule implementing this moratorium, the RA would automatically mail an application to each owner of a vessel who, based on NMFS' permit records, is eligible based on the permit history or permit application criterion. The RA would also mail each such owner a notice that his/her existing charter vessel/headboat permit(s) for coastal migratory pelagic fish and/or Gulf reef fish would expire 150 days after any effective date of the final rule implementing this moratorium and that the new permit(s) required under such a moratorium would be required as of that date. A vessel owner who believes he/she qualifies for a charter vessel/headboat permit for Gulf coastal migratory pelagic fish and/or Gulf reef fish based on permit or application history, but who does not receive an application from the RA, would have to request an application from the RA and provide documentation of eligibility.

Any person applying based on the eligibility criteria related to vessel construction or historical captain status would have to request a permit application from the RA and provide the required documentation of vessel construction and associated costs, as indicated in proposed § 622.4(r)(2)(ii), or documentation of historical captain status, as indicated in proposed § 622.4(r)(2)(iii), as applicable. Information to document historical captain status would include income tax records pertinent to verifying earned income; a copy of the applicable USCG license and/or Certificate of Inspection; and a notarized affidavit signed by a vessel owner certifying the period the applicant served as captain of a charter vessel or headboat permitted for Gulf reef fish and/or coastal migratory pelagic fish, whether the charter vessel or headboat was permitted for Gulf reef fish or coastal migratory pelagic fish or both, and whether the charter vessel or headboat was uninspected (i.e., 6-pack) or had a USCG Certificate of Inspection.

Issuance of Initial Permits/Letter of Eligibility

If a complete application is submitted in a timely manner and the applicable eligibility requirements specified in proposed § 622.4(r)(2) are met, the RA would issue a charter vessel/headboat permit for Gulf coastal migratory pelagic fish and/or Gulf reef fish or a letter of eligibility for such fisheries, as appropriate, and mail it to the applicant not later than 140 days after the date the final rule is effective (i.e., at least 10 days before the permit(s) is required).

A person whose eligibility is based on historical captain status would be issued a letter of eligibility by the RA. The letter of eligibility could be redeemed through the RA for a charter vessel/headboat permit for Gulf coastal migratory pelagic fish and/or Gulf reef fish, with a historical captain endorsement. The letter of eligibility would be valid for the duration of the moratorium; would be valid only for a vessel of the same authorized passenger capacity as the vessel used to document earned income requirement in proposed § 622.4(r)(2)(iii)(B); and would be valid only for the fisheries certified on the application under proposed § 622.4(r)(2)(iii)(A) (i.e., only those fisheries in which the required participation was documented). A charter vessel/headboat permit for Gulf coastal migratory pelagic fish or Gulf reef fish with a historical captain endorsement would be valid only on a vessel that the historical captain operates as a captain.

Appeals Process Regarding Initial Eligibility

An applicant would be allowed to request an appeal of the RA's determination regarding initial permit eligibility by submitting a written request for reconsideration to the RA with copies of the appropriate records for establishing eligibility. Such request would have to be postmarked or hand-delivered within 30 days after the date of the RA's notification of ineligibility and could include a request for an oral hearing. If an oral hearing is granted, the RA would notify the applicant of the place and date of the hearing and would provide the applicant a maximum of 30 days prior to the hearing to provide information in support of the appeal.

The RA could independently review the appeal or could appoint one or more appellate officers to review the appeal and make independent recommendations to the RA. The RA and appellate officer(s) could only deliberate whether the eligibility criteria were applied correctly. Hardship or other factors would not be considered in determining eligibility. The RA would make the final determination regarding granting or denying the appeal. The RA would notify the applicant of the decision regarding the appeal within 30 days after receipt of the request for appeal or within 30 days after the conclusion of the oral hearing, if applicable.

Transferability of Permits

A charter vessel/headboat permit for Gulf coastal migratory pelagic fish or Gulf reef fish that does not have a historical captain endorsement would be transferable, with or without sale of the permitted vessel, except that no transfer would be allowed to a vessel with a greater authorized passenger capacity than that of the vessel from which the permit was transferred.

A charter vessel/headboat permit for Gulf coastal migratory pelagic fish or Gulf reef fish that has a historical captain endorsement could only be transferred to a vessel operated by the historical captain, could not be transferred to a vessel with a higher authorized passenger capacity than the vessel from which the permit was transferred, and would not otherwise be transferable.

To request that the RA transfer a charter vessel/headboat permit for Gulf coastal migratory pelagic fish or Gulf reef fish, the owner of a vessel that is to receive the transferred permit would have to complete the transfer information on the reverse of the permit and return the permit and a completed application for transfer to the RA.

Permit Renewal

Permit renewal would be contingent upon the permitted vessel and/or captain, as appropriate, being included in an active survey frame for, and, if selected to report, providing the information required in NMFS' Marine Recreational Fishing Vessel Directory Telephone Survey (charter vessels only), NMFS' Southeast Headboat Survey (logbooks), Texas Parks and Wildlife

Marine Recreational Fishing Survey, or a data collection system that replaces one or more of those surveys.

A permit that is not renewed or that is revoked by NMFS would not be reissued during the moratorium. A permit would be considered to be not renewed when an application for renewal, as required, is not received by the RA within 1 year of the expiration date of the permit.

Vessel Decal Requirement

Upon issuance, renewal, or transfer of a permit under this proposed moratorium, the RA would issue the owner or eligible historical captain of the permitted vessel a vessel decal for the applicable permitted fishery or fisheries. The vessel decal would have to be displayed on the port side of the deckhouse or hull and would have to be maintained so that it is clearly visible.

Change Proposed by NMFS—Requirement for a New Permit for South Atlantic Coastal Migratory Pelagic Fish

Formerly, the charter vessel/headboat permit for coastal migratory pelagic fish applied in the EEZ of both the Gulf of Mexico and South Atlantic. The establishment of a separate charter vessel/headboat permit for Gulf coastal migratory pelagic fish under this proposed moratorium would necessitate that a separate charter vessel/headboat permit for South Atlantic coastal migratory pelagic fish also be established and that the former charter vessel/headboat permit for coastal migratory pelagic fish (applicable in both the Gulf and South Atlantic) be voided. All of these actions would be effective 150 days after the effective date of the final rule implementing the proposed moratorium. The new separate charter vessel/headboat permit for South Atlantic coastal migratory pelagic fish would not be subject to the provisions of the moratorium.

Approximately 5 months prior to the date that the new permit would be required, the RA, based on NMFS' permit records, would mail an application for an initial charter vessel/headboat permit for South Atlantic coastal migratory pelagic fish to each owner of a vessel with a valid charter vessel/headboat permit for coastal migratory pelagic fish. Any such owner who desires an initial charter vessel/headboat permit for South Atlantic coastal migratory pelagic fish would have to submit the completed application to the RA. To avoid any lapse in authorization to fish for coastal migratory species in the South Atlantic EEZ (i.e., valid permit status), such owners would have to submit the completed application to the RA postmarked or hand-delivered not later than 90 days after the effective date of the final rule implementing the moratorium. For completed applications received by that deadline, the RA would issue the permit no later than 140 days after the effective date of the final rule implementing this moratorium (i.e., at least 10 days before the permit is required). Applications will be accepted at any time, but if received after the deadline (90 days after effective date), the permit may not be issued prior to the date that the permit is first required. These special procedures would apply only to the application and issuance of the initial permit; subsequent permitting activities would be conducted in accordance with the standard permitting procedures as specified in 50 CFR 622.4(b) through (l).

An owner or operator of a vessel who desires a charter vessel/headboat permit for South Atlantic coastal migratory pelagic fish and who does not have a valid charter vessel/headboat permit for coastal migratory pelagic fish would be required to obtain a permit application from the RA. For additional permitting procedures, see 50 CFR 622.4(b) through (l).

Minority Reports

Two nearly identical minority reports objecting to the implementation of the proposed charter vessel/headboat permit moratorium were submitted--each signed by two Council members, a total of three different Council members. The primary objections expressed in these minority reports were that the moratorium is not necessary, would not accomplish its stated goal, would reduce competition in the for-hire industry, would create a windfall profit for a select group of people and deny others the right to pursue an occupation of their own choice, would result in unnecessary social engineering, and would violate national standards 4 and 8 of the Magnuson-Stevens Act. Copies of the minority reports are available from the Council (see **ADDRESSES**).

Classification

At this time, NMFS has not determined whether Amendments 14 and 20, that this proposed rule would implement, are consistent with the national standards of the Magnuson-Stevens Act and other applicable laws. NMFS, in making that determination, will take into account the data, views, and comments received during the comment period on Amendments 14 and 20.

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

NMFS prepared an IRFA that describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. Paperwork and reporting requirements are described below in the PRA discussion. This proposed rule would not duplicate any other requirements. A summary of the analysis follows.

The Magnuson-Stevens Act provides the statutory basis for the rule. The objective of the proposed rule is to cap the number of for-hire vessels permitted to fish for reef fish or coastal migratory pelagics in the EEZ of the Gulf of Mexico at the current level while the Council assesses the actions necessary to restore overfished reef fish and king mackerel stocks and determine whether a more comprehensive effort management system is appropriate for these fisheries. The proposed rule would: create a new for-hire vessel permit for the Gulf EEZ for vessels fishing for reef fish and/or coastal migratory pelagics; establish a 3–year moratorium on the issuance of new for-hire vessel permits effective the date that the final rule implementing Amendments 14 and 20 becomes effective; establish eligibility requirements for the permits that would accommodate owners of vessels that possessed or had applied for charter/headboat reef fish and/or coastal migratory pelagic permits on or before March 29, 2001 and who possess such permit(s) as of the effective date of the final rule implementing this moratorium, new for-hire vessels contracted for or under construction prior to March 29, 2001, and historical captains; allow full transference of permits during the moratorium with or without the vessel but without any increase in the passenger capacity of the recipient vessel (permits with a historical captain endorsement may only be transferred to a vessel operated by the historical captain); not allow permit renewal during the moratorium for permits not renewed within one year of expiration; allow an appeal process to resolve issues related to initial eligibility; and, establish reporting and permit renewal conditions.

The creation of a for-hire permit and implementation of a 3–year moratorium for the issuance of new permits would provide some stability for the for-hire sector in terms of number of

participating vessels while the need for a more comprehensive controlled access or effort management system is evaluated. The specific number of vessels accommodated by the rule is unknown since it is not known how many individuals will qualify and seek permits under the boat construction or historical captain provisions. The moratorium will also not produce a hard cap on effort in the form of angler trips since current vessels may be operating under less than full passenger capacity and will retain the flexibility to increase the frequency of partial-day trips. Nevertheless, the rule will limit expansion to the capacity of current participants. This will allow identification and enumeration of vessels in these fisheries to support essential data collection and establish a more stable environment for assessing the status of the fishery in support of subsequent regulation.

The proposed rule would effectively allow status quo operation by current participants in the fishery who had such permits (or applied for such) at some time during March 29, 2000, to March 29, 2001, and who also have a valid permit on the date the final rule becomes effective. The eligibility provisions for new vessel construction and historical captains will further protect the opportunities of individuals who have demonstrated a dependence on the fishery through capital investment or historical participation. The only impediment to the status quo business practices of such initial qualifiers is the limitation on vessel passenger capacity upgrades under the current permit. Such upgrade would be possible, however, through the purchase of the appropriate permit from another vessel. The liberal provisions for permit transfer support business upgrade, allow the entrance of new operators or buy-outs by more efficient operators, and create a marketable asset that may enhance the value of the vessel and client lists should a participant decide to sell his/her business. The eligibility and transfer provisions are, thus, consistent with the intent to allow status quo participation while it is determined whether current effort levels are appropriate, rather than legislate reductions. The appeals process will afford valid participants the opportunity to address record discrepancies that adversely affect their eligibility. Finally, the renewal provisions support the fishery management process by aiding in the collection of essential harvest and participation information.

Business operations in the for-hire sector consist primarily, if not exclusively, of small business entities. For-hire vessel operations are considered small business entities if they generate receipts of less than $6.0 million per year. The average gross revenues for charter boats operating in 1997 was $83,000 for vessels in Alabama through Texas (based on average numbers of trips per vessel and average fee per trip) and $68,000 for vessels in Florida, while the average gross revenues for head boats/party boats was $328,000 in Alabama through Texas and $324,000 in Florida. Current revenues may exceed those of 1997, but the revenue performance of the fishery clearly qualifies the participants as small business entities.

All for-hire vessels that fish for reef fish or coastal migratory pelagics in the Gulf of Mexico EEZ will be affected by the proposed rule. However, all of these vessels are currently required to possess the appropriate for-hire permits for the fisheries in which they participate. Hence, the proposed rule only creates one additional permit, by requiring vessels expecting to fish for coastal migratory pelagics in both the Gulf of Mexico and South Atlantic to obtain two permits, one for each subregion, instead of the current single permit which allows fishing in either subregion. This will require an additional $20 application fee for the second permit. As of the control date of March 29, 2001, there were 2,226 permitted for-hire vessels, of which 1,737 had both reef fish and coastal migratory pelagic charter permits, 123 had only the reef fish charter permit, and 366 had only the coastal migratory pelagic charter permit. These totals are substantially greater than those at the previous control date of November 18, 1998, when there were only 940 permitted for-hire vessels, of which 723 had both permits, 58 had only the reef fish permit and 159 had only the coastal migratory pelagic permit. While total permit numbers more than doubled during this time span, a potentially substantial portion of the increase is likely attributable to vessels that were previously operating in the fishery without the proper permits, since a frequent comment at public hearings was that operators were unaware of the current permit requirements. Thus, not all of the increase is believed to be due to either new participation or speculative purchase. It is not currently known how many vessels obtained their first for-hire permit after the cut-off date and would, therefore, not be eligible for the initial receipt of the permit. Nor is it known how many vessels might be expected to enter the fishery during the proposed moratorium period in the absence of a moratorium. The large increase in permits suggests that a substantial number of vessels interested in participating in the fishery have already established qualification, and the liberal qualification and transfer provisions of the rule should allow further entry by interested individuals, albeit at a larger cost due to the need to purchase a permit from a current operation.

Six alternatives to the proposed moratorium were considered. These were: a 5–year moratorium instead of the proposed 3–year moratorium; status quo; a 50–percent income requirement for renewal in lieu of a moratorium; for-hire species quotas; a 3 or–5 year moratorium in combination with species quotas; and a 3–year moratorium with mandatory expiration should the red snapper restrictions become more severe. Since the status quo alternative would not accomplish the Council's goals, among the remaining alternatives, including the proposed rule, the proposed rule was determined to have the least impact on small entities. The 5-year alternative would provide a more stable planning horizon for industry participants, but extend the period during which capacity expansion would be limited and restrictions on new entry would be imposed. The 50–percent income requirement would result in contraction of existing participants beyond the intent of the Council, which is to stabilize rather than contract the fishery while a more comprehensive evaluation is conducted and management program is designed. Species quotas would subject the fishery to disruptive closures. Linkage to the red snapper management environment was determined to be indefensible and, therefore, would not allow implementation of the proposed rule and would forego the perceived benefits of stabilization. In summary, the proposed rule would best accomplish the Council's intent while minimizing impacts.

Seven alternatives to the proposed form of the permit (i.e., a new for-hire permit with species endorsements) were considered. These were: limiting the new permit to the coastal migratory pelagic fishery; status quo; a new for-hire permit with species endorsements that encompass transferable and non-transferable endorsements; income-based renewal requirements; an option to allow commercial participants in the coastal migratory pelagic fishery to qualify for the for-hire permit; a fully transferable new permit with endorsements (i.e., no separate classes of transferability); and a special

guideboat permit (with no moratorium) for vessels carrying fewer than 4 anglers with species endorsements. Maintaining the status quo would not support the Council's goals. Income requirements were rejected since they would result in contraction of the fishery rather than stabilize participation. The allowance for commercial operators to qualify would allow expansion of participation, which is, again, contrary to the Council's intent. Limiting the permit to the coastal migratory pelagic fishery would not be sufficiently inclusive to accomplish the Council's goals. The guideboat permit would allow unlimited expansion of this sector and, although these vessels may infrequently fish in the EEZ, would run counter to the Council's intent to stabilize all for-hire participation in the EEZ and pressure on respective stocks. The remaining alternatives reflect variations on the types of endorsements required (species covered) or class of endorsements (transferability conditions). The variations on endorsement types primarily affects paperwork requirements and these effects are insignificant. The transferability effects will be discussed below. In summary, the proposed rule best accomplishes the Council's intent while minimizing impacts.

Ten alternatives to the initial eligibility requirements were considered. These were: allowing all persons who held a for-hire permit on the date of implementation of the amendment; allowing all persons who held a for-hire permit on either September 16, 1999 or November 11, 1999; using a control date of November 18, 1998 and allowing for continuous participation under permit, vessel replacement by current permitted participant and issuance of new permit, purchase of permitted vessel, or purchase of a new vessel and issuance of a new permit; establishment and eligibility requirements for a Class 1 (fully transferable) species endorsement; establishment and eligibility requirements for a Class 2 (non-transferable) species endorsement; historical captain permit/endorsement provisions (2 alternatives); boat-under-construction provisions (2 alternatives); and allowing all persons who held a for-hire permit on or before January 1, 2002. Since the intent of the Council is to accommodate actual participation existent at the time of amendment development and the perception was strong that many active participants did not possess the required permits, control dates more restrictive than the proposed control date would increase the negative impacts on the fishery through the exclusion of active participants, contrary to the intent of the Council. More liberal control dates, however, while reducing the potential universe of excluded vessels, would also be contrary to the Council's intent of stabilizing participation at the level existent at the time of amendment development. Restrictions on transferability could result in contraction of the fleet, contrary to the intent of stabilization, and would increase the negative impacts on the fishery. The alternative historical captain provisions would have increased the burden of eligibility and increased the negative impacts. The alternative provisions for boats under construction are more restrictive than those of the proposed rule and would have increased the negative impacts on the fishery. In summary, the proposed rule accomplishes the Council's intent while minimizing impacts.

Five alternatives to the permit/endorsement transferability allowance were considered. These were: limiting the transfer to vessels owned by the same permit holder; transfer of permits/endorsements with or without transfer of the vessel; prohibition of transfer for the first year of the moratorium; prohibition of transfer throughout the moratorium; and, transfer provisions based on endorsement class. Allowing transfer between vessels held by the same permittee would reduce the costs and profitability impacts associated with capacity upgrade, but would run counter to the intent of the Council to stabilize the fishery at the current level of effort, in this case, angler platform opportunities. If operations were allowed to freely upgrade passenger capacity, while the number of vessel/small business participants would remain stable, the effective angler effort, which ultimately determines fish harvest pressure, would be allowed to increase unimpeded. This is counter to the Council's intent. All other alternatives would increase the negative impacts on the fishery relative to the proposed rule. In summary, one alternative is counter to the Council's intent, while all other alternatives would increase the negative impacts on the fishery. Thus, the proposed rule accomplishes the Council's intent while minimizing impacts.

Five alternatives to the passenger restrictions on permit transfers were considered. These were: no restriction; no transfers between different classes (based on passenger capacity) of USCG certified; allowing passenger capacity upgrade if USCG certification is received; transfer only between vessels of equal or lower passenger capacity based on USCG certification; and establishment of two classes – uninspected/uncertified and certified with transfers limited to within class. Since stability of the fishery is the stated intent of the Council, any alternative that allows passenger capacity to increase would, while mitigating the adverse impacts of upgrade limitations, be counter to the Council's intent. The proposed rule simplifies the passenger-related transfer restrictions while accomplishing the Council's intent and minimizing impacts.

Two alternatives to the re-issue of non-renewed or revoked permits were considered. These were: re-issue of 50 percent of these permits to either a list of interested persons or to persons that were either excluded from the initial issuance of permits or can document prior experience in the for-hire fishery. Not re-issuing these permits would increase the negative impacts on the fishery associated with vessels excluded from participation. The proposed alternative will simplify the management of the program, but the primary Council justification for its selection is that any reduction in fishery effort will help address problems related to too much competition in the fishery. Increased profitability may accrue to remaining participants. Whether these increased profits will exceed the foregone profits by excluded entities cannot be determined.

Six alternatives to the appeals process were considered. These were: no appeal; establish an appeals board that makes recommendations to the Regional Administrator (RA) on permit eligibility; an appeals process limited to owners and operators of vessels prior to the control date or persons who contracted for the construction of a vessel prior to the control date November 28, 1998; an appeals process that accommodates both hardships and data and/or record disputes between vessel owners and NMFS; no hardship appeals; and no appeals process if the control date selected is January 1, 2002. Not allowing an appeals process will increased the negative impacts on persons excluded from the initial issuance of permits.

The proposed rule accommodates the impact mitigation benefits of the various alternatives with the exception of the disallowance of hardship appeals. Disallowance of hardship appeals will simplify the management of the program, while increasing the impacts on those excluded. The number of potential hardship appeals cannot be precisely estimated, but is not expected to be large. The proposed rule, therefore, while not fully mitigating the impacts

on excluded participants, will mitigate the impacts on those excluded due to permit record discrepancies and establish a more simplified management program.

Two alternatives to the reporting and renewal requirements were considered. These were: require charter logbooks; and status quo. Logbooks are already mandatory for the headboat fishery. Requiring logbooks for the charter sector would increase the economic burden on the charter sector without mitigating the impacts of potential permit non-renewal. Allowing the status quo would allow all charter vessels to renew their permit without having to participate in any data collection programs and, thus, would mitigate any adverse effects that would accrue to any vessels not having their permit renewed. Such action would not, however, satisfy the Council's intent to support comprehensive systematic data collection for this fishery. Thus, the proposed rule will satisfy the Council's intent while minimizing impacts.

This proposed rule contains five collection-of-information requirements subject to the Paperwork Reduction Act (PRA)—namely a requirement to submit a charter vessel/headboat permit application, submission of information on vessel construction, submission of information on historical captain eligibility, submission of appeals of NMFS' initial denial of a charter vessel/headboat permit, and mandatory responses to NMFS' (voluntary) Marine Recreational Fishing Vessel Directory Telephone Survey (charter vessels only). Requests to collect this information have been submitted to OMB for approval. The public reporting burdens for these collections of information are estimated to average 20 minutes, 2 hours, 2 hours, 5 hours, and 7 minutes per response, respectively, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information. In addition, § 622.5(b)(1) of this proposed rule revises slightly (i.e., revises the names of the applicable permits consistent with this proposed rule) the requirement for charter vessel/headboat submission of a fishing trip record if selected by the Science and Research Director. The requirement applicable to headboats has been approved by OMB under control number 0648-0016 with an estimated time per response of 12 minutes. NMFS does not currently have PRA approval to select any charter vessels for this reporting and would obtain OMB clearance prior to making any selection.

Public comment is sought regarding: whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments regarding this burden estimate or any other aspect of the collection of information requirement, including suggestions for reducing the burden, to NMFS and to OMB (see **ADDRESSES**).

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person 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.

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

Dated: March 19, 2002.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is proposed to be amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC

1. The authority citation for part 622 continues to read as follows:

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

2. In § 622.4, paragraphs (a)(1) and (g) are revised and paragraph (r) is added to read as follows:

§ 622.4 Permits and fees.

(a) * * *

(1) *Charter vessel/headboat permits.* (i) For a person aboard a vessel that is operating as a charter vessel or headboat to fish for or possess, in or from the EEZ, species in any of the following species groups, a valid charter vessel/headboat permit for that species group must have been issued to the vessel and must be on board—

(A) Gulf coastal migratory pelagic fish.

(B) South Atlantic coastal migratory pelagic fish.

(C) Gulf reef fish.

(D) South Atlantic snapper-grouper.

(ii) See paragraph (r) of this section regarding a moratorium on Gulf charter vessel/headboat permits and the associated provisions.

(iii) See paragraph (r)(12) of this section for an explanation of the requirement for the new charter vessel/headboat permit for South Atlantic coastal migratory pelagic fish and for procedures for initial application and issuance of that permit.

(iv) A charter vessel or headboat may have both a charter vessel/headboat permit and a commercial vessel permit. However, when a vessel is operating as a charter vessel or headboat, a person aboard must adhere to the bag limits. See the definitions of ''Charter vessel'' and ''Headboat'' in §622.4 for an explanation of when vessels are considered to be operating as a charter vessel or headboat, respectively.

* * * * *

(g) *Transfer.* A vessel permit, license, or endorsement or dealer permit issued under this section is not transferable or assignable, except as provided in paragraph (m) of this section for a commercial vessel permit for Gulf reef fish, in paragraph (n) of this section for a fish trap endorsement, in paragraph (o) of this section for a Gulf king mackerel gillnet endorsement, in paragraph (p) of this section for a red snapper license, in paragraph (q) of this section for a king mackerel permit, in paragraph (r) of this section for a charter vessel/headboat permit for Gulf coastal migratory pelagic fish or Gulf reef fish, in § 622.17(c) for a commercial vessel permit for golden crab, or in § 622.18(e) for a commercial vessel permit for South Atlantic snapper-grouper. A person who acquires a vessel who desires to conduct activities for which a permit or endorsement is required must apply for a permit or endorsement in accordance with the provisions of this section. If the acquired vessel is currently permitted, the application must be accompanied by the original permit and a copy of the vessel's new USCG documentation or state registration.

* * * * *

(r) *Moratorium on charter vessel/headboat permits for Gulf coastal migratory pelagic fish and Gulf reef fish.* The provisions of this paragraph (r) are applicable through the date that is 3 years after the effective date of the final rule that contains this paragraph (r).

(1) *Applicability.* Beginning 150 days after the effective date of the final rule that contains paragraph (r)(1) of this section, the only valid charter vessel/headboat permits for Gulf coastal migratory pelagic fish or Gulf reef fish

are those that have been issued under the moratorium criteria in paragraph (r) of this section. No applications for additional charter vessel/headboat permits for these fisheries will be accepted. Existing permits may be renewed, are subject to the transferability provisions in paragraph (r)(9) of this section, and are subject to the requirement for timely renewal in paragraph (r)(10) of this section.

(2) *Initial eligibility.* Initial eligibility for a charter vessel/headboat permit for Gulf coastal migratory pelagic fish or Gulf reef fish is limited to the following—

(i) An owner of a vessel that had a valid charter vessel/headboat permit for Gulf reef fish or coastal migratory pelagic fish, or whose application for such permit had been received by NMFS, at some time during the period March 29, 2000, through March 29, 2001, and who has such a valid permit on the effective date of the final rule that contains this paragraph (r)(2)(i)of this section.

(ii) Any person who can provide NMFS with documentation verifying that, prior to March 29, 2001, he/she had a charter vessel or headboat under construction and that the associated expenditures were at least $5,000 as of that date. If the vessel owner was constructing the vessel, the vessel owner must provide NMFS with receipts for the required expenditures. If the vessel was being constructed by someone other than the owner, the owner must provide NMFS with a copy of the contract and/or receipts for the required expenditures.

(iii) A historical captain, defined for the purposes of paragraph (r) of this section as a person who provides NMFS with documentation verifying that—

(A) Prior to March 29, 2001, he/she was issued either a USCG Operator of Uninspected Passenger Vessel license (commonly referred to as a 6-pack license) or a USCG Masters license and operated, as a captain, a federally permitted charter vessel or headboat in the Gulf reef fish and/or coastal migratory pelagic fisheries that was not permitted in his/her name or the name of a corporation in which he/she was a shareholder; and

(B) At least 25 percent of his/her earned income was derived from charter vessel or headboat fishing in one of the years, 1997, 1998, 1999, or 2000.

(3) *Special conditions applicable to eligibility based on historical captain status.* A person whose eligibility is based on historical captain status will be issued a letter of eligibility by the RA. The letter of eligibility may be redeemed through the RA for a charter vessel/headboat permit for Gulf coastal migratory pelagic fish and/or Gulf reef fish, with a historical captain endorsement. The letter of eligibility is valid for the duration of the moratorium; is valid only for a vessel of the same authorized passenger capacity as the vessel used to document earned income in paragraph (r)(2)(iii)(B) of this section; and is valid only for the fisheries certified on the application under paragraph (r)(2)(iii)(A) of this section. A charter vessel/headboat permit for Gulf coastal migratory pelagic fish or Gulf reef fish with a historical captain endorsement is valid only on a vessel that the historical captain operates as a captain.

(4) *Determination of eligibility based on permit history.* NMFS' permit records are the sole basis for determining eligibility based on permit or application history. An owner of a currently permitted vessel who believes he/she meets the permit or application history criterion based on ownership of a vessel under a different name, as may have occurred when ownership has changed from individual to corporate or vice versa, must document his/her continuity of ownership. No more than one owner of a currently permitted vessel will be credited with meeting the permit history criterion based on a vessel's permit history. An owner will not be issued initial charter vessel/headboat permits for Gulf coastal migratory pelagic fish or Gulf reef fish under the moratorium in excess of the number of federally permitted charter vessels and/or headboats that he/she owned simultaneously at some time during the period March 29, 2000 through March 29, 2001.

(5) *Application requirements and procedures*—(i) *General.* An applicant who desires a charter vessel/headboat permit for Gulf coastal migratory pelagic fish or Gulf reef fish must submit an application for such permit to the RA postmarked or hand-delivered not later than 90 days after the effective date of the final rule implementing this moratorium. Application forms are available from the RA. The information requested on the application form varies according to the eligibility criterion that the application is based upon as indicated in paragraphs (r)(5)(ii), (iii), and (iv) of this section; however, all applicants must provide a copy of the applicable, valid USCG Operator of Uninspected Passenger Vessel license or Masters license and valid USCG Certificate of Inspection. Failure to apply in a timely manner will preclude permit issuance even when the applicant meets the eligibility criteria for such permit.

(ii) *Application based on the prior permit/application history criterion.* On or about the effective date of the final rule implementing this moratorium, the RA will mail an application for a charter vessel/headboat permit for Gulf coastal migratory pelagic fish and/or Gulf reef fish to each owner of a vessel who, according to NMFS' permit records, is eligible based on the permit or application history criterion in paragraph (r)(2)(i) of this section. Information requested on the application is consistent with the standard information required in paragraph (b)(3)(ii) of this section. The RA will also mail each such owner a notice that his/her existing charter vessel/headboat permit(s) for coastal migratory pelagic fish and/or Gulf reef fish will expire 150 days after the effective date of the final rule implementing this moratorium and that the new permit(s) required under this moratorium will be required as of that date. A vessel owner who believes he/she qualifies for a charter vessel/headboat permit for Gulf coastal migratory pelagic fish and/or Gulf reef fish based on permit or application history, but who does not receive an application from the RA, must request an application from the RA and provide documentation of eligibility. The RA will mail applications and notifications to vessel owner addresses as indicated in NMFS' permit records.

(iii) *Application based on a charter vessel/headboat under construction prior to March 29, 2001.* A person who intends to obtain a charter vessel/headboat permit for Gulf coastal migratory pelagic fish and/or Gulf reef fish based on the vessel-under-construction eligibility criterion in paragraph (r)(2)(ii) of this section must obtain an application from the RA. Information requested on the application includes the standard information required in paragraph (b)(3)(ii) of this section and the documentation of construction and associated costs as specified in paragraph (r)(2)(ii) of this section.

(iv) *Application based on historical captain status.* A person who intends to obtain a charter vessel/headboat permit for Gulf coastal migratory pelagic fish and/or Gulf reef fish based on historical captain status must obtain an application from the RA. Information requested on the application includes the standard information required in paragraph (b)(3)(ii) of this section and documentation of the criteria specified in paragraphs (r)(2)(iii)(A)and (B) of this section. Such documentation includes income tax records pertinent to verifying earned income; a copy of the

applicable USCG license and/or Certificate of Inspection; and a notarized affidavit signed by a vessel owner certifying the period the applicant served as captain of a charter vessel or headboat permitted for Gulf reef fish and/or coastal migratory pelagic fish, whether the charter vessel or headboat was permitted for Gulf reef fish or coastal migratory pelagic fish or both, and whether the charter vessel or headboat was uninspected (i.e., 6-pack) or had a USCG Certificate of Inspection.

(v) *Incomplete applications.* If an application that is postmarked or hand-delivered in a timely manner is incomplete, the RA will notify the applicant of the deficiency. If the applicant fails to correct the deficiency within 20 days of the date of the RA's notification, the application will be considered abandoned.

(6) *Issuance of initial permits.* If a complete application is submitted in a timely manner and the applicable eligibility requirements specified in paragraph (r)(2) of this section are met, the RA will issue a charter vessel/headboat permit for Gulf coastal migratory pelagic fish and/or Gulf reef fish or a letter of eligibility for such fisheries, as appropriate, and mail it to the applicant not later than 140 days after the date the final rule is effective.

(7) *Notification of ineligibility.* If the applicant does not meet the applicable eligibility requirements of paragraph (r)(2) of this section, the RA will notify the applicant, in writing, of such determination and the reasons for it not later than 120 days after the date the final rule is effective.

(8) *Appeal process.* (i) An applicant may request an appeal of the RA's determination regarding initial permit eligibility, as specified in paragraph (r)(2) of this section, by submitting a written request for reconsideration to the RA with copies of the appropriate records for establishing eligibility. Such request must be postmarked or hand-delivered within 30 days after the date of the RA's notification of ineligibility and may include a request for an oral hearing. If an oral hearing is granted, the RA will notify the applicant of the place and date of the hearing and will provide the applicant a maximum of 30 days prior to the hearing to provide information in support of the appeal.

(ii) A request for an appeal constitutes the appellant's authorization under section 402(b)(1)(F) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et. seq.) for the RA to make available to the appellate officer(s) such confidential records as are pertinent to the appeal.

(iii) The RA may independently review the appeal or may appoint one or more appellate officers to review the appeal and make independent recommendations to the RA. The RA will make the final determination regarding granting or denying the appeal.

(iv) The RA and appellate officer(s) are empowered only to deliberate whether the eligibility criteria in paragraph (r)(2) of this section were applied correctly. Hardship or other factors will not be considered in determining eligibility.

(v) The RA will notify the applicant of the decision regarding the appeal within 30 days after receipt of the request for appeal or within 30 days after the conclusion of the oral hearing, if applicable. The RA's decision will constitute the final administrative action by NMFS.

(9) *Transfer of permits*— (i) *Permits without a historical captain endorsement.* A charter vessel/headboat permit for Gulf coastal migratory pelagic fish or Gulf reef fish that does not have a historical captain endorsement is fully transferable, with or without sale of the permitted vessel, except that no transfer is allowed to a vessel with a greater authorized passenger capacity than that of the vessel from which the permit was transferred. The determination of authorized passenger capacity will be based on the USCG Certificate of Inspection or USCG Operator of Uninspected Passenger Vessel license associated with the vessels involved in the transfer. If no valid Certificate of Inspection is provided for a vessel, that vessel will be considered an uninspected vessel with an authorized passenger capacity restricted to six or fewer passengers.

(ii) *Permits with a historical captain endorsement.* A charter vessel/headboat permit for Gulf coastal migratory pelagic fish or Gulf reef fish that has a historical captain endorsement may only be transferred to a vessel operated by the historical captain, cannot be transferred to a vessel with a higher authorized passenger capacity than the vessel from which the permit was transferred, and is not otherwise transferable.

(iii) *Procedure for permit transfer.* To request that the RA transfer a charter vessel/headboat permit for Gulf coastal migratory pelagic fish or Gulf reef fish, the owner of a vessel that is to receive the transferred permit must complete the transfer information on the reverse of the permit and return the permit and a completed application for transfer to the RA.

(10) *Renewal.* (i) Renewal of a charter vessel/headboat permit for Gulf coastal migratory pelagic fish or Gulf reef fish is contingent upon the permitted vessel and/or captain, as appropriate, being included in an active survey frame for, and, if selected to report, providing the information required in one of the following—

(A) NMFS'Marine Recreational Fishing Vessel Directory Telephone Survey (conducted by the Gulf States Marine Fisheries Commission);

(B) NMFS' Southeast Headboat Survey (as required by § 622.5(b)(1) of this part);

(C) Texas Parks and Wildlife Marine Recreational Fishing Survey; or

(D) A data collection system that replaces one or more of the surveys in paragraph (r)(10)(i)(A)(B) or (C) of this section.

(ii) A charter vessel/headboat permit for Gulf coastal migratory pelagic fish or Gulf reef fish that is not renewed or that is revoked will not be reissued during the moratorium. A permit is considered to be not renewed when an application for renewal, as required, is not received by the RA within 1 year of the expiration date of the permit.

(11) *Requirement to display a vessel decal.* Upon issuance, renewal, or transfer of a charter vessel/headboat permit for Gulf coastal migratory pelagic fish or Gulf reef fish, the RA will issue the owner of the permitted vessel a vessel decal for the applicable permitted fishery or fisheries. The vessel decal must be displayed on the port side of the deckhouse or hull and must be maintained so that it is clearly visible.

(12) Requirement and procedure for obtaining an initial charter vessel/headboat permit for South Atlantic coastal migratory pelagic fish. (i) General. This paragraph (r)(12) explains the necessity of requiring and the procedure for obtaining an initial charter vessel/headboat permit for South Atlantic coastal migratory pelagic fish. Formerly, the charter vessel/headboat permit for coastal migratory pelagic fish applied in the EEZ of the Gulf and South Atlantic. The establishment of a separate charter vessel/headboat permit for Gulf coastal migratory pelagic fish under the moratorium established by paragraph (r) of this section necessitates that a separate charter vessel/headboat permit for South Atlantic coastal migratory pelagic fish also be established effective 150 days after the effective date of the final rule implementing the moratorium and that the former charter vessel/headboat permit for coastal migratory pelagic fish (applicable in both the Gulf and South Atlantic) be voided effective as of that same date. The newly required charter vessel/headboat permit for

South Atlantic coastal migratory pelagic fish is not subject to the provisions of the moratorium in paragraphs (r)(1) through (11) of this section.

(ii) *Application for and issuance of an initial charter vessel/headboat permit for South Atlantic coastal migratory pelagic fish*— (A) *Owner of a vessel with a valid charter vessel/headboat permit for coastal migratory pelagic fish.* On or about the effective date of the final rule implementing the moratorium in paragraph (r) of this section, the RA, based on NMFS' permit records, will mail an application for an initial charter vessel/headboat permit for South Atlantic coastal migratory pelagic fish to each owner of a vessel with a valid charter vessel/headboat permit for coastal migratory pelagic fish. Any such owner who desires an initial charter vessel/headboat permit for South Atlantic coastal migratory pelagic fish must submit the completed application to the RA. To avoid any lapse in authorization to fish for coastal migratory species in the South Atlantic EEZ (i.e., valid permit status), such owners must submit the completed application to the RA postmarked or hand-delivered not later than 90 days after the effective date of the final rule implementing the moratorium. For completed applications received by that deadline, the RA will issue the permit no later than 140 days after the effective date of the final rule implementing this moratorium. Applications will be accepted at any time, but if received after the deadline, the permit may not be issued prior to the date that the permit is first required (i.e., 150 days after the effective date of the final rule implementing the moratorium). These special procedures apply only to the application and issuance of the initial permit; subsequent permitting activities will be conducted in accordance with the standard permitting procedures as specified in paragraph (b) through (l) of this section.

(B) *Owner or operator of a vessel without a valid charter vessel/headboat permit for coastal migratory pelagic fish.* An owner or operator of a vessel who desires a charter vessel/headboat permit for South Atlantic coastal migratory pelagic fish and who does not have a valid charter vessel/headboat permit for coastal migratory pelagic fish must obtain a permit application from the RA. For additional permitting procedures, see paragraphs (b) through (l)of this section.

3. Section 622.5 (b)(1) is revised to read as follows:

§ 622.5 Recordkeeping and reporting.

* * * * *

(b) * * *

(1) *Coastal migratory pelagic fish, reef fish, and snapper-grouper.* The owner or operator of a vessel for which a charter vessel/headboat permit for Gulf coastal migratory pelagic fish, South Atlantic coastal migratory pelagic fish, Gulf reef fish, or South Atlantic snapper-grouper has been issued, as required under § 622.4(a)(1), or whose vessel fishes for or lands such coastal migratory pelagic fish, reef fish, or snapper-grouper in or from state waters adjoining the Gulf or South Atlantic EEZ, who is selected to report by the SRD must maintain a fishing record for each trip, or a portion of such trips as specified by the SRD, on forms provided by the SRD and must submit such record as specified in paragraph (b)(2) of this section.

* * * * *

4. In § 622.7, paragraphs (b) and (f) are revised to read as follows:

§ 622.7 Prohibitions.

* * * * *

(b) Falsify information on an application for a permit, license, or endorsement or submitted in support of such application, as specified in § 622.4(b), (g), (p), (q), or (r) or in § 622.18.

* * * * *

(f) Falsify or fail to display and maintain vessel and gear identification, as specified in § 622.6(a) and (b) or § 622.4(r)(11).

* * * * *

5. Section 622.43 (a)(3)(ii) is revised to read as follows:

§ 622.43 Closures.

(a) * * *

(3) * * *

(ii) A person aboard a vessel for which valid charter vessel/headboat permits for Gulf coastal migratory pelagic fish or South Atlantic coastal migratory pelagic fish and a valid commercial vessel permit king or Spanish mackerel have been issued may continue to retain fish under a bag and possession limit specified in § 622.39(c), provided the vessel is operating as a charter vessel or headboat.

* * * * *

[FR Doc. 02–7128 Filed 3–22–02; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 67, No. 57
Monday, March 25, 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

Agricultural Marketing Service

[Docket No. FV02–376]

Fruit and Vegetable Industry Advisory Committee; Meeting

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of public meeting.

SUMMARY: The purpose of this notice is to notify all interested parties that the Agricultural Marketing Service (AMS) will hold a Fruit and Vegetable Industry Advisory Committee (Committee) meeting that is open to the public to attend. The U.S. Department of Agriculture (USDA) established the Committee to examine the full spectrum of issues faced by the fruit and vegetable industry and provide suggestions and ideas to the Secretary of Agriculture on how USDA can tailor its programs to meet the fruit and vegetable industry's needs. This notice sets forth the schedule and location for the meeting.

DATES: The Committee meeting which is open to the public will be held on Tuesday, April 16, 2002, from 8 a.m. to 5 p.m. and Wednesday, April 17, 2002, from 8 a.m. to 1 p.m.

ADDRESSES: The Committee meeting will be held at the South Building, Room 3501, United States Department of Agriculture, 1400 Independence Avenue SW., Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Robert C. Keeney, Deputy Administrator, Fruit and Vegetable Programs, AMS, USDA, Room 2077 South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 720–4722, e-mail—*robert.keeney@usda.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act (FACA) (5 U.S.C. App.), the Secretary of Agriculture established the Fruit and Vegetable Industry Advisory Committee to examine the full spectrum of issues faced by the fruit and vegetable industry and to provide suggestions and ideas to the USDA on tailoring its programs to meet the fruit and vegetable industry's needs.

At the April 16–17, 2002, meeting announced in this document, the members of the Committee will elect the Chairperson and Vice-Chairperson of the Committee who will serve for a 2-year term. The committee will seek input from parties particularly interested in fruit and vegetable programs regarding the full spectrum of issues faced by the fruit and vegetable industry including: improvement of service to the fruit and vegetable industry; improvement of fruit and vegetable programs delivery; and other input regarding the tailoring of USDA programs to meet industry needs. Therefore, AMS, is giving notice of the committee meeting to the public to attend.

Those parties that wish to attend the meeting should register on or before April 9, 2002, since space is limited. To register please e-mail *Robert.Keeney@usda.gov* or send a fax to 202–720–0016. Registrants should include their name, address, and daytime telephone number.

Upon entering the South Building, visitors should inform security personnel that they are attending the FVIAC Committee Meeting. Identification will be required to be admitted to the building. Security personnel will direct visitors to a registration log that will need to be signed on entrance into the building. All visitors must be registered with AMS in advance of the meeting.

If you require special accommodations, such as a sign language interpreter, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**. The meeting will be recorded, and information about obtaining a transcript will be provided at the meeting.

Dated: March 19, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–7108 Filed 3–22–02; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket No. FV–02–330]

United States Standards for Grades of Canned Mushrooms

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice; withdrawal.

SUMMARY: The Agricultural Marketing Service (AMS) of the Department of Agriculture (USDA) published a notice soliciting comments on its proposed revision to change the United States Standards for Grades of Canned Mushrooms. Specifically, AMS proposed to lower the Recommended Minimum Drained Weight Averages (RMDWA's) and lower limits for mushrooms packed in the 8 ounce, jumbo, and No. 10 can sizes. After reviewing and considering the comments received, the Agency has decided to withdraw the proposal and terminate the action.

EFFECTIVE DATE: March 25, 2002.

FOR FURTHER INFORMATION CONTACT: Chere L. Shorter, Processed Products Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, U.S. Department of Agriculture, Room 0709, South Building; STOP 0247, Washington, DC 20250; faxed to (202) 690–1527; or e-mailed to *Chere.Shorter@usda.gov.*

The current United States Standards for Grades of Canned Mushrooms, along with the proposed changes, are available either through the address cited above or by accessing the Internet at *http://www.ams.usda.gov/fv/ppb.html.* Any comments received, regarding this notice will also be posted on that site.

SUPPLEMENTARY INFORMATION:

Background

In August 1990, USDA, through one of its field offices, received a letter from a food importer in New York alerting AMS to the disparity in the United States Standards for Grades of Canned Mushrooms. The company proposed that the RMDWA's in the U.S. Standards for Grades of Canned Mushrooms be lowered to 56 percent of the water capacity of the container, the FDA minimum fill requirement appearing in 21 CFR 155.201.

In consideration of this proposal, AMS gathered information from government and industry sources.

Drained weight, although not a factor of quality in canned mushrooms, is very important in connection with the marketing of processed fruit and vegetable products. Drained weight indicates the amount of fruit and vegetable ingredient in relation to packing media and to some extent the degree to which a product may have disintegrated during processing and handling. Most U.S. standards for canned fruits and vegetables contain a recommended drained weight. Drained weight, when applicable, is a requirement in federal specifications and other purchase specifications or contracts. The USDA reports the range of drained weights on their certificates when there is a mandatory FDA requirement, such as for canned mushrooms. Although drained weight is an FDA mandatory requirement in canned mushrooms, buyers and sellers can establish their own specification of minimum drained weights that exceed the FDA.

Presently, the U.S. standard for canned mushrooms includes a recommended minimum drained weight of 62 percent of the water capacity, or for example, 68.0 ounces for the No. 10 can, while the FDA minimum is 61.3 ounces (56 percent) for this can size. The water capacity is determined according to the FDA method outlined in 21 CFR 130.12. The FDA established its current 56 percent minimum in rulemaking based upon a petition from the National Food Processors Association (NFPA) requesting that the drained weight required for mushrooms packed in larger cans be reduced because of the high incidence of bacterial spoilage in such containers. The FDA initiated rulemaking in a proposed rule (47 FR 26843; June 22, 1982). The NFPA attributed the problem to overfilling to meet the drained weight requirement. Therefore, the NFPA proposed to reduce the drained weight requirement for larger cans so that the ratio of mushrooms to water capacity of the container was not less than 56 percent. A final rule was published in the **Federal Register** on March 15, 1983 (48 FR 10812) and a **Federal Register** Notice confirming the effective dates was published on September 14, 1983 (48 FR 41155.)

The USDA published a notice in the **Federal Register**, on December 4, 1998 (63 FR 67040), proposing to revise the U.S. Standards for Grades of Canned Mushrooms by lowering the recommended drained weight from 62 percent to 56 percent of the can capacity.

A 60 day comment period was provided for interested persons to send in comments on this recommended change to the Standards.

AMS received one comment that was opposed to the change in drained weight. The commenter stated that the change would result in a lack of uniformity in that there would be a larger number of pack sizes within the narrow range of 56 to 62 percent of the water capacity. They also stated that the change would require expensive changes in the manufacturing process, through new heat penetration studies, new labels, and new in-plant procedures resulting in a restructuring of the manufacturing process. And finally, the commenter felt that the marketing environment would become more confused as a result. AMS believes that the comments have merit and therefore has decided to withdrawal the proposal and terminate the action.

In another matter, the commenter wanted a review of the current color standards for canned mushrooms. They stated that due to the extreme difficulty in achieving Grade A color in glass, that the minimum color classifications be reviewed.

Because this response is beyond the scope of the intended notice, USDA will review this discussion in another forum when more data is available. Interested parties are however encouraged to submit data to justify reviewing the minimum color requirements for canned mushrooms.

After reviewing and considering the comments received, the Agency has decided not to proceed with the action. Therefore, the notice published December 4, 1998 (64 FR 67040) is withdrawn.

Dated: March 18, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–7109 Filed 3–22–02; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Forest Service

Withdrawal of the Pacific Southwest Regional Guide

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: The intended effect of this action is to comply with 36 CFR part 219 section 219.35(e) which directs that within 1 year of November 9, 2000, the Regional Forester must withdraw the Regional Guide. When a Regional Guide is withdrawn, the Regional Forester must identify the decisions in the Regional Guide that are to be transferred to a regional supplement of the Forest Service directive system (36 CFR 200.4) or to one or more plans and give notice in the **Federal Register** of these actions.

DATES: This action will be effective April 1, 2002.

FOR FURTHER INFORMATION CONTACT: Bradley J. Burmark, Forest Planner, Pacific Southwest Region, 1323 Club Drive, Vallejo, CA 94592, 707–562–8950

SUPPLEMENTARY INFORMATION: This action withdraws the Pacific Southwest Regional Guide. None of the direction in the Pacific Southwest Regional Guide will be transferred to a regional supplement of the Forest Service directive system or to forest plans. The direction in the Regional Guide is already in the forest plans, is obsolete, has been replaced by more recent direction, or is already present in other existing policies.

Dated: March 19, 2002.

Gilbert J. Espinosa,

Acting Regional Forester.

[FR Doc. 02–7062 Filed 3–22–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

[01–04–S1]

Designation for the Central Iowa (IA) Area

AGENCY: Grain Inspection, Packers and Stockyards Administration (GIPSA), USDA.

ACTION: Notice.

SUMMARY: GIPSA announces designation of Central Iowa Grain Inspection Corporation to provide official services under the United States Grain Standards Act, as amended (Act).

EFFECTIVE DATE: April 1, 2002.

ADDRESSES: USDA, GIPSA, Janet M. Hart, Chief, Review Branch, Compliance Division, STOP 3604, Room 1647–S, 1400 Independence Avenue, SW, Washington, DC 20250–3604.

FOR FURTHER INFORMATION CONTACT: Janet M. Hart at 202–720–8525, e-mail janhart@gipsadc.usda.gov.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512–1;

therefore, the Executive Order and Departmental Regulation do not apply to this action.

In the December 4, 2001, **Federal Register** (66 FR 63015), GIPSA asked persons interested in providing official services in the geographic area assigned to Central Iowa Grain Inspection Service, Inc., to submit an application for designation. Applications were due by January 2, 2002.

There were two applicants for the Central Iowa area: Central Iowa Grain Inspection Service, Inc., and Kevin D. Bredthauer and Sandra M. Bredthauer, of Des Moines, Iowa, proposing to do business as Central Iowa Grain Inspection Corporation. Both applied for the entire geographic area currently assigned to Central Iowa Grain Inspection Service, Inc. Central Iowa Grain Inspection Service, Inc., is a designated official agency. GIPSA asked for comments on the applicants for providing service in the Central Iowa area in the January 28, 2002, **Federal Register** (67 FR 3875). Comments were due by February 28, 2002. GIPSA received no comments by the due date. Central Iowa Grain Inspection Service, Inc., subsequently withdrew their application and asked for voluntary cancellation of their designation, effective March 31, 2002.

GIPSA evaluated all available information regarding the designation criteria in Section 7(f)(1)(A) of the Act and, according to Section 7(f)(1)(B), determined that, effective April 1, 2002, and ending March 31, 2005, Central Iowa Grain Inspection Corporation is able to provide official services in the geographic areas specified in the December 4, 2001, **Federal Register**, for which they applied. Interested persons may obtain official services by calling Central Iowa Grain Inspection Corporation at 515–266–1101.

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 et seq.).

Dated: March 8, 2002.

David R. Shipman,

Acting Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 02–7024 Filed 3–22–02; 8:45 am]

BILLING CODE 3410–EN–P

DEPARTMENT OF COMMERCE

International Trade Administration

19 CFR Part 351

Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties; Additional Comment Period

AGENCY: Import Administration, International Trade Administration, Department of Commerce

ACTION: Notice of additional comment period on proposed policy.

SUMMARY: The Department of Commerce is announcing a one-week final comment period for parties interested in submitting comments on the October 15, 1998, proposed clarification on the automatic-liquidation regulation where a reseller has been involved in the chain of commerce.

DATES: Submit comments by April 1, 2002.

ADDRESSES: Submit written comments to Faryar Shirzad, Assistant Secretary for Import Administration, Docket Center, Room 1870, Pennsylvania Avenue and 14th Street, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Laurie Parkhill, Office 3, Import Administration at 202–482–4733, or Patrick Gallagher, Office of Chief Counsel for Import Administration, at 202–482–5053.

SUPPLEMENTARY INFORMATION:

Background

On October 15, 1998, the Department of Commerce (the Department) published a proposed clarification of the Department's position on the automatic-liquidation procedures for a reseller and invited public comment on that clarification. See *Notice and Request for Comment on Policy Concerning Assessment of Antidumping Duties,* 63 FR 55361 (*Proposed Clarification*). On November 12, 1998, we published a notice of *Rebuttal Period for Comments on Policy Concerning Assessment of Antidumping Duties* (63 FR 63288) which extended the period for initial comments to November 13, 1998, established a rebuttal period until December 4, 1998, and provided for the submission of comments and rebuttal in an electronic format for posting to the Import Administration internet home page.

In the *Proposed Clarification* the Department explained the need for a clear articulation of its policy concerning the assessment of antidumping duties where intermediate companies are involved in exporting merchandise subject to antidumping duty orders to the United States. See 63 FR 55361. The Department also proposed in that notice that its clarified policy would apply to all entries for which the anniversary date for requesting an administrative review is on or after the date of publication of a final decision on this issue.

The Department received several written comments and rebuttals regarding the proposed assessment clarification and is preparing its final decision on the issue. Specifically, the Government of Canada, Micron, Volvo, the Steel Service Center Institute, the American Bearing Manufacturers Association, and The Timken Company provided comments. See the Import Administration Web site at *www.ia.ita.doc.gov.* The Department has reviewed these comments and is prepared to announce a final decision shortly.

Given the passage of time since the publication of the *Proposed Clarification,* however, the Department has decided to alert the public to the pending clarification and to provide one more opportunity for the public to submit comments on the proposed clarification. The Department will consider all comments it has already received: re-submisison of earlier comments is not necessary. Parties which have not yet commented on the proposal may submit comments within seven (7) calendar days of the publication of this notice for the Department's consideration.

To help simplify the processing and distribution of comments, the Department requests that a submission in electronic form accompany the required paper copies. Comments filed in electronic form should be on a DOS formatted 3.5″ diskette in either WordPerfect format or a format that the WordPerfect program can convert into WordPerfect. Please make each comment a separate file on the diskette and name each separate file using the name of the proposed document, *e.g.,* ''Reseller Liquidation.''

Comments received on diskette will be made available to the public on the Web at ia.ita.doc.gov. In addition, upon request, the Department will make comments filed in electronic form available to the public on 3.5″ diskettes (at cost) with specific instructions for accessing compressed data (if necessary). Any questions concerning file formatting, document conversion, access on the Web, or other electronic filing issues should be addressed to Andrew Lee Beller, IA Webmaster, at

202–482–0866 or via e-mail at *Andrew Lee Beller@ita.doc.gov.*

Address written comments to Faryar Shirzad, Assistant Secretary for Import Administration, Docket Center, Room 1870, Pennsylvania Avenue and 14th Street., NW, Washington, DC 20230, Attention: Laurie Parkhill, Comment on Automatic Liquidation.

Dated: March 15, 2002.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 02–6870 Filed 3–22–02; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

United States-Egypt Presidents' Council: Membership

AGENCY: International Trade Administration, Commerce.

ACTION: Amendment to Notice of Membership Opportunity: Extension to deadline for applications.

SUMMARY: The International Trade Administration of the U.S. Department of Commerce established and monitors the activities of the U.S.-Egypt Presidents' Council. The purpose of the Council is to provide a forum through which American and Egyptian private sector representatives can provide advice and counsel to both governments. The **Federal Register** published a notice of membership opportunities for American business representatives on the U.S. side of the Council on November 19, 2001. The deadline was December 28, 2001, and extended to January 25, 2002. This notice hereby extends the deadline by which applications must be received.

DATES: In order to receive full consideration, requests must be received no later than: Friday, April 19, 2002.

ADDRESSES: Please send your requests for consideration to Maram R. Talaat, Egypt Desk Officer, Office of the Middle East, U.S. Department of Commerce by fax at 202–482–0878 or courier to Room H–2029B, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION, CONTACT: Maram R. Talaat, Office of the Middle East, Room H–2029B, U.S. Department of Commerce, Washington, DC 20230, phone: 202–482–3752.

SUPPLEMENTARY INFORMATION: This amends the notice of membership opportunities on the U.S.-Egypt Presidents' Council published in the **Federal Register** on November 19, 2001 (66 FR 57937–57938).

Dated: March 20, 2002.

Cherie A. Loustaunau,

Director, Office of the Middle East.

[FR Doc. 02–7117 Filed 3–22–02; 8:45 am]

BILLING CODE 3510–DA–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 031902F]

Proposed Information Collection; Comment Request; 2002 Coastal Resource Management Customer Survey

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, 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, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before May 24, 2002.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue NW, Washington DC 20230 (or via Internet at MClayton@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Tom Fish at NOAA Coastal Services Center, (843) 740–1271 or Tom.Fish@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

This survey will be used by the NOAA Coastal Services Center to obtain information from our customers about their natural resource management issues, their information needs, and their technological capabilities. The respondents will be from the coastal natural resource management community. The information will be used to make quality improvements to the Center's products and services.

II. Method of Collection

A paper survey will be used, but a password-protected Web version of the survey will also be available.

III. Data

OMB Number: None.

Form Number: None.

Type of Review: Regular submission.

Affected Public: State, Local, or Tribal government (state natural resource management agencies); not-for-profit institutions (Sea Grant programs).

Estimated Number of Respondents: 700.

Estimated Time Per Response: 30 minutes.

Estimated Total Annual Burden Hours: 350 hours.

Estimated Total Annual Cost to Public: $0.

IV. Request for Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: March 18, 2002.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 02–7130 Filed 3–22–02; 8:45 am]

BILLING CODE 3510–08–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 031902G]

Proposed Information Collection; Comment Request; Gulf of Mexico Reef Fish and Coastal Pelagics Economic Data Collection

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, 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, Pub. L. 104–13 (44 U.S.C. 3506 (c)(2)(A)).

DATES: Written comments must be submitted on or before May 24, 2002.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue NW, Washington DC 20230 (or via Internet at MClayton@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Jim Waters, Department of Commerce, NOAA, National Marine Fisheries Service, 101 Pivers Island Road, Beaufort, NC 28516–9722, (252–728–8710).

SUPPLEMENTARY INFORMATION:

I. Abstract

The National Marine Fisheries Service (NMFS) proposes to collect information about vessel expenses and earnings in the Gulf of Mexico reef fish and coastal pelagics (mackerels) fisheries with which to conduct economic analyses that will improve fishery management in those fisheries; satisfy NMFS' legal mandates under Executive Order 12866, the Magnuson-Steven Fishery Conservation and Management Act (U.S.C. 1801 et seq.), the Regulatory Flexibility Act, the Endangered Species Act, and the National Environmental Policy Act; and quantify achievement of the performances measures in the NMFS Strategic Operating Plans. These data will be collected in conjunction with catch and effort data already being collected in this fishery as part of its logbook program, and will be used to assess how fishermen will be impacted by and respond to regulations likely to be considered by fishery managers.

II. Method of Collection

Owners of selected vessels with Federal commercial permits in the Gulf of Mexico reef fish and coastal pelagics fisheries will be required to report information about trip costs, input usage, input prices, and dockside prices as part of the logbook reporting requirements in this fishery. In addition, these vessel owners will be required to complete and submit by mail a separate form about annual fixed cost information such as expenditures for repair and maintenance, gear purchase and repair, fishing licenses and permits, insurance, dock fees, repayment on boat and business loans, office expenses and so forth.

III. Data

OMB Number: 0648–0016.
Form Number: None.
Type of Review: Regular submission.
Affected Public: Business or other for-profit organizations.
Estimated Number of Respondents: 350.
Estimated Time Per Response: 10 minutes per trip report; 30 minutes for the annual fixed-cost survey.
Estimated Total Annual Burden Hours: 1,400.
Estimated Total Annual Cost to Public: $0.

IV. Request for Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: March 18, 2002.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 02–7131 Filed 3–22–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 031902H]

Proposed Information Collection; Comment Request; NOAA Coastal Ocean Program Grants Proposal Application Package

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, 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, Pub. L. 104–13 (44 U.S.C. 3506 (c)(2)(A)).

DATES: Written comments must be submitted on or before May 24, 2002.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue NW, Washington DC 20230 (or via Internet at MClayton@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Leslie McDonald, 301–713–3338, ext. 155, or Leslie.McDonald@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

The National Oceanic and Atmospheric Administration's Coastal Ocean Program (COP) provides direct financial assistance through grants and cooperative agreements for research supporting the management of coastal ecosystems. In addition to standard government application requirements, applicants for financial assistance are required to submit a summary proposal budget form and a project summary form. Applicants are also requested to submit 20 copies of applications to expedite the review process. Recipients are required to file annual progress reports and a project final report using COP formats. All of these requirements are needed for better evaluation of proposals and monitoring of awards.

II. Method of Collection

Paper forms and documents are submitted to the COP. The option of electronic submission is being explored.

III. Data

OMB Number: 0648–0384.
Form Number: None.
Type of Review: Regular submission.
Affected Public: Not-for-profit institutions (universities, colleges, junior colleges, technical schools, laboratories); State, Local, or Tribal Government.
Estimated Number of Respondents: 300.
Estimated Time Per Response: 30 minutes for a budget form; 30 minutes for a project summary; 5 hours for an

annual report; 10 hours for a final report; and 10 minutes to provide the extra copies required.

Estimated Total Annual Burden Hours: 1,100.

Estimated Total Annual Cost to Public: $0.

IV. Request for Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: March 18, 2002.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 02–7132 Filed 3–22–02; 8:45 am]

BILLING CODE 3510–JS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 011102267–2064–02; I.D. No. 102301B]

Financial Assistance for Marine Mammal Stranding Networks Through the John H. Prescott Marine Mammal Rescue Assistance Grant Program

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

ACTION: Notice of solicitation for applications, re-opening receipt of application date.

SUMMARY: The National Marine Fisheries Service (NMFS) published a document in the **Federal Register** of January 14, 2002, concerning the solicitation of competitive applications under the John H. Prescott Marine Mammal Rescue Assistance Grant Program (Prescott Stranding Grant Program). This document re-opens the receipt of application date for no later than 5 p.m., (local time) on April 8, 2002.

DATES: The closing date for receipt of applications has been re-opened until April 8, 2002. You must submit one signed original and two copies of the completed application (including supporting information). We will not accept facsimile or electronic applications.

ADDRESSES: We must receive your application by 5 p.m. (E.S.T.) April 8, 2002. in one of the offices designated in the **Federal Register** issue of January 14, 2002 (67 FR 1720).

FOR FURTHER INFORMATION CONTACT: Dr. Teri Rowles, Marine Mammal Health and Stranding Response Program 301–713–2322 ext. 178 or via e-mail: *Teri.Rowles@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Electronic Access

This solicitation, the application package, and supplementary documents are available on the NMFS Office of Protected Resources Home Page at: *http://www.nmfs.noaa.gov/prot—res/PR2/ Health—and—Stranding—Response— Program/Prescott.html*.

Title IV of the Marine Mammal Protection Act, the Marine Mammal Health and Stranding Response Program is available at: *www.nmfs.noaa.gov/prot—res/laws/MMPA/MMPA.html*.

Information on MMPA and ESA research and enhancement permits can be found at: *http://www.nmfs.noaa.gov/prot—res/PR1/Permits/pr1permits—types.html*.

Background

In the **Federal Register** notice issue of January 14, 2002, (67 FR 1720) under **DATES** change the date from March 15, 2002 to April 8, 2002. Applications will be accepted until 5 p.m. E.S.T. Any proposals that were received in the period after the original closing date of March 15 and before March 25, 2002. will be considered by the program and do not need to re-apply.

Dated: March 19, 2002.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 02–7104 Filed 3–20–02; 3:04 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 020306047-2047-01; I.D. 020402E]

RIN 0648-ZB14

Mid-Atlantic Fishery Management Council (Council); Request for Research Proposals (RFP)

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

ACTION: Notice of solicitation for applications.

SUMMARY: NMFS announces that for fishing year 2003 up to 3 percent of the total allowable landings (TAL) will be dedicated to research endeavors under a research set-aside program (RSA). This notice describes how the application and selection process for research projects to be funded under the RSA by a set-aside from the TAL of selected species will operate. The RSA provides a mechanism to fund research and compensate vessels through the sale of fish harvested under the research quota. The setting of the actual research set-aside quotas will be the subject of future rulemakings. NMFS is soliciting proposals for research activities concerning the summer flounder, scup, black sea bass, *Loligo* squid, *Illex* squid, Atlantic mackerel, butterfish, bluefish, and tilefish fisheries.

DATES: All research proposals to be considered under this solicitation must be received between March 25, 2002, and 5 p.m., EST, on May 13, 2002, in the Northeast Regional Office (see **ADDRESSES**). Postmarks prior to the end of the receipt period will not be sufficient. Facsimile applications will not be accepted. For further information related to the timeframe for review and selection of proposals to be conducted with research quota set-asides, see Section A, Background, under **SUPPLEMENTARY INFORMATION**.

ADDRESSES: Proposals must be submitted to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. Mark proposals ''Attention--Mid-Atlantic Research Proposals.'' Copies of the Standard Forms for submission of research proposals may be found on the Internet in a PDF (Portable Document Format) version at http://www.ofa.noaa.gov/grants/index.html, under the title ''Grants Management Forms,'' or by contacting the Council

office (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Daniel Furlong, Executive Director, Mid-Atlantic Fishery Management Council, (302) 674-2331, fax (302) 674-5399, e-mail thoff@mafmc.org or Paul H. Jones, Fishery Policy Analyst, NMFS, (978) 281-9273, fax 978-281-9135, e-mail paul.h.jones@noaa.gov.

SUPPLEMENTARY INFORMATION:

A. Background

The award of a set-aside from the TAL of selected species became possible with the approval of Framework Adjustment 1 (Framework 1) to the Council's Atlantic Mackerel, Squid, and Butterfish; Summer Flounder, Scup, and Black Sea Bass; and Bluefish Fishery Management Plans (FMPs); and the RSA provisions of the Tilefish FMP. Framework 1 was approved by the Secretary of Commerce on August 10, 2001. It established a procedure through which research set-aside amounts would be set annually as part of the Council's quota-setting process. The set-asides can range between 0 and 3 percent of each species' TAL. The set-aside allocated for a given species is to be utilized primarily for research involving that species. However, to promote research in those cases where it would otherwise be infeasible, individual research projects could involve allocations from the set-asides for several of the species listed in this notice. Therefore, in addition to applying for part of the set-aside involving a species directly involved in a research project, applicants may also apply for up to 25 percent of the research set-aside quota for species not directly involved in a particular research project.

To be eligible for consideration, a research proposal for work to be conducted using a research set-aside allocation for the 2003 fishing year must be received during the application period identified in the DATES section of this document. Applicants must submit one signed original and two signed copies of the completed application (including supporting information). Prior to selection, NOAA will convene a panel to review proposals submitted in response to this RFP.

The Council, in consultation with the Atlantic States Marine Fisheries Commission (Commission), will incorporate the level of research set-aside (percentages) for each of the set-aside species for the 2003 fishing year into the Council's annual quota specification packages. NMFS will consider the recommended level of set-aside as part of the specification rulemaking process. It is anticipated that most proposals will request that vessels conducting research be exempt from certain regulations for the relevant fishery. The impacts of such an exemption must be analyzed. To ease the burden on researchers, the Council will prepare, as appropriate, an analysis of the impacts associated with the anticipated exemptions during the annual quota specification process. This process is intended to satisfy the analytical and public notice provisions of the Exempted Fishing Permit (EFP) regulations at 50 CFR 600.745. However, certain conditions may require the applicant to provide additional analysis associated with such an exemptions (see section N of this notice).

The actual level of research set-aside quota available to researchers for the 2003 fishing year will depend on the TAL level specified by the Council at its quota-setting meetings in June and August, 2002, and on the percentage (0 to 3 percent) of the TAL established by the Council as the level of research set-aide. To help researchers develop proposals for the 2003 fishing year, the table below provides some guidance on the general magnitude of research set-asides and estimated values that a researcher might expect to be available for fishing year 2003. The table is based on TAL levels for these fisheries for the 2002 fishing year and assumes that NMFS will approve the maximum set-aside level of 3 percent of the TAL. The table is intended only as a guide to be used when developing research proposals for the 2003 fishing year. It does not necessarily reflect the actual research set-aside quota that will be allocated for fishing year 2003. Based on Council recommendation, NMFS could choose to adopt less than 3 percent of TAL as a set-aside, or could decide not to adopt any set-aside for a given fishery. The estimated values of the set-aside allocations will vary depending on market considerations prevailing at the time the research trips are conducted.

EXAMPLE OF 3-PERCENT RESEARCH SET-ASIDES

Allocation Species	Pounds	Kilograms	Estimated Value($)
Summer Flounder	537,300	243,719	902,664
Scup	186,600	84,642	236,982
Black Sea Bass	185,100	83,961	318,372
Loligo Squid	1,124,339	510,000	865,741
Illex Squid	1,587,302	720,000	365,079
Atlantic Mackerel	5,621,693	2,550,000	730,820
Butterfish	390,013	176,910	222,307
Bluefish	1,135,200	514,927	431,376
Tilefish	59,850	27,148	148,428

B. Authority

Issuing grants is consistent with §§ 303(b)(11), 304(e), and 404(c) of the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.*

C. Catalog of Federal Domestic Assistance (CFDA)

11.454, Unallied Management Projects

D. Funding Instrument and Project Period

In consultation with NMFS, the NOAA Grants Office will award a grant to successful applicants through the NOAA grant award process. The project period for all research is January 1, 2003, through December 31, 2003. Proposals to fund research that was started prior to the project period, or that would be completed after the project period will not be considered.

E. Funding Availability

No Federal funds are provided for research under this notification. The Federal Government's contribution to the project will be an EFP or Letter of Authorization, as applicable, which will provide special fishing privileges in response to research proposals selected

under this program. The Federal Government shall not be liable for any costs incurred in the conduct of the project. Any funds generated from the landings authorized under a research set-aside grant shall be used to cover the cost of the research, including vessel costs, and to compensate vessel owners for expenses incurred. Therefore, the owner of each fishing vessel selected to land a species in excess of a trip limit or seasonal quota must use the proceeds of the sale of the excess catch to compensate the researcher for costs associated with the research activities and use of the vessel.

Any additional funds above the cost of the research activities (or excess program income) shall be retained by the vessel owner as compensation for the use of his/her vessel.

F. Scope of Research

Projects funded under the research quota set-aside program should enhance understanding of the fishery resource or contribute to the body of information on which management decisions are made. Research, as well as additional voyages to obtain fish for compensation, may be conducted, as specified in the EFP or Letter of Authorization, as applicable, in or outside of a closed area, within the timeframe of a commercial quota closure, and onboard a fishing or other type of vessel, including recreational and/or commercial vessels.

Funds generated from the research quota set-aside landings shall be used to cover the cost of the research activities, including vessel costs, and to compensate boats for expenses incurred during the collection of the set-aside species. For example, the funds could be used to pay for gear modifications, monitoring equipment, additional provisions (e.g., fuel, ice, food for scientists), or the salaries of research personnel. The Federal Government is not liable for any costs incurred by the researcher or vessel owner, should the sale of the excess catch not fully reimburse the researcher or vessel owner for his/her expenses.

G. Eligibility Criteria

All commercial organizations; non-profit organizations; state, local or tribal governments; institutions of higher education; and individuals are eligible to apply, provided that all proposal requirements are satisfied and the proposal is received by the date specified in this document.

A person is not eligible to submit an application under this program if he/she is an employee of any Federal agency; a Regional Fishery Management Council; or an employee of a Council. However, Council members who are not Federal employees can submit an application.

H. Proposal Preparation and Requirements

NOAA employees (whether full-time, part-time, or intermittent) are not allowed to help in the preparation of an application, except that staff may provide you with information on program goals, funding priorities, application procedures, and completion of application forms. Since this is a competitive program, NMFS and NOAA employees will not provide assistance in conceptualizing, developing, or structuring proposals, or write letters of support for a proposal. However, the Council or NMFS contact person (see **FOR FURTHER INFORMATION CONTACT**) may provide assistance to researchers who are seeking vessels to participate in the collection of set-aside species or directly in research projects.

Proposals must identify the research to be conducted and the total amount of the set-aside species requested for the project, including its approximate cash value. If a waiver of Federal regulations is proposed, a list of the specific regulations to be waived and a brief justification for such a waiver must be included with the proposal.

In addition, each proposal must identify the requirements for the participating vessel(s) that would make a trip to collect the set-aside species. The vessel(s) selected by the applicant must be listed in the proposal, if possible, or specifically identified prior to final approval by NOAA. Proposals may request that the quota set-aside be collected separately from the research trip or other related research trip. The separate compensation trips do not necessarily have to be conducted by the same vessel.

The researcher's proposal must state the amount of funds required to support the research project, as well as the amount required to compensate the vessel owner either for the collection of set-aside species, or for participation in the research project, or both. The proposal must also include the agreement between the vessel owner and researcher that shows exactly how the research activity is to be paid for, if possible, or such agreement must be provided prior to final approval by NOAA.

I. Project Funding Priorities

The Council and NOAA will give priority to funding research proposals in the following areas identified as research priorities by the Council and Commission for the 2003 fishing year (not listed in order of priority):

1. Bycatch and discard reduction concerning: (a) Distinctions between regulatory discards and bycatch attributed to gear, including mesh selectivity and/or overall gear design in the summer flounder fishery; (b) gear modifications in the *Loligo* squid fishery to reduce scup and other species bycatch; (c) discard studies in the *Loligo* and scup fisheries; and (d) better estimates of recreational discards in the summer flounder, scup, black sea bass and bluefish fisheries;

2. Mesh and gear selectivity focusing on: (a) The examination of summer flounder catch composition in small-mesh net fisheries within the summer flounder small-mesh exemption area; (b) summer flounder mesh selectivity studies; (c) scup mesh selectivity; (d) squid mesh selectivity; (e) black sea bass mesh selectivity; (f) the development of threshold triggers based on gear and fishery characteristics; (g) evaluation of various pot vent sizes for black sea bass; (h) estimation of mortality of black sea bass left in pots during the closed season; (i) evaluation of fishery management actions, e.g., do closures have a net positive effect on fishing mortality by postponing such mortality, or do they simply allow for concentration of resources such that when the seasons open the consequent fishing effort offsets the mortality reductions that occurred during the closure; and (j) mesh retention studies of 2-1/2 (6.35 cm), 2-3/4 (6.985 cm), and 3-inch (7.63 cm) mesh for butterfish;

3. Fishing impacts on habitat pertaining to: (a) Mobile gear impacts on tilefish burrows; (b) scup spawning areas and scup larvae settlement areas in coastal/estuarine waters; (c) benthic habitat of juvenile and adult black sea bass, and scup offshore wintering areas; and (d) mapping of spawning areas and egg mop areas for *Loligo*;

4. Cooperative stock assessment surveys focusing on: (a) The use of alternative industry assessment methods to determine abundance of Atlantic mackerel; (b) the summer flounder fishery; (c) surveys for summer flounder in areas not traditionally sampled by the North East Fisheries Science Center gear; (d) side-by-side comparisons for summer flounder and scup of commercial and NEFSC survey gear; (e) better survey information for bluefish; (f) tagging studies of bluefish movements; and (g) DNA analysis for stock descriptions of Atlantic bluefish and Atlantic mackerel;

5. Improved recreational fishery data focusing on: (a) Research to enhance the overall knowledge of the recreational

fishery; (b) statistical models to evaluate the effectiveness of recreational management measures and/or data collection process; (c) studies of bluefish hooking mortality by size of fish; and (d) tagging studies with break-away hooks for movement of tilefish.

6. Other: (a) Evaluation of redirection of fishing effort with area closures for black sea bass; (b) evaluation of whether artificial reefs increase the productivity of black sea bass or simply concentrate the resource; and (c) evaluation of the mixing of Illex and *Loligo* in September and October.

J. Evaluation Criteria

The review panel convened by NOAA to evaluate proposals submitted in response to this RFP (see section L of this notice), will evaluate proposals by assigning scores up to the maximum indicated for each of the following criteria:

1. A clear definition of the problem, need, issue or hypothesis to be addressed. The proposal should describe its relevance to RSA program priorities. If not directly related to priorities listed in this solicitation, provide justification why the proposed project should be considered (25 points);

2. Cost-effectiveness of the project. The request and value of the anticipated revenue from RSA should be commensurate with estimated project costs. Economic and budget projections must be quantified, to the extent possible. Where appropriate, use of existing equipment versus acquisition of new equipment (fishing gear) is preferred (25 points);

3. A clear definition of the approach to be used, including description of field work, theoretical studies, and laboratory analysis to support that proposed research, and the ability of the researchers to physically complete work during the 2003 calendar year can be completed in the area and time proposed. Activities that take place over a wider versus narrower geographical range, where appropriate, are preferred (25 points);

4. Demonstration of support, cooperation and/or collaboration with the fishing industry, and qualifications/experience of project participants. Where appropriate, unified versus separate stand-alone proposals on related projects involving multiple principal investigators are preferred (15 points);

5. Identification of anticipated benefits, potential users, likelihood of success, and methods of disseminating results. Where appropriate, data format generated from the research must be consistent with NMFS' and Atlantic Coastal Cooperative Statistical Program's (ACCSP) databases (10 points). A copy of this format is available from NMFS (see **FOR FURTHER INFORMATION CONTACT**).

K. Selection Procedures

NOAA will solicit written technical evaluations from the Council members who make up the Ecosystem Planning Committee (Committee) and from three or more appropriate private and public sector experts to score proposals using the criteria specified in section J of this notification to determine the technical merit of the proposal. Following completion of the technical evaluation, NOAA will convene a review panel, including the Committee and technical experts, to review and individually critique the scored proposals to enhance NOAA's understanding of the proposals. No consensus recommendations will be made. Based on the results of the technical review, rank order based on average scores, comments provided by the review panel, and the following program policy factors, NOAA will select the successful proposals and inform the Council of its recommendations. The program policy factors are: (1) The time of year the research activities are to be conducted; (2) the ability of the proposal to meet the experimental fishery requirements discussed under Section N of this notice; and (3) redundancy of research projects. Therefore, the highest scoring projects may not necessarily be selected for an award. The selecting official will provide final approval of the projects to allow NMFS to exempt selected vessel(s) from specific regulations implementing the respective FMPs through written notification to the applicant.

For proposals that request exemptions from existing regulations (e.g., possession limits, closed seasons, etc.), the impacts of the proposed exemptions must be analyzed. The Council will analyze these impacts as part of the impacts of the proposed specifications for the upcoming fishing year in the annual quota specification packages it submits to NMFS. However, those individuals with proposals that include vessel activities that extend beyond the scope of the analysis provided by the Council may be required to provide additional analysis before issuance of an EFP will be considered (see section N). Any researchers who request regulatory exemptions that are beyond the scope of the Council analysis may be required to adhere to the regulations that govern the issuance of an EFP by NMFS (see section N). If necessary, and as appropriate, NMFS will consult with the Council and successful applicants to secure the information required for granting an exemption if issuance of an EFP is necessary for the research to be conducted. The final decision on the applicant's proposal for research quota will not be made by NOAA until NMFS advises that the applicant's EFP request is approved.

L. Proposal Format

Proposals should be limited to seven pages, excluding item 6 below. The format may vary but must include:

1. A project summary;

2. A narrative project description to include: (a) Project goals and objectives; (b) the relationship of the proposed project to management needs or priorities identified by the Council; (c) a statement of work (project design and management including who is responsible, expected products, and participants other than applicant); and (d) a summary of the existing state of knowledge related to the project and contribution and relevance of the proposed work;

3. A description of all funding sources (including revenues derived from the sale of the species harvested under the research quota set-aside) and funding needs. This element of the proposal must include the amount of research quota set-aside requested for each species and the expected funds to be generated by the sale of those species, as well as the expected percentage of funds to be allocated to the researcher and any involved fishing vessel;

4. A budget that includes a breakdown of costs, including permit costs, equipment, supplies, and overhead. Applicants must submit a Standard Form 424 (Application for Federal Assistance) including a detailed budget using Standard Form 424A, (Budget Information-- Non-Construction Programs), Standard Form 424B (Assurances - Non-Construction Programs), and Commerce Department Form CD-511, (Certifications Regarding Debarment, Suspension and Other Responsibility Matters: Drug-Free Workplace Requirements and Lobbying). Copies of these Standard Forms may be found on the Internet in a PDF version at http://www.ofa.noaa.gov/grants/index.html (Grants Management Forms;

5. A list of any Federal or state regulations that the applicant needs to have waived and a brief justification for such a waiver. Note that requests for waivers of any state regulations will be forwarded to the appropriate state agency(s). NOAA cannot guarantee that

state agencies will accede to any particular request; and

6. Supporting documents including resumes, cooperative research agreements, and contracts.

M. Final Reports and Data Submission

NOAA will require project researchers to submit to NOAA, with a copy for the Council, an interim and/or final report describing their research project results, or other acceptable deliverable(s), in a timeframe that is specific to the type of research conducted. The format of the report may vary, but must contain:

1. A brief summary of the report;

2. A description of the issue/problem that was addressed;

3. A detailed description of methods of data collection and analyses;

4. A discussion of results and any relevant conclusions presented in a format that is understandable to a non-technical audience; this should include benefits and/or contributions to management decision-making;

5. A list of entities, firms, or organizations that actually performed the work and a description of how the work was accomplished; and

6. A detailed final accounting of all funds used to conduct research, including generation of project income resulting from sale of research set-aside quota. The financial information must be submitted on Office of Management and Budget Standard Form-269. Copies of this Standard Form may be found on the Internet in a PDF version at http://www.ofa.noaa.gov/grants/index.html (Grants Management Forms). Projects designed to collect new data for inclusion in NMFS' or ACCSP's databases must submit the data in electronic format with appropriate documentation. Certain databases will have highly specific requirements as to required fields and content. Researchers must agree to provide newly collected data in a format acceptable to the administrators of the receiving databases.

N. Other Requirements

The Council staff will bear the primary responsibility for the evaluations of impacts associated with the research, including analysis of any requested regulatory waivers. However, researchers proposing research and/or compensation fishing that goes beyond the scope of analysis provided by the Council staff in the Council's annual specification packages shall be required to submit a Supplemental Environmental Assessment to obtain an EFP from NMFS. Should a researcher be required to submit a request for an EFP to NMFS such submission should be received by NMFS at least 60 days before the requested start date of the proposed research to allow for additional review and analysis. A final decision on the applicant's grant request for research quota will not be made until NMFS has approved the applicant's EFP request.

O. Other Requirements of Recipients

The Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements contained in the **Federal Register** notice of October 1, 2001 (66 FR 49917), are applicable to this solicitation. However, please note that the Department of Commerce will not implement the requirements of Executive Order 13202 (66 FR 49921), pursuant to guidance issued by the Office of Management and Budget in light of a court opinion which found that the Executive Order was not legally authorized. See *Building and Construction Trades Department* v. *Allbaugh*, 172 F. Supp. 2d 138 (D.D.C. 2001). This decision is currently on appeal. When the case is resolved, the Department will provide further information on implementation of Executive Order 13202.

P. Disposition of unsuccessful applications.

If an application is not selected, NOAA will return the proposal and related documents to the applicant.

Q. Other

Pursuant to Executive Orders 12876, 12900, and 13021, the Department of Commerce, NOAA (DOC/NOAA) is strongly committed to broadening the participation of Historically Black Colleges and Universities, Hispanic Serving Institutions, and Tribal Colleges and Universities in its educational and research programs. The DOC/NOAA vision, mission and goals are to achieve full participation by Minority Serving Institutions (MSIs) in order to advance the development of human potential, to strengthen the Nation's capacity to provide high-quality education, and to increase opportunities for MSIs to participate in, and benefit from, Federal financial assistance programs. DOC/NOAA encourages all applicants to include meaningful participation of MSIs.

DOC/NOAA supports cultural and gender diversity in our programs and encourages women and minority individuals and groups to submit applications.

DOC/NOAA encourages applications from members of the fishing community, and applications that involve fishing community cooperation and participation.

Classification

Prior notice and opportunity for public comments are not required by the Administrative Procedure Act or any other law for this notice concerning grants, benefits, and contracts (5 U.S.C. 553(a)(2)).

Because a general notice of proposed rulemaking as specified in 5 U.S.C. 533, or any other law, was not required for this action, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., are not applicable.

Applications under this program are not subject to the provisions of Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

This notice contains collection-of-information requirements subject to the Paperwork Reduction Act. The use of Standard Forms 269, 424, 424A, 424B, and SF-LLL have been approved by OMB under the respective control numbers 0348-0039, 0348-0043, 0348-0044, 0348-0040, and 0348-0046.

Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the Paperwork Reduction Act, unless that collection displays a currently valid OMB control number.

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

Dated: March 19, 2002.

Rebecca Lent,

Deputy Assistant Administrator for Regulations National Marine Fisheries Service.

[FR Doc. 02–7134 Filed 3–22–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

National Sea Grant Review Panel

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of public meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Sea Grant Review Panel. The meeting will have several purposes. Panel members will discuss and provide advice on the National Sea Grant College Program in the areas of program evaluation,

education and extension, science and technology programs, and other matters as described below:

DATES: The announced meeting is scheduled during two days: Thursday, April 4, 2002, 9 a.m. to 5 p.m.; Friday, April 5, 2002 9 a.m. to 12:30 p.m.

ADDRESSES: National Oceanic and Atmospheric Administration, Silver Spring Metro Center III, 1315 East-West Highway, Room 4527, Silver Spring, Maryland 20910.

FOR FURTHER INFORMATION CONTACT: Dr. Ronald C. Baird, Director, National Sea Grant College Program, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Room 11716, Silver Spring, Maryland 20910, (301) 713–2448.

SUPPLEMENTARY INFORMATION: The Panel, which consists of a balanced representation from academia, industry, state government and citizens groups, was established in 1976 by Section 209 of the Sea Grant Improvement Act (Public Law 94–461, 33 U.S.C. 1128). The Panel advises the Secretary of Commerce and the Director of the National Sea Grant College Program with respect to operations under the Act, and such other matters as the Secretary refers to them for review and advice. The agenda for the meeting is as follows:

Thursday, April 4, 2002

9:00 a.m.—Welcoming and Opening Formalities, Change of Panel Chairs, Election of Sea Grant Review Panel Officers, Approval of Last Meeting Minutes and Agenda, Introductory Remarks.
9:20 a.m.—Executive Committee Report.
9:45 a.m.—NSGO Director's Update.
10:15 a.m.—Sea Grant Association Report.
10:45 a.m.—Break.
11:00 a.m.—Allocation Committee Report.
12:00 noon—Working Lunch (Wisconsin Sea Grant Information Management System Demonstration).
1:45 p.m.—Allocation Committee Report (continued).
2:45 p.m.—Duce Committee Report Consideration.
3:45 p.m.—Break.
4:00 p.m.—Program Evaluation Implementation Report.
4:15 p.m.—Best Management Practices.
4:30 p.m.—Coastal States Organization Presentation.

Friday, April 5, 2002

9:00 a.m.—NOAA Update.
9:30 a.m.—Congressional Update.
10:30 a.m.—Break.
10:45 a.m.—NSGO Update, Sea Grant Fisheries Extension, Communications Update, Education Update, NOAA MSI/Environmental Entrepreneurship Program, Aquatic Nuisance Species, Maine and New Hampshire Sea Grant College, Status.
12:00 noon—Wrap-up.
12:30 p.m.—Adjourn.

This meeting will be open to the public.

Louisa Koch,

Deputy Assistant Administrator, Office of Oceanic and Atmospheric Research.

[FR Doc. 02–7058 Filed 3–22–02; 8:45 am]

BILLING CODE 3510–KA–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 031902A]

Endangered Species; Permits

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

ACTION: Receipt of an application for a research permit (1374).

SUMMARY: Notice is hereby given of the following actions regarding permits for takes of endangered and threatened species for the purposes of scientific research and/or enhancement under the Endangered Species Act (ESA): NMFS has received an application for a scientific research permit from Dr. Andrew J. Read of Duke University Marine Laboratory.

DATES: Comments or requests for a public hearing on any of the new applications or modification requests must be received at the appropriate address or fax number no later than 5 p.m. eastern standard time on April 24, 2002.

ADDRESSES: Written comments on the new application should be sent to the appropriate office as indicated below. Comments may also be sent via fax to the number indicated for the application. Comments will not be accepted if submitted via e-mail or the Internet. The application and related documents are available for review in the indicated office, by appointment:

Permits, Conservation and Education Division, F/PR1, 1315 East West Highway, Silver Spring, MD 20910 (phone:301–713–2289, fax: 301–713–0376).

FOR FURTHER INFORMATION CONTACT: Lillian Becker, Silver Spring, MD (phone: 301–713–2319, fax: 301–713–0376, e-mail: Lillian.Becker@noaa.gov).

SUPPLEMENTARY INFORMATION:

Authority

Issuance of permits and permit modifications, as required by the Endangered Species Act of 1973 (16 U.S.C. 1531-1543) (ESA), is based on a finding that such permits/modifications: (1) are applied for in good faith; (2) would not operate to the disadvantage of the listed species which are the subject of the permits; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA. Scientific research and/or enhancement permits are issued under section 10(a)(1)(A) of the ESA. Authority to take listed species is subject to conditions set forth in the permits. Permits and modifications are issued in accordance with and are subject to the ESA and NMFS regulations governing listed fish and wildlife permits (50 CFR parts 222–226).

Those individuals requesting a hearing on an application listed in this notice should set out the specific reasons why a hearing on that application would be appropriate (see ADDRESSES). The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in the permit action summaries are those of the applicant and do not necessarily reflect the views of NMFS.

Species Covered in This Notice

The following species are covered in this notice:

Sea turtles

Threatened and endangered Green turtle (*Chelonia mydas*)

Endangered Kemp's ridley turtle (*Lepidochelys kempii*)

Threatened Loggerhead turtle (*Caretta caretta*)

Application 1374

The purpose of this research is to describe relationships between the movements of sea turtles and the fall gillnet flounder fishery as well as habitat use of loggerhead, green and Kemp's ridley sea turtles. Turtles will be collected in collaboration with the NMFS Beaufort Laboratory Turtle Research Team as part of their ''Coastal North Carolina Demographic and Life History Studies'' program under endangered species permit #1260. The turtles will be monitored via satellite telemetry. The applicant will monitor up to 30 loggerhead, 10 green and 10 Kemp's ridley sea turtles.

Dated: March 20, 2002.

Ann Terbush,

Chief, Permits, Conservation, and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 02–7135 Filed 3–22–02; 8:45 am]

BILLING CODE 3510–22–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Wool Textile Products Produced or Manufactured in the Republic of Korea

March 19, 2002.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: March 25, 2002.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended. The current limits for certain categories are being reduced for carryforward used.

The current limits for certain categories are being reduced for carryforward used.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 66 FR 65178, published on December 18, 2001). Also see 66 FR 59578, published on November 29, 2001.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 19, 2002.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 23, 2001, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products in the following categories, produced or manufactured in the Republic of Korea and exported during the twelve-month period which began on January 1, 2002 and extends through December 31, 2002.

Effective on March 25, 2002, you are directed to reduce the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
Sublevels within Group II	
338/339	1,427,770 dozen.
435	37,396 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2001.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 02–7070 Filed 3–22–02; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Request for Public Comment on a Petition to Amend a Rule of Origin under the North American Free Trade Agreement (NAFTA)

March 19, 2002.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Request for Public Comments concerning a petition filed under Section 7.2 of Annex 300-B of NAFTA to amend the NAFTA rules of origin for certain men's and boy's woven shirts.

SUMMARY: On February 26, 2002 the Chairman of CITA received a petition from the American Textile Manufacturers Institute (ATMI) requesting CITA to commence consultations with the governments of Canada and Mexico for the purpose of amending the rules of origin set forth in Annex 401 of the NAFTA for Harmonized Tariff Schedule (HTS) subheadings 6205.20 - 6205.30. In particular, ATMI requests that paragraph (c) of the subheading rule applicable to HTS subheadings 6205.20 - 6205.30 be deleted.

ATMI claims that the fabrics described in paragraph (c) of the subheading note are currently being produced in commercial quantities in the United States and are available in a timely manner. Specifically, ATMI claims that Dan River, Inc., an ATMI member, currently has in its line a fabric that conforms to the following specifications:

Fiber content	60% cotton / 40% polyester
Weight	108.5 grams per square meter
Construction	Plain weave, not of square construction
Thread count	74 per square centimeter
Average yarn size	71.07 metric
Finish	Available bleached and dyed

A modification of the NAFTA rules of origin may only be made after reaching agreement with the other NAFTA parties. CITA hereby solicits public comments on this petition, in particular with regard to whether the fabric described above can be supplied by the domestic industry in commercial quantities in a timely manner. Comments must be submitted by **April 24, 2002**.

FOR FURTHER INFORMATION CONTACT: Martin Walsh, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-3400.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 USC 1854); Section 202(q) of the North American Free Trade Agreement Implementation Act (19 USC 3332(q)); Executive Order 11651 of March 3, 1972, as amended

BACKGROUND:

Under the North American Free Trade Agreement (NAFTA), NAFTA countries are required to eliminate customs duties on textile and apparel goods that qualify as originating goods under the NAFTA rules of origin, which are set out in Annex 401 to the NAFTA. The NAFTA provides that the rules of origin for textile and apparel products may be amended through a subsequent agreement by the NAFTA countries. In consultations regarding such a change, the NAFTA countries are to consider issues of availability of supply of fibers, yarns, or fabrics in the free trade area and whether domestic producers are

capable of supplying commercial quantities of the good in a timely manner. The Statement of Administrative Action (SAA) that accompanied the NAFTA Implementation Act stated that any interested person may submit to CITA a request for a modification to a particular rule of origin based on a change in the availability in North America of a particular fiber, yarn or fabric and that the requesting party would bear the burden of demonstrating that a change is warranted. The SAA provides that CITA may make a recommendation to the President regarding a change to a rule of origin for a textile or apparel good. The NAFTA Implementation Act provides the President with the authority to proclaim modifications to the NAFTA rules of origin as are necessary to implement an agreement with one or more NAFTA country on such a modification.

On February 26, 2002 the Chairman of CITA received a petition from the American Textile Manufacturers Institute (ATMI) requesting CITA to commence consultations with the governments of Canada and Mexico for the purpose of amending the rules of origin set forth in Annex 401 of the NAFTA for Harmonized Tariff Schedule (HTS) subheadings 6205.20 - 6205.30. In particular, ATMI requests that paragraph (c) of the subheading rule applicable to HTS subheadings 6205.20 - 6205.30 be deleted.

ATMI claims that the fabrics described in paragraph (c) of the subheading note are currently being produced in commercial quantities in the United States and are available in a timely manner. Specifically, ATMI claims that Dan River, Inc., an ATMI member, currently has in its line a fabric that conforms to the following specifications:

Fiber content	60% cotton / 40% polyester
Weight	108.5 grams per square meter
Construction	Plain weave, not of square construction
Thread count	74 per square centimeter
Average yarn size	71.07 metric
Finish	Available bleached and dyed

CITA is soliciting public comments regarding this request, particularly with respect to whether the fabric described above can be supplied by the domestic industry in commercial quantities in a timely manner. Comments must be received no later than April 24, 2002. Interested persons are invited to submit six copies of such comments or information to the Chairman, Committee for the Implementation of Textile Agreements, room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, DC 20230.

If a comment alleges that the fabric described above cannot be supplied by the domestic industry in commercial quantities in a timely manner, CITA will closely review any supporting documentation, such as a signed statement by a manufacturer of men's shirts stating that it attempted to purchase U.S. made fabric of the kind described above, including quantities requested and the required time frame for delivery, and found no U.S. producers able to fill the order.

CITA will protect any business confidential information that is marked business confidential from disclosure to the full extent permitted by law. CITA will make available to the public non-confidential versions of the request and non-confidential versions of any public comments received with respect to a request in room 3100 in the Herbert Hoover Building, 14th and Constitution Avenue, N.W., Washington, DC 20230. Persons submitting comments on a request are encouraged to include a non-confidential version and a non-confidential summary.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.02–7071 Filed 3–22–02; 8:45 am]

BILLING CODE 3510–DR–S

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Homeland Security NOFA Discussion Forum

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service will host a series of five teleconference calls to discuss, and answer questions regarding, the recent Notice of Availability of Funds to Strengthen Communities and Organizations in Using Service and Volunteers to Support Homeland Security, published in the **Federal Register** on March 8, 2002 (67 FR 10684). Please send discussion questions via e-mail to *homelandnofa@cns.gov* prior to the calls. We will consider all discussion questions, although we cannot guarantee that every item will be discussed due to the high number of expected participants. Teleconference participation is limited to the first 100 callers. The toll-free number for all five calls is 1–877–921–2789. The pass code is verbal: ''GARY.'' Callers will also be required to provide the conference leader's name (Gary Kowalczyk, Coordinator of National Service Programs).

DATES: Teleconference calls will take place on the following dates and times:

Tuesday, March 26, 2002, 3:30–5:00 p.m. EST.

Wednesday, March 27, 2002, 2:00–3:30 p.m. EST.

Friday, March 29, 2002, 3:00–4:30 p.m. EST.

Tuesday, April 2, 2002, 3:30–5:00 p.m. EST.

Friday, April 5, 2002, 2:30–4:00 p.m. EST.

ADDRESSES: Our address is The Corporation for National and Community Service, 1201 New York Avenue, NW, Washington, DC 20525.

FOR FURTHER INFORMATION CONTACT: For further information, contact Deena Johnson (202–606–5000, ext. 562) or Femi Estrada-Petersen (202–606–5000, ext. 192), or e-mail *homelandnofa@cns.gov*.

Dated: March 20, 2002.

Gary Kowalczyk,

Coordinator, National Service Programs.

[FR Doc. 02–7113 Filed 3–22–02; 8:45 am]

BILLING CODE 6050–$$–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Availability of Funds for Grants to Support New Senior Companion and Foster Grandparent Projects

AGENCY: Corporation for National and Community Service.

ACTION: Notice of availability of funds.

SUMMARY: The Corporation for National and Community Service (hereinafter, the ''Corporation'') announces the availability of funding for grants to support three new Senior Companion projects in geographic areas that do not fall within approved service areas of current Corporation-funded Senior Companion projects and three new Foster Grandparent projects in geographic areas that do not fall within approved service areas of current Corporation-funded Foster Grandparent projects. The purpose of the Senior Companion Program (SCP) is to provide opportunities for income eligible

individuals 60 years of age and over to serve adults with special needs. The purpose of the Foster Grandparent Program (FGP) is to provide opportunities for income eligible individuals 60 years of age and over to serve children and youth with special or exceptional needs on a person to person basis.

On November 8, 2001, President Bush announced that the Corporation will support homeland security in the coming year, and the Corporation encourages applicants for these grants to include appropriate activities for Foster Grandparents and Senior Companions that help support homeland security. The Corporation defines homeland security to include activities that support public safety, public health, and disaster preparedness and relief.

Individual Senior Companion grant awards will be approximately $211,825 to cover the costs of 48 Senior Companion service years for twelve months. Individual Foster Grandparent grant awards will be approximately $192,265 to cover the costs of 44 Foster Grandparent service years for twelve months.

DATES: Applications must arrive at the Corporation for National and Community Service by 5:00 p.m. (Eastern Daylight Time), May 31, 2002. The Corporation will not accept applications that are submitted via facsimile. Due to delays in delivery of regular U.S.P.S. mail to government offices, there is no guarantee that your application will arrive in time to be considered. We suggest that you use U.S.P.S. priority mail or a commercial overnight delivery service. We anticipate announcing selections under this Notice no later than June 28, 2002.

ADDRESSES: One unbound, single-sided original and two copies of the application must be submitted to the following address: Corporation for National and Community Service, National Senior Service Corps, 1201 New York Avenue, NW, Washington, DC 20525, Attn: Mr. John Keller. All applicants are encouraged voluntarily to submit two additional copies of the application to expedite the review process. Applications must arrive at the Corporation for National and Community Service by 5:00 p.m. (Eastern Daylight Time), May 31, 2002. The Corporation will not accept applications that are submitted via facsimile. Due to delays in delivery of regular U.S.P.S. mail to government offices, there is no guarantee that your application will arrive in time to be considered. We suggest that you use U.S.P.S. priority mail or a commercial overnight delivery service.

Applications: Application guidelines and instructions can be obtained by contacting the appropriate Corporation State Office. Information on how to contact state offices is located on our Web site: *www.nationalservice.org*. Click on ''Contact Us'' at the bottom of the page. Applicants are urged to pay close attention to these application materials. They contain a wide variety of relevant requirements, including non-federal contributions, the amounts of stipends volunteers may receive, and the requirements for organizations proposing to operate a project.

FOR FURTHER INFORMATION CONTACT: Contact John Keller at 202–606–5000 ext. 285. TDD (202) 565–2799. This Notice is available in an alternative format for people with visual impairments.

SUPPLEMENTARY INFORMATION:

Background

The Corporation is a federal government corporation that encourages Americans of all ages and backgrounds to engage in community-based service to meet the nation's educational, public safety, environmental and other human needs. In doing so, the Corporation fosters civic responsibility, strengthens the ties that bind us together as a people, and provides educational opportunity for those who make a substantial commitment to service. This year, the Corporation will help support more than 1.5 million Americans who perform substantial service in communities across the country.

In the State of the Union address, the President announced that the USA Freedom Corps will build on the great American ethic of service. The USA Freedom Corps will promote a culture of responsibility, service, and citizenship. It will work with key service agencies in government and the nonprofit sector to provide incentives and new opportunities to serve at home and abroad. The USA Freedom Corps will draw from Americans of all ages and of every background. The Corporation for National and Community Service and its programs—National Senior Service Corps, AmeriCorps, and Learn and Serve America—are part of the efforts under the USA Freedom Corps. The programs of the National Senior Service Corps include the Senior Companion and Foster Grandparent Programs as well as the Retired and Senior Volunteer Program (RSVP).

Program Period of Performance

The program period for all grants is twelve months. Future funding is contingent on performance and the availability of appropriations.

Application Instructions

To be considered for funding, applications must meet all of the criteria and requirements contained in this Notice. The Grant Application, CNCS Form 424–NSSC, and supplemental guidelines and instructions, can be obtained by contacting the appropriate Corporation State Office. The Corporation State Office can also advise applicants concerning the service areas covered by existing projects. Information on how to contact state offices is located on our Web site: *www.nationalservice.org*. Click on ''Contact Us'' at the bottom of the page. Applicants are urged to pay close attention to these application materials. They contain a wide variety of relevant requirements, including non-federal contributions, the amounts of stipends volunteers may receive, and the requirements for organizations proposing to operate a project. Applicants must submit all forms and attachments specified in the Grant Application and supplemental guidelines and instructions.

Selection Criteria

The Corporation will initially determine: (1) Whether the organization is eligible; (2) whether the application contains all the required information, and (3) whether the geographic location of the proposed project is an approved geographic service area that does not currently have a project funded by the Corporation under the respective program (FGP or SCP) for which they are applying.

After this initial screening, the Corporation will select and evaluate applications based on the following criteria: Program Design (60%) Organizational Capacity (25%), and Budget/Cost-Effectiveness (15%). Details on the application criteria will be available in the application package available from Corporation state offices. The Corporation will take into consideration the following factors after the proposals are assessed:

- *Geographic location:* The Corporation will assure a mix of urban and rural sites.
- *Diversity:* The Corporation will select organizations whose local projects have the capacity to recruit ethnic and racial minorities, males, and persons with disabilities.

Program Authority

Corporation Authority to make these grants is codified in 42 U.S.C. 4950 *et seq.*

Additional Information Concerning the Specific Funding Available

Senior Companion Projects

The Senior Companion Program

The Senior Companion Program (SCP) is authorized by the Domestic Volunteer Service Act of 1973, as amended (Public Law 93–113, Title II, Part C, 42 U.S.C. 5013) and provides opportunities for income eligible individuals 60 years of age and over to serve adults with special needs. The SCP was launched in 1974 with its first 11 projects. Today there are over 17,000 Senior Companions serving 55,000 frail adults annually in 218 local SCP projects. These Senior Companions provide high quality and reliable personal support to adults, primarily the frail elderly, experiencing difficulties with activities of daily living, allowing them to live independently in their own homes for as long as possible. The SCP focuses on those with moderate physical, mental, or emotional impairments who are without adequate family support and who in the absence of non-medical support services would be at risk of institutionalization. Senior Companions also assist clients in patient discharge programs at acute care, mental health, and long-term care facilities to make the transition to living in less restrictive community settings. Some Senior Companions provide short-term respite for primary caregivers of frail adults in times of special need. Senior Companions have also helped their clients participate in emergency response drills, supplied information about crime prevention, and accompanied them to meetings where safety, health, and disaster response concerns are addressed.

Purpose

The purpose of this funding is to start new Senior Companion projects in geographic locations currently unserved by this program.

In addition, the Corporation encourages applicants for these grants to include, where appropriate, activities for Senior Companions that help support homeland security. The Corporation defines homeland security to include activities that support public safety, public health, and disaster preparedness and relief. For example, applicants for a Senior Companion project may propose activities that engage Senior Companions in:

- Providing clients with information and education related to the community's public safety, public health, and disaster preparedness and disaster mitigation plans and activities.
- Assisting their clients to participate in emergency response drills.
- Supplying clients with information on crime avoidance.
- Identifying potential safety, health, or emergency preparedness problems in their clients' homes, institutional environments, or neighborhoods and bringing these to the attention of professional case workers or other appropriate agencies.
- Providing transportation and/or escorting clients for medical appointments, immunizations, errands, etc.
- Providing respite to families of caregivers by caring for an adult with special needs and permitting the primary caregiver to attend meetings, volunteer, or simply become informed about local homeland security measures.
- Participating as a link between clients and community activities to prevent bias-related disorder or violence.
- Assisting crime victims who are frail or suffer from physical, mental, or emotional disabilities, where Senior Companions give support and assistance, including special referrals, as victims recover from trauma of crime and related losses.
- Assisting adults who are discharged from residential health care facilities, especially acute care facilities, who can be helped to resume a greater degree of independent living.

The above are examples only. Local communities will determine the best strategies for integrating Senior Companions into homeland security efforts, consistent with the purpose of the program. Applicants are encouraged to be creative about how Senior Companions can be part of a community or statewide effort to support homeland security. For example, SCP projects can establish relationships with local Citizens Corps Councils being supported at the state level by Governors and coordinated at the federal level by the Federal Emergency Management Agency (FEMA). For further information on these councils, visit *www.citizenscorps.gov.* Where Citizen Corps Councils have not yet been created, projects might be able to collaborate with local organizations that will make up the Citizen's Corps Council, such as Neighborhood Watches, emergency response programs, police volunteer programs, etc.

Eligible Applicants

Public agencies (including state and local agencies and other units of government), non-profit organizations, institutions of higher education and Indian Tribes are eligible to apply. Sponsors of Senior Companion projects that receive no funds from the Corporation, other than funding for Programs of National Significance (PNS), are eligible to apply. Current sponsors of Senior Companion projects funded by the Corporation are not eligible to apply for funding of a new Senior Companion project.

An organization described in section 501(c)(4) of the Internal Revenue Code of 1986, (26 U.S.C. 501(c)(4)) that engages in lobbying activities is not eligible to apply, serve as a host site for volunteers, or act in any type of supervisory role in the program.

Number and Amount of Awards

The Corporation intends to fund three Senior Companion projects in approved service areas that do not currently have a local project of the Senior Companion Program. The average amount of awards will be approximately $211,825.

Applicable Regulations

Regulations governing the SCP are located in 45 CFR part 2551. These will be provided as part of the application materials.

Foster Grandparent Projects

The Foster Grandparent Program

The Foster Grandparent Program (FGP) is authorized by the Domestic Volunteer Service Act of 1973, as amended (P.L. 93–113, Title II, Part B, 42 U.S.C. 5011 and provides opportunities for income eligible individuals 60 years of age and over to serve children and youth with special or exceptional needs on a person to person basis. The Foster Grandparent Program provides communities with valuable service by empowering older adults to contribute to their communities through volunteer service, enhance the lives of the volunteers and those whom they serve. The program began in 1965 as a national demonstration designed to show how low-income persons age 60 and over have the maturity and experience to establish a personal relationship with children having either special or exceptional needs. Today there are 34,000 Foster Grandparents providing care and attention every day to more than 220,000 qualified children and youth annually in 339 local FGP projects. Foster Grandparents volunteer in schools, hospitals, drug treatment centers, correctional institutions, and

Head Start and day care centers. They offer emotional support to children who have been abused and neglected, mentor troubled teeagers and young mothers, care for premature infants and children with physical disabilities or servere illnesses, including AIDS. In the aftermath of the September 11 tragedy, many Foster Grandparents were important sources of reassurance to the children in their care. The special relationship and high level of personal care provided by Foster Grandparents helps young people grow, gain confidence, and become more productive members of society.

Purpose

The purpose of this funding is to start new Foster Grandparent projects in geographic locations currently unserved by this program.

In addition, the Corporation encourages applicants for these grants to include, where appropriate, activities for Foster Grandparents that help support homeland security. The Corporation defines homeland security to include activities that support public safety, public health, and disaster preparedness and relief. For example, applicants for a Foster Grandparent project may propose activities that engage Foster Grandparents in:

- Providing children with age-appropriate information and education related to the community's public safety, public health, and disaster preparedness and disaster mitigation plans and activities.
- Assisting children to participate in emergency response drills.
- Supplying children with information on crime avoidance.
- Identifying potential safety, health, or emergency preparedness problems in institutional environments, or neighborhoods and bringing these to the attention of professional caseworkers or other appropriate agencies.
- Providing temporary respite to families of caregivers by caring for disabled or chronically ill children living at home, thereby permitting the primary caregiver to attend meetings, volunteer, or simply become informed about local homeland security measures.
- Participating as a link between children and community activities to prevent bias-related disorder or violence.
- Assisting children who are discharged from residential health care facilities, especially acute care facilities, who can be helped to resume a greater degree of independent living.

The above are examples only. Local communities will determine the best strategies for integrating Foster Grandparents into homeland security efforts, consistent with the purpose of the program. Applicants are encouraged to be creative about how Foster Grandparents can be part of a community or statewide effort to support homeland security. For example, FGP projects can establish relationships with local Citizens Corps Councils being supported at the state level by Governors and coordinated at the federal level by the Federal Emergency Management Agency (FEMA). For further information on these councils, visit *www.citizenscorps.gov.* Where Citizen Corps Councils have not yet been created, projects might be able to collaborate with local organizations that will make up the Citizen's Corps Council, such as Neighborhood Watches, emergency response programs, police volunteer programs, *etc.*

Eligible Applicants

Public agencies (including state and local agencies and other units of government), non-profit organizations, institutions of higher education and Indian Tribes are eligible to apply. Sponsors of Foster Grandparent projects that receive no funds from the Corporation, other than funding for Programs of National Significance (PNS), are eligible to apply. Current sponsors of Foster Grandparent projects funded by the Corporation are not eligible to apply for funding of a new Foster Grandparent project.

An organization described in section 501(c)(4) of the Internal Revenue Code of 1986, (26 U.S.C. 501(c)(4)) that engages in lobbying activities is not eligible to apply, serve as a host site for volunteers, or act in any type of supervisory role in the program.

Number and Amount of Awards

The Corporation intends to fund three Foster Grandparent projects in approved service areas that do not currently have a local project of the Foster Grandparent Program. The average amount of awards will be approximately $192,265.

Applicable Regulations

Regulations governing the FGP are located in 45 CFR part 2553. These will be provided as part of the application materials.

Dated: March 20, 2002.

Teresa Scannell,

Director, National Senior Service Corps.

[FR Doc. 02–7112 Filed 3–22–02; 8:45 am]

BILLING CODE 6050–$$–P

DELAWARE RIVER BASIN COMMISSION

Notice of Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold an informal conference followed by a public hearing on Wednesday, April 3, 2002. The hearing will be part of the Commission's regular business meeting. The conference session and business meeting both are open to the public and will be held at the Commission offices at 25 State Police Drive, West Trenton, New Jersey.

The conference among the Commissioners and staff will begin at 9:30 a.m. Topics of discussion will include: updates on the Comprehensive Plan, a set of Water Quality Standards revisions under development by the Water Quality Advisory Committee, and proposed resolutions to protect existing water quality in the Lower Delaware River; a report of the Flow Management Technical Advisory Committee concerning extending or replacing the Experimental Augmented Conservation Release Program for the New York City Delaware Basin Reservoirs; a report on the PCB Expert Panel meeting of February 12, 2002; and a proposed resolution regarding additional point source discharge monitoring required to support development of a TMDL for PCBs in the Delaware Estuary.

The subjects of the public hearing to be held during the 1:00 p.m. business meeting include, in addition to the dockets listed below, a resolution revising and extending Docket No. D–77–20 CP (Revision 4) to continue the Augmented Conservation Release Program for the New York City Delaware Basin Reservoirs, and a resolution to issue Guidelines for Developing an Integrated Resource Plan under the Delaware River Basin Commission Ground Water Protected Area Regulations.

The dockets scheduled for public hearing are as follows:

1. *Holdover Project: Philadelphia Suburban Water Company D–98–11 CP.* A project to withdraw up to 4.0 million gallons per day (mgd) from the East Branch Brandywine Creek for public water supply when streamflow exceeds 25 percent of the average daily flow and is also greater than 90 mgd for the Brandywine River at Chadds Ford. The applicant proposes to serve portions of Wallace, East Brandywine and West Brandywine Townships, all in Chester County, Pennsylvania. The intake will be situated on the east bank of the East Branch Brandywine Creek just south of

Marshall Road in Wallace Township. On a yearly use basis, withdrawal is expected to average approximately 0.76 mgd. When available, the raw water will be conveyed for storage in a nearby abandoned quarry (known as Cornog Quarry) with an estimated storage capacity of approximately 100 mg. Withdrawals ranging from 0.5 mgd to 1.0 mgd will then be made from the quarry, treated by a proposed new filter plant, and distributed to the project service area.

2. *Boeing Defense and Space Group D–94–30 (Revision).* A project to revise the NPDES Permit limits for effluent metals parameters listed in Docket No. D–94–30 to reflect modifications which are consistent with current water quality regulations. No increase in the industrial waste treatment plant (IWTP) capacity of 0.234 mgd is proposed. The IWTP will continue to serve the applicant's military aircraft manufacturing operation in Ridley Creek Township, Delaware County, Pennsylvania. No modifications of the treatment process are proposed, as the applicant continues to utilize the Best Available Treatment (BAT) for the industrial classification. IWTP effluent will continue to discharge to the tidal reach of Crum Creek in Water Quality Zone 4, about a half-mile upstream of its confluence with the Delaware River.

3. *Perkasie Borough Authority D–97–12 CP (Revision).* A ground water withdrawal project to increase the existing withdrawal from the applicant's existing Wells Nos. 5, 6, 9, 10, 11 and 12 to 40.2 mg/30 days. The project is located in the Three Mile Run and Perkiomen Creek watersheds in Perkasie Borough, Bucks County, in the Southeastern Pennsylvania Ground Water Protected Area.

4. *Mercer County Improvement Authority D–99–28 CP.* A surface water withdrawal project via a new intake on Assunpink Creek at Mercer Lake to withdraw up to 1.3 mgd of water. The new intake, in addition to an existing intake, which can also provide up to 1.3 mgd, will irrigate the applicant's Mercer Oaks II Golf Course with a total limit of 15 mg/mo. The project is located off Quakerbridge Road in West Windsor Township, Mercer County, New Jersey.

5. *Artesian Water Company D–2000–46 CP.* An application for approval of a ground water withdrawal project to supply up to 63.94 mg/30 days of water to the Delaware Correctional Center from existing Wells Nos. 1 and 2 in the Rancocas Formation; and new Wells Nos. 3 and 4 in the Mount Laurel Formation, and to limit the withdrawal from all wells to 63.94 mg/30 days. The project is located near the Town of Smyrna, New Castle County, Delaware.

6. *United Water Delaware D–2001–37 CP.* A ground water withdrawal project to supply up to 8.7 mg/30 days of water to the applicant's public water supply system for new Well No. 1 in the Potomac Formation. The project is located in the Christina River watershed in New Castle County, Delaware.

7. *Camelback Ski Corporation D–2001–40.* A project for a tiered increase of the surface water withdrawal from the applicant's intake on Pocono Creek in the Brodhead Creek Watershed from a maximum seasonal use of 84.6 mg/30 days to 130 mg/30 days during the period between December and January. Up to 50 mg is proposed in the months of November and February, and 15 mg in March. The water supplies the applicant's snowmaking operation at the Camelback Ski Resort in Pocono Township, Monroe County, Pennsylvania. During the months of April through October, the applicant will use water for minor maintenance purposes averaging less than 100,000 gpd.

8. *Philadelphia Suburban Water Company D–2001–50 CP.* A ground water withdrawal project to supply up to 7.68 mg/30 days of water to the applicant's public water supply system from new Well ''B'' in the Brunswick Formation. The project is located in the Perkiomen Creek watershed in Perkiomen Township, Montgomery County, in the Southeastern Pennsylvania Ground Water Protected Area.

9. *Aronimink Golf Club D–2001–62.* A ground water withdrawal project to supply up to 6.48 mg/30 days of water to the applicant's irrigation system from new Wells Nos. 2 and 3 in the crystalline rock of the Piedmont Province and to limit the existing withdrawal from all wells to 10.8 mg/30 days. The project is located in the Darby Creek watershed in Newtown Township, Delaware County, Pennsylvania.

10. *Hanah Country Inn D–2002–7.* A project to expand a 9,000 gpd secondary septic treatment system to treat 13,830 gpd and provide a new subsurface discharge leach field at the applicant's 900 acre lodging facility located in the Town of Middletown, Delaware County, New York. The project is in the drainage area to the Delaware River Basin Commission's Special Protection Waters. The site is located on both sides of State Route 30, between County Route 38 (Arkville Road) and East Hubbell Road. The project is in the East Branch Delaware River Watershed, upstream from Pepacton Reservoir.

In addition to the public hearing items, the Commission will address the following at its 1:00 p.m. business meeting: Minutes of the February 6, 2002 business meeting; announcements; a report on Basin hydrologic conditions; reports by the Executive Director and General Counsel; a resolution regarding additional point source discharge monitoring required to support development of a TMDL for PCBs in the Delaware Estuary; a resolution authorizing the Executive Director to enter into a grant agreement with the State of New Jersey in the amount of $100,000 for the Lower Delaware Watershed Region Program Grant: Delaware River Estuary Air, Water and Sediment Field Study; and public dialogue.

Documents relating to the dockets and other items may be examined at the Commission's offices. Preliminary dockets are available in single copies upon request. Please contact Thomas L. Brand at 609–883–9500 ext. 221 with any docket-related questions. Persons wishing to testify at this hearing are requested to register in advance with the Commission Secretary at 609–883–9500 ext. 203.

Individuals in need of an accommodation as provided for in the Americans With Disabilities Act who wish to attend the hearing should contact the Commission Secretary, Pamela M. Bush, directly at 609–883–9500 ext. 203 or through the New Jersey Relay Service at 1–800–852–7899 (TTY), to discuss how the Commission may accommodate your needs.

Dated: March 19, 2002.

Pamela M. Bush,

Commission Secretary.

[FR Doc. 02–7060 Filed 3–22–02; 8:45 am]

BILLING CODE 6360–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before May 24, 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: March 20, 2002.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information, Officer.

Office of Special Education and Rehabilitative Services

Type of Review: Revision of a currently approved collection.

Title: Report of Randolph-Sheppard Vending Facility Program.

Frequency: Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs (primary), Individuals or household, Federal Government.

Reporting and Recordkeeping Hour Burden:

Responses: 52.

Burden Hours: 702.

Abstract: The information is needed to evaluate the effectiveness of the program and to promote growth. The information is transmitted to State agencies to assist in the conduct and expansion of the program at the State level. Respondents are the designated voc. Rehab. Agencies.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting ''Browse Pending Collections'' and clicking on link number 1982. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651 or to the e-mail address *vivian.reese@ed.gov.* Requests may also be electronically mailed to the Internet address *OCIO_RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Sheila Carey at 202–708–6287. 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. 02–7091 Filed 3–22–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Proposed Agency Information Collection

AGENCY: Department of Energy (DOE).

ACTION: Notice and request for comments.

SUMMARY: The Department of Energy (DOE) invites public comment on a proposed collection of information that DOE is developing for submission to the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The proposed collection of information would implement a statutory requirement that Technology Transfer Ombudsmen report quarterly on complaints they receive.

DATES: Consideration will be given to comments submitted by May 24, 2002.

ADDRESSES: Written comments may be submitted to: Susan L. Frey, Director, Records Management Division (IM–11), Office of Records and Business Management, Office of the Chief Information Officer, U.S. Department of Energy, Germantown, Maryland 20874–1290, and Michael P. Hoffman, Office of General Counsel (GC–62), U.S. Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585.

SUPPLEMENTARY INFORMATION: This package contains:

(1) *OMB No.:* New.

(2) *Collection Title:* Technology Partnerships Ombudsmen Reporting Requirements.

(3) *Type of review:* New collection.

(4) *Purpose:* This collection of information would implement a provision in the Technology Transfer Commercialization Act of 2000 (Pub. L. 106–404) that requires Technology Transfer Ombudsmen appointed by DOE national laboratories to report quarterly on the number and nature of complaints and disputes received and the Ombudsman's assessment of their resolution.

(5) *Estimated Number of Respondents:* 24 Technology Transfer Ombudsmen.

(6) *Estimated Number of Burden Hours:* 100 (Quarterly times 24 respondents).

Request for Comments: Pursuant to 44 U.S.C. 3506(c)(2)(A), DOE invites comment on: (1) Whether the proposed collection of information is necessary; (2) the accuracy of DOE's estimate of the burden of the proposed information collection; (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 choose to respond. Additional information about DOE's proposed information collection may be obtained from the contact person named in this notice.

Statutory Authority: 44 U.S.C. 3506(c)(2)(A).

Issued in Washington, DC, on March 13, 2002.

Susan L. Frey,

Director, Records Management Division, Office of Records and Business Management, Office of the Chief Information Officer, U.S. Department of Energy.

[FR Doc. 02–7074 Filed 3–22–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Enzymatic Hydrolysis Demonstration Plant To Convert Biomass to Transportation Fuels and/or Chemicals

AGENCY: Golden Field Office, Department of Energy.

ACTION: Notice of request for expressions of interest.

SUMMARY: The Department of Energy (DOE), Golden Field Office (GO), on behalf of the Office of Fuels Development (OFD), intends to issue solicitations in support of the DOE

Biofuels Program in the FY 2003—FY 2005 timeframe. The DOE/GO anticipates issuing the initial solicitation in early FY 2003 for the research and development of a demonstration plant conceptual design, process research, and detailed design of an enzymatic hydrolysis demonstration plant to convert lignocellulosic biomass to transportation fuels (biofuels) and/or chemicals. The purpose of the demonstration plant is to provide engineering data to reduce risk, enable process guarantees, and assure commercial development of the technology. For the initial FY 2003 solicitation, DOE anticipates awarding cost-shared cooperative agreements to one or two industry-led teams. Subject to the availability of funds, DOE intends to issue a subsequent solicitation in FY 2004 for the construction and initial operation of the demonstration plant. Expressions of interest in these solicitations is requested at this time.

DATES: Please provide expressions of interest and comments by May 1, 2002, to the DOE Golden Field Office.

ADDRESSES: Submit the expressions of interest to the U.S. Department of Energy, Golden Field Office, Andrew R. Trenka, 1617 Cole Boulevard, Golden, CO 80401–3393.

FOR FURTHER INFORMATION CONTACT: Andrew R. Trenka, DOE Golden Field Office, 1617 Cole Boulevard, Golden, CO 80401–3393, via facsimile at (303) 275–4753, or electronically at *andy_trenka@nrel.gov.*

SUPPLEMENTARY INFORMATION: DOE is sponsoring the demonstration of an enzyme sugar platform. This demonstration project is a concentrated effort to use a conversion process based on the low-cost enzymes being developed under major DOE cost-shared projects by Genencor International and Novozymes Biotech Inc., to convert a large volume of biomass into cost-effective alternative transportation fuels and/or chemicals. The initial commercialization of the platform technologies may use biomass wastes and residues. The demonstration plant will provide engineering data to reduce risk, enable process guarantees and assure commercial development of the technology. Each firm, partnership, or consortia may, at its option, utilize, via a Cooperative Research and Development Agreement (CRADA), the DOE laboratories active in the DOE Biofuels research program, *i.e.* National Renewable Energy Laboratory (NREL), Oak Ridge National Laboratory (ORNL), *etc.* These laboratories could contribute specialized capabilities, facilities, or equipment to the project that would complement the partnership's capabilities. The winning team or teams will be expected to carry out multi-year technology development and demonstration efforts, including the construction and operation of the platform demonstration plant at a scale sufficient to prove the technical and economic feasibility of feedstock handling, biomass fractionation, enzymatic cellulose hydrolysis, and product fermentation(s) to products. Initial discussions suggest this scale may need to be 40–50 tons per day of input biomass feedstock (dry basis), with corn stover identified as the most plentiful agricultural residue feedstock. The scale of the plant, the feedstock, and the slate of end products will be open to the results of the initial conceptual design and technology research. However, the final products must be based on sugar fermentation and whatever feedstock is chosen should have the potential to lead to significant reductions of imported petroleum, *e.g.,* several billion gallons per year.

DOE expects the industrial partners' cost-share contribution to the initial solicitation to be at least 50% of the initial costs; however, if lower, the rational should be fully explained. Higher cost-shares will be encouraged. DOE intends to share the cost of the FY 2004 and FY 2005 demonstration plant construction efforts, with the industrial partners' contribution being at least 50% of the construction and operating costs (statutory requirement). DOE intends that its partners will have demonstrated experience in the design, construction, and operation of transportation fuels, chemicals, and/or biomass processing facilities, in addition to demonstrated access to financial markets to facilitate eventual commercialization of these technologies. Interested parties should include the following in their expressions of interest:

(1) Experience;

(2) Types of partner organizations (private, public, non-profit) with which they contemplate teaming (including anticipated DOE laboratory involvement);

(3) Any plans to co-locate the demonstration plant with an existing facility;

(4) The types of financial resources they would use to fund their cost-share of the design, process research, construction, and operation phases of the project;

(5) How they will integrate the ongoing research being undertaken by Genencor International and/or Novozymes Biotech, Inc., to produce low-cost cellulases;

(6) The approach to be followed for the planned solicitations;

(7) The approximate budget required to design, construct, and initially operate the demonstration plant;

(8) The approximate size and cost of the demonstration plant to prove the commercial viability of the conversion processes; and

(9) Any additional information or comments to assist in drafting the solicitation.

DOE held a preview technology review in Golden, Colorado, on January 30–31, 2002, and is scheduling a second pre-solicitation meeting in Golden, Colorado in May 2002 (specific date to be determined), for all interested parties to discuss the planned solicitation(s), DOE contracting procedures, intellectual property, the use of government-owned facilities, cost-sharing principles, and other issues.

Information about the platform project, DOE's cost-shared enzyme cost reduction activities, current NREL enzymatic hydrolysis research efforts and technology assessment, the DOE Biofuels program, and the pre-solicitation meeting can be found at the following URL: *http://www.ott.doe.gov/biofuels/enzyme_sugar_platform.html.*

Issued in Golden, Colorado, on February 14, 2002.

Matthew A. Barron,

Contracting Officer, Office of Acquisition and Financial Assistance.

[FR Doc. 02–7075 Filed 3–22–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Oak Ridge Reservation

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), Oak Ridge. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Wednesday, April 10, 2002, 6 p.m.–9:30 p.m.

ADDRESSES: Garden Plaza Hotel, 215 South Illinois Avenue, Oak Ridge, TN 37830.

FOR FURTHER INFORMATION CONTACT: Pat Halsey, Federal Coordinator, Department of Energy Oak Ridge

Operations Office, P.O. Box 2001, EM–922, Oak Ridge, TN 37831. Phone (865) 576–4025; Fax (865) 576–5333 or e-mail: *halseypj@oro.doe.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

1. To be determined.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Pat Halsey 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 a maximum of five minutes to present their comments at the end of the meeting.

Minutes: Minutes of this meeting will be available for public review and copying at the Department of Energy's Information Resource Center at 105 Broadway, Oak Ridge, TN between 7:30 a.m. and 5:30 p.m. Monday through Friday, or by writing to Pat Halsey, Department of Energy Oak Ridge Operations Office, P.O. Box 2001, EM–922, Oak Ridge, TN 37831, or by calling her at (865) 576–4025.

Issued at Washington, DC, on March 20, 2002.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 02–7073 Filed 3–22–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02–114–000]

Columbia Gas Transmission Corporation; Notice of Application

March 19, 2002.

Take notice that on March 14, 2001, Columbia Gas Transmission Corporation (Columbia), 12801 Fair Lakes Parkway, Fairfax, Virginia 22030–0146, filed in Docket No. CP02–114–000 an application pursuant to section 7(b) of the Natural Gas Act (NGA) for permission and approval to abandon its Well No. 6764 and associated appurtenances located in Richland County, Ohio, in Columbia's Lucas Storage Field, all as more fully set forth in the application.

Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''Rims'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance).

Columbia states that the physical condition of the facilities proposed for abandonment have deteriorated to the extent that an expensive repair or abandonment is required. Columbia further states that it has determined that repairs would be uneconomic due to the poor performance of the well.

Any questions regarding the application should be directed to Fredric J. George, Senior Attorney, Columbia Gas Transmission Corporation, P.O. Box 1273, Charleston, West Virginia 25315–1273 at (304) 357–2359.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before April 9, 2002, file with the Federal Energy Regulatory Commission, 888 First Street, NE Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-filing'' link.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–7077 Filed 3–22–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–389–045]

Columbia Gulf Transmission Company; Notice of Compliance Filing

March 19, 2002.

Take notice that on March 13, 2002, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing, as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets with an effective date of March 1, 2002:

Sixth Revised Sheet No. 20
Fifth Revised Sheet No. 20A
Fifth Revised Sheet No. 20B

Columbia Gulf states that it is filing the tariff sheets to comply with the Commission's October 24, 2001 orders approving negotiated rate agreements in Docket Nos. RP96–389–031, and –032.

Columbia Gulf states that it has served copies of the filing on all parties identified on the official service list in Docket No. RP96–389.

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.,

Deputy Secretary.

[FR Doc. 02–7080 Filed 3–22–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–984–001]

Duke Energy Enterprise, LLC; Notice of Filing

March 18, 2002.

Take notice that on March 14, 2002, Duke Energy Enterprise, LLC (Duke Enterprise) tendered for filing with the Federal Energy Regulatory Commission (Commission) pursuant to section 205 of the Federal Power Act revisions to its FERC Electric Tariff No. 1.

Duke Enterprise renews its request, pursuant to Section 35.11 of the Commission's regulations, that the Commission waive the 60-day minimum notice requirement under Section 35.3(a) of its regulations and grant an effective date for this application of February 8, 2002.

Any person desiring to intervene or to protest this filing should file 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). 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. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may 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). 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*: March 28, 2002.

Magalie R. Salas,

Secretary.

[FR Doc. 02–7035 Filed 3–22–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–1024–001]

Duke Energy Sandersville, LLC; Notice of Filing

March 18, 2002.

Take notice that on March 14, 2002, Duke Energy Sandersville, LLC (Duke Sandersville) tendered for filing pursuant to section 205 of the Federal Power Act a proposed revision to its FERC Electric Tariff No. 1.

Duke Sandersville seeks authority to sell energy and capacity, as well as ancillary services, at market-based rates, together with certain waivers and preapprovals. Duke Sandersville also seeks authority to sell, assign, or transfer transmission rights that it may acquire in the course of its marketing activities. Duke Sandersville requests an effective date of April 15, 2002, which is 60 days from the original filing date of its proposed rate schedules.

Any person desiring to intervene or to protest this filing should file 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). 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. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may 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). 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: March 28, 2002.

Magalie R. Salas,

Secretary.

[FR Doc. 02–7036 Filed 3–22–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–200–000]

El Paso Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

March 19, 2002.

Take notice that on March 14, 2002, El Paso Natural Gas Company (EPNG) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1–A, the following tariff sheets, to become effective April 14, 2002:

Original Sheet No. 271A
First Revised Original Sheet No. 290A

EPNG states that the proposed tariff provision indicates EPNG's agreement to binding arbitration of a dispute under certain circumstances if a shipper is a foreign government, an agency of a foreign government, or an entity created by them to conduct business.

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.,

Deputy Secretary.

[FR Doc. 02–7084 Filed 3–22–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT02–12–000]

Enbridge Pipelines (KPC); Notice of Proposed Changes in FERC Gas Tariff

March 19, 2002.

Take notice that on March 13, 2002, Enbridge Pipelines (KPC), formerly Kansas Pipeline Company (Enbridge KPC) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Original Sheet No. 121A, to be made effective April 1, 2002.

Enbridge KPC states that the purpose of the filing was to correct an error resulting from Enbridge KPC's filing of First Revised Volume No. 1 of its FERC Gas Tariff on September 12, 2001 in FERC Docket No. GT01–32–000. The omission happened because Original Sheet No. 222 (Original Volume No. 1) was not on the FERC Fastr System, therefore, when Enbridge KPC made the changes noted above and filed it with the Commission, it did not file the General Terms and Conditions language shown on that sheet.

Enbridge KPC states that copies of its transmittal letter has been provided by First Class mail and/or electronic communication, depending on the method that such party elected to receive such copies, 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.,

Deputy Secretary.

[FR Doc. 02–7078 Filed 3–22–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–198–000]

Florida Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

March 19, 2002.

Take notice that on March 13, 2002, Florida Gas Transmission Company (FGT) tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, with an effective date of April 12, 2002:

Fifth Revised Sheet No. 650
Fourth Revised Sheet No. 651
Fourth Revised Sheet No. 652
Fourth Revised Sheet No. 653
Fifth Revised Sheet No. 654

FGT states that on September 1, 1994, it filed a Stipulation and Agreement of Settlement (Settlement) and pro forma tariff sheets setting forth procedures for the interruption of interruptible transportation and the curtailment of firm service during periods of diminished capacity on FGT's system. The Settlement was supported by most of the customers on FGT's system. On January 12, 1995 the Commission issued an order which accepted and clarified the Settlement. (70 FERC ¶ 61,017.) The Commission issued an order on rehearing on June 2, 1995. (71 FERC ¶ 61,274.)

Also, FGT states that the Settlement, as approved and modified by the Commission, establishes procedures in subsections (g) and (h) of section 17.A.4. of the General Terms and Conditions (GT&C) of FGT's Tariff to review the Exempt Use classifications under FGT's curtailment plan. These procedures require that: the DVC [Data Verification Committee] shall meet one year after the date [November 1, 1995] of the implementation of these curtailment provisions to review the Exempt Use classifications. Thereafter, unless otherwise agreed to by the DVC, the DVC shall meet the earlier of: (i) each three years after the plan's implementation date or anniversary thereof or (ii) within sixty (60) days following the second of two firm curtailment events on FGT's system occurring within a 12-month period.

FGT states that pursuant to the terms of FGT's Tariff, the DVC met on October 4, 2001, to review, classify and establish exempt uses as shown on the referenced tariff sheets.

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.,

Deputy Secretary.

[FR Doc. 02–7082 Filed 3–22–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–1166–000]

Frederickson Power L.P.; Notice of Filing

March 18, 2002.

Take notice that on February 28, 2002, Frederickson Power L.P. (Frederickson Power) filed a notice of change of status and a Code of Conduct respecting

Frederickson Power's pending affiliation with Duke Energy Corporation.

Any person desiring to intervene or to protest this filing should file 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). 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. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may 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). 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*: March 28, 2002.

Magalie R. Salas,

Secretary.

[FR Doc. 02–7037 Filed 3–22–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–320–053]

Gulf South Pipeline Company, LP; Notice of Negotiated Rate Filing

March 19, 2002.

Take notice that on March 13, 2002, Gulf South Pipeline Company, LP (Gulf South) tendered for filing a contract between Gulf South and the following company for disclosure of a recently negotiated rate transaction. As shown on the contract, Gulf South requests an effective date of April 1, 2002.

Special Negotiated Rate Between Gulf South Pipeline Company, LP and The City of Fairhope, Contract #14497

Gulf South states that it has served copies of this filing upon all parties on the official service list created by the Secretary in this 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 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.,

Deputy Secretary.

[FR Doc. 02–7079 Filed 3–22–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–199–000]

Mississippi River Transmission Corporation; Notice of Tariff Filing

March 19, 2002.

Take notice that on March 13, 2002, Mississippi River Transmission Corporation (MRT) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following revised tariff sheets to be effective April 12, 2002:

First Revised Sheet No. 37
First Revised Sheet No. 39
Second Revised Sheet No. 40
First Revised Sheet No. 43
First Revised Sheet No. 45
First Revised Sheet No. 50
1st Rev. First Revised Sheet No. 183

MRT states that the revised tariff sheets will modify the Tariff's General Terms and Conditions and the Tariff provisions applicable to No Notice Transportation Service (Rate Schedule NNT) and Firm Storage Service (Rate Schedule FSS), to grant greater flexibility to customers in securing through their service agreements the exact services that best suit their needs, in a manner consistent with Commission policy. Specifically, MRT states that it is proposing the ability to negotiate (1) a contractual right of first refusal (''ROFR'') in certain circumstances where a regulatory ROFR otherwise would not be available to the customer pursuant to Commission regulations, (2) a reduction of a customer's contract entitlements where there has been a bypass of that customer by a third party, and (3) a process for cooperative efforts between MRT and a customer to implement any regulatory or other governmental order whereby a customer is to unbundle the services that it provides to its own customers. MRT states that the revised tariff sheets also provide additional flexibility for a storage customer with regard to the requirements governing injections into and withdrawals from MRT's storage facilities.

MRT states that it has served copies of the filing upon all customers and relevant 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.,

Deputy Secretary.

[FR Doc. 02–7083 Filed 3–22–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–157–001]

Transwestern Pipeline Company; Notice of Compliance Filing

March 19, 2002.

Take notice that on March 13, 2002, Transwestern Pipeline Company (Transwestern), tendered for filing changes in its FERC Gas Tariff, Second Revised Volume No. 1, Substitute 4th Revised Sheet No. 15, Substitute 10th Revised Sheet No. 25, and Substitute 6th Revised Sheet No. 34, proposed to be effective March 4, 2002.

Transwestern states that the above tariff sheets are being filed in compliance with the Commission's February 27, 2002 Order in Docket No. RP02–157–000. Transwestern states that in the Order, the Commission directed Transwestern to file revised tariff sheets that clearly indicate that a shipper on Transwestern's system must have title to the gas it is transporting. Therefore, Transwestern is submitting the substitute tariff sheets to clarify that the shipper must have title prior to nominating gas receipts and deliveries on Transwestern's system.

Transwestern 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.,

Deputy Secretary.

[FR Doc. 02–7081 Filed 3–22–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–1141–000, et al.]

El Paso Electric Company, et al.; Electric Rate and Corporate Regulation Filings

March 18, 2002.

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. El Paso Electric Company

[Docket No. ER02–1141–000]

Take notice that on March 14, 2002, El Paso Electric Company (El Paso) tendered for filing a Service Agreement with Arizona Electric Power Cooperative, Inc. for Firm Transmission Service under El Paso's Open Access Transmission Tariff. The Service Agreement was originally submitted for filing on February 27, 2002 but contained an erroneous service agreement designation. This filing corrects the error.

El Paso requests that the proposed Service Agreement be permitted to become effective on January 24, 2002. A copy has been served on the Texas Public Utility Commission.

Comment Date: April 4, 2002.

2. Appalachian Power Company

[Docket No. ER02–1313–000]

Take notice that on March 13, 2002, Appalachian Power Company tendered for filing an Amendment to Letter Agreement with Allegheny Energy Supply Company, L.L.C.

AEP requests an effective date of February 20, 2002. Copies of Appalachian Power Company's filing have been served upon the Virginia State Corporation Commission.

Comment Date: April 3, 2002.

3. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–1315–000]

Take notice that on March 13, 2002, Midwest Independent Transmission System Operator, Inc. (Midwest ISO) pursuant to Section 205 of the Federal Power Act, submitted for filing a Service Agreements for the transmission service requested by Tenaska Power Services Co.

A copy of this filing was sent to Tenaska Power Services Co.

Comment Date: April 3, 2002.

4. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–1316–000]

Take notice that on March 13, 2002, Midwest Independent Transmission System Operator, Inc. (Midwest ISO) pursuant to Section 205 of the Federal Power Act, submitted for filing a Service Agreements for the transmission service requested by Muscatine Power and Water.

A copy of this filing was sent to Muscatine Power and Water

Comment Date: April 3, 2002.

5. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–1317–000]

Take notice that on March 13, 2002, Midwest Independent Transmission System Operator, Inc. (Midwest ISO) pursuant to Section 205 of the Federal Power Act, submitted for filing a Service Agreements for the transmission service requested by Central Iowa Power Cooperative.

A copy of this filing was sent to Central Iowa Power Cooperative.

Comment Date: April 3, 2002.

6. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–1318–000]

Take notice that on March 13, 2002, Midwest Independent Transmission System Operator, Inc. (Midwest ISO) pursuant to Section 205 of the Federal Power Act, submitted for filing a Service Agreements for the transmission service requested by MidAmerican Energy Company (MECR).

A copy of this filing was sent to MidAmerican Energy Company (MECR).

Comment Date: April 3, 2002.

7. Zion Energy LLC

[Docket No. ER02–1319–000]

Take notice that on March 13, 2002, Zion Energy LLC (the Applicant) tendered for filing, under section 205 of the Federal Power Act (FPA), a request for authorization to make wholesale sales of electric energy, capacity, replacement reserves, and ancillary services at market-based rates, to reassign transmission capacity, and to resell firm transmission rights. Applicant proposes to own and operate a 300 MW gas-fired, simple cycle electric generating facility in the City of Zion in Lake County, Illinois. Applicant also filed a long-term Fuel Conversion Services Agreement between Wisconsin Electric Power Company and Applicant, and a power purchase agreement between Wisconsin Power & Light Company (WP&L) and Applicant for the short-term sale of capacity and energy

by Applicant to WPL. Applicant requests privileged and confidential treatment for both agreements.

Comment Date: April 3, 2002.

8. UtiliCorp United Inc.

[Docket No. ER02–1320–000]

Take notice that on March 13, 2002, UtiliCorp United Inc. (UtiliCorp), filed with the Commission, pursuant to Section 205 of the Federal Power Act, 16 USC 824d, and Part 35 of the Commission's regulations, 18 CFR 35, Amendatory Agreement No. 2 to the Multiple Interconnection & Transmission Contract between UtiliCorp United Inc. d/b/a Missouri Public Service and Kansas City Power & Light Company. (UtiliCorp's Rate Schedule FERC No. 20). This amendment provides for an additional interconnection point at the Liberty South Station in Clay County, Missouri.

Comment Date: April 3, 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.

Magalie R. Salas,

Secretary.

[FR Doc. 02–7033 Filed 3–22–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–4–001; CP01–5–002]

Maritimes & Northeast Pipeline L.L.C., and Algonquin Gas Transmission Company; Notice of Intent To Prepare an Environmental Assessment for the Proposed Maritimes Phase III/Hubline Project Amendments and Request for Comments on Environmental Issues

March 18, 2002.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the amended Maritimes Phase III/HubLine Project involving construction and operation of facilities by Maritimes & Northeast Pipeline, L.L.C. (Maritimes) in Essex County, Massachusetts and Algonquin Gas Transmission Company (Algonquin) in primarily offshore Essex, Suffolk, Plymouth, and Norfolk Counties, Massachusetts.[1] There would be minor onshore facilities in Essex, Suffolk and Norfolk Counties. The amendment would change the diameter of the already approved offshore pipeline facilities from 16 to 24 inches in diameter and from 24 to 30 inches in diameter. This EA will be used by the Commission in its decision-making process to determine whether the amendment is in the public convenience and necessity.

All applicable landowners were informed of the previously approved project and had an opportunity to participate in the process which resulted in its approval.

Summary of the Proposed Amendment

Maritimes wants to increase the diameter of its approved Phase III facilities from the Salem Meter Station to its connection with Algonquin's approved HubLine facilities in Beverly, Massachusetts. Maritimes has approval to construct and operate approximately 23.8 miles of 30-inch-diameter pipeline and 1.0 mile of 24-inch-diameter pipeline; and appurtenant facilities to include three mainline valves, one tap valve, two cathodic protection ground beds, and two meter stations. Algonquin has approval to construct and operate approximately 29.4 miles of 24-inch-diameter offshore mainline pipeline; approximately 5.4 miles of 16-inch-diameter offshore lateral pipeline to the existing Massachusetts Water Resources Authority (MWRA) Waste Water Treatment facility on Deer Island; and one new meter station on Deer Island, and a block valve and receiver and regulator facilities near the interconnect with the existing I–9 pipeline. Maritimes seeks authority to:

- Change the diameter of the approximately 1.0 mile of 24-inch-diameter pipeline to 30 inches; and
- Modify the Salem Meter Station by deleting the launcher/receiver and changing some of the metering and piping to accommodate the larger diameter pipe.

Algonquin seeks authority to:

- Change the diameter of the approximately 29.4 miles of 24-inch-diameter offshore mainline pipeline to 30 inches;
- Change the diameter of the approximately 5.4 miles of 16-inch-diameter offshore lateral pipeline to the existing Massachusetts Water Resources Authority (MWRA) Waste Water Treatment facility on Deer Island to 24 inches; and
- Modify the one new meter station on Deer Island, and a block valve and receiver and regulator facilities near the interconnect with the existing I–9 pipeline to accommodate the larger diameter pipe.

Land Requirements for Construction

The change in the pipeline diameter would result in no additional onshore land requirements from those already approved. Construction of the proposed offshore facilities with the larger pipeline diameter would disturb about 7 more acres of sea floor than currently approved.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us [2] to discover and address concerns the public may have about proposals. We call this ''scoping''. The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are considered during the preparation of the EA. State and local

[1] Maritimes' and Algonquin's applications were filed with the Commission under section 7 of the Natural Gas Act and part 157 of the Commission's regulations.

[2] ''We'', ''us'', and ''our'' refer to the environmental staff of the Office of Energy Projects (OEP).

government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed amendment under these general headings:

- Sediments
- Cultural resources
- Endangered and threatened species
- Water resources, fisheries
- Vegetation

We will also evaluate possible alternatives to the proposed modifications, and, if necessary, make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be in the EA.

To ensure your comments are considered, please carefully follow the instructions in the public participation section in this NOI beginning on page 5.

Currently Identified Environmental Issues

No additional environmental concerns beyond those identified in the final environmental impact statement [3] for the approved project have been identified for this amendment. As a result we do not anticipate revisiting many of the issues already covered by the final environmental impact statement prepared for the approved project. We also do not anticipate the need to issue the EA for public comment.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the amendment. By becoming a commentor, your concerns will be addressed in the EA and considered by the Commission. You should focus on the potential environmental effects of the amendment, alternatives to the amendment, and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send an original and two copies of your letter to:

Magalie R. Salas, Secretary
Federal Energy Regulatory Commission 888 First St., NE, Room 1A
Washington, DC 20426

- Label one copy of the comments for the attention of Gas Branch 2.
- Reference Docket Nos. CP01–4–001 and CP01–5–002.
- Mail your comments so that they will be received in Washington, DC on or before April 17, 2002.

Please note that we are continuing to experience delays in mail deliveries from the U.S. Postal Service. As a result, we will include all comments that we receive within a reasonable time frame in our environmental analysis of this amendment. However, the Commission encourages electronic filing of any comments or interventions or protests to this proceeding. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link and the link to the User's Guide. Before you can file comments you will need to create an account which can be created by clicking on ''Login to File'' and then ''New User Account.''

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding known as an ''intervenor''. Intervenors play a more formal role in the process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide 14 copies of its filings to the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (see appendix 1).[4] Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your environmental comments considered.

Additional information about the proposed amendment is available from the Commission's Office of External Affairs at (202) 208–1088 (direct line) or you can call the FERC operator at 1–800–847–8885 and ask for External Affairs. Information is also available on the FERC Web site, *www.ferc.gov*, using the ''RIMS'' link to information in this docket number. Click on the ''RIMS'' link, select ''Docket #'' from the RIMS Menu, and follow the instructions. For assistance with access to RIMS, the RIMS helpline can be reached at (202) 208–2222.

Similarly, the ''CIPS'' link on the FERC Internet Web site provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings. From the FERC Internet Web site, click on the ''CIPS'' link, select ''Docket #'' from the CIPS menu, and follow the instructions. For assistance with access to CIPS, the CIPS helpline can be reached at (202) 208–2222.

Magalie R. Salas,

Secretary.

[FR Doc. 02–7034 Filed 3–22–02; 8:45 am]

BILLING CODE 6717–01–P

[3] Phase III/HubLine Project Final Environmental Impact Statement, FERC/EIS–0136, November 2001.

[4] Interventions may also be filed electronically via the Internet in lieu of paper. See the previous discussion on filing comments electronically.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filinf and Soliciting Motions To Intervene and Protests

March 18, 2002.

a. *Type of Application*: New Major License.

b. *Project No.*: P–401–027.

c. *Date Filed*: September 14, 2001.

d. *Applicant*: Indiana Michigan Power Company.

e. *Name of Project*: Mottville Hydroelectric Project.

f. *Location*: On the St. Joseph River, in Mottville Township, St. Joseph County, Michigan. The project does not affect federal lands.

g. *Filed Pursuant to*: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact*: J.F. Norris, Jr., American Electric Power Service Corporation, 1 Riverside Plaza, Columbus, OH 43215, (614) 223–1700, or *jfnorris@aep.com*.

i. *FERC Contact*: Lee Emery (202) 219–2779 or *lee.emery@FERC.gov*.

j. *Deadline for filing motions to intervene and protest*: 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Magalie Roman Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's Rules of Practice require all interveners filing documents with the Commission to serve a copy of that document on each person on the official service list for the project.

Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Comments, motions to intervene and protests 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, *http://www.ferc.gov*, under the ''e-Filing'' link.

k. *Status of environmental analysis*: This application is not ready for environmental analysis at this time.

l. *Description of Project*: The existing Mottville Project consists of: (1) Two 17-foot high earth-filled embankments extending towards the center of the river from both riverbanks, including (i) a west embankment that is 140 feet long and has a crest width of 15 feet and extends to the powerhouse, and (ii) an east embankment that is 365 feet long and has a crest width of 8 feet and extends from the east riverbank to the spillway; (2) a 237-foot long, reinforced concrete spillway with 10 steel Taintor gates along the crest of the spillway, which are separated by 2.5-foot-wide piers between Bays 1 and 2, and 3 and 4 and 1.5-foot-wide piers between the remaining Bays with the Taintor gates being 22-feet-wide and 13-feet-high in Bays 1 and 2 and 22-feet-wide and 7.5-feet-high in Bays 3 through 10; (3) a combined powerhouse-intake structure, made of brick and concrete, that is 118 feet long, 28 feet wide, and 25 feet long; (4) 4 vertical shaft, single runner, propeller type generating units with an installed generating capacity of 420 kW each; (5) a 14.5-foot-long, 28-foot-wide, and 25-foot-long switchboard bay attached to the west end of the powerhouse; (6) a 50 horsepower, 460-volt, 3-phase air bubbler system; (7) a 15-ton overhead traveling crane; (8) a 20-foot-wide stilling basin extending across the length of the spillway; (9) a 12-inch-thick, reinforced concrete spillway apron; (10) an inoperable 4-foot-wide by 150-foot-long concrete fishway with a slope of about 25 percent; (11) sets of angled steel intake trashracks that are 3-feet 2-inches wide by 14-feet-high with 3/8-inch steel bars with 4-inch spacing between the bars; (12) a five-mile-long, 378-acre reservoir with a gross storage capacity of 2,900-acre-feet at the normal operating pool surface elevation of 770.4 NGVD; (13) a three phase, 2.4/34.5 kV transformer; and (14) other appurtenant facilities. The applicant estimates that the total average annual generation would be 7,800 MWh. All generated power is sold to Indiana Michigan Power Company's customers.

m. *Location of the Application*: A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Washington, DC 20426, or by calling (202) 208–1371. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link'select ''Docket #'' and follow the instructions (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

n. *Procedural schedule*: The application will be processed according to the following milestones, some of which may be combined to expedite processing:

Notice of NEPA scoping—March 2002

Notice that the application is ready for environmental analysis—April 2002

Notice of availability of the NEPA document—August 2002

Order issuing the Commission's decision on the application December 2002

o. Protests or Motions to Intervene—Anyone may submit a protest or motion to intervene in accordance with the requirements of Rules and Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

All filings must (1) bear in all capital letters the title ''PROTEST'' or ''MOTION TO INTERVENE;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

Magalie R. Salas,

Secretary.

[FR Doc. 02–7038 Filed 3–22–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act Meeting

March 20, 2002.

The following notice of meeting is published pursuant to section 3(A) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C 552B:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: March 27, 2002, 10:00 a.m.

PLACE: Room 2C, 888 First Street, NE, Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note: Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Magalie R. Salas, Secretary, Telephone (202) 208–0400; For a recording listing items stricken from or added to the meeting, call (202) 208–1627.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the reference and information center.

788th—Meeting, March 27, 2002; Regular Meeting, 10:00 a.m.

Administrative Agenda

A–1.
Docket# AD02–1, 000, Agency Administrative Matters

A–2.
Docket# AD02–7, 000, Customer Matters, Reliability, Security and Market Operations

Markets, Tariffs and Rates—Electric

E–1.
Omitted

E–2.
Docket# ER02–913, 000, American Electric Power Company

E–3.
Docket# ER02–854, 000, Florida Power & Light Company

E–4.
Docket# ER02–851, 000, Southern Company Services, Inc.
Other#s EL02–67, 000, Southern Company Services, Inc.

E–5.
Docket# ER02–922, 000, California Independent System Operator Corporation
Other#s EL02–51, 000, California Electricity Oversight Board v. Williams Energy Services Corporation, AES Huntington Beach LLC, AES Alamitos LLC, AES Redondo Beach LLC, Mirant Americas Energy Marketing L.P., Mirant Delta LLC, Reliant Energy Services, Inc.,

Reliant Energy Coolwater LLC, Reliant Energy Etiwanda LLC, Reliant Energy Mandalay LLC, Reliant Energy Ormand Beach LLC, Dynegy Power Marketing, Inc., Encina Power LLC, Calpine Corporation, Geysers Power Company, LLC, Southern California Edison Company, All other Public and Non-Public Utilities who own or control generation in California and who sell through the Markets or use the transmission lines operated by the California Independent System Operator Corporation and all scheduling Coordinators acting on behalf of the above Entities

E–6.
Docket# ER02–935, 000, Florida Power & Light Company

E–7.
Docket# ER02–924, 000, Michigan Electric Transmission Company

E–8.
Docket# ER02–945, 000, Louisville Gas and Electric Company and Kentucky Utilities Company

E–9. Omitted

E–10. Omitted

E–11. Omitted

E–12.
Docket# EL99–14, 003, Southwestern Electric Cooperative, Inc. v. Soyland Power Cooperative, Inc.
Other#s EL99–14, 004, Southwestern Electric Cooperative, Inc. v. Soyland Power Cooperative, Inc.

E–13.
Docket# ER01–3000, 003, International Transmission Company
Other#s RT01–101, 003, International Transmission Company
EC01–146, 003, DTE Energy Company

E–14.
Omitted

E–15.
Docket# EC02–23, 001, Trans-Elect, Inc., Michigan Transco Holdings, LP, Consumers Energy Company and Michigan Electric Transmission Company
Other#s ER02–320, 001, Trans-Elect, Inc., Michigan Transco Holdings, LP, Consumers Energy Company and Michigan Electric Transmission Company
ER02–320, 002, Trans-Elect, Inc., Michigan Transco Holdings, LP, Consumers Energy Company and Michigan Electric Transmission Company

E–16.
Omitted

E–17.
Docket# ER02–139, 002, Florida Power & Light Company
Other#s ER02–139, 001, Florida Power & Light Company

E–18.
Omitted

E–19.
Docket# ER02–485, 001, Midwest Independent Transmission System Operator, Inc.

E–20.
Docket# EC02–5, 001, Vermont Yankee Nuclear Power Corporation and Entergy Nuclear Vermont Yankee, LLC
Other#s EL02–53, 001, Vermont Yankee Nuclear Power Corporation
ER02–211, 001, Vermont Yankee Nuclear Power Corporation and Entergy Nuclear Vermont Yankee, LLC

E–21.
Docket# TX00–1, 001, United States Department of Energy—Western Area Power Administration, Colorado River Storage ProjectManagement Center
Other#s ER00–896, 001, Public Service Company of New Mexico

E–22.
Docket# ER01–770, 003, Arizona Public Service Company
Other#s ER01–917, 003, Arizona Public Service Company

E–23.
Docket# ER01–889, 010, California Independent System Operator Corporation
Other#s EL00–95, 036, San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Services Into Markets Operated by the California Independent System Operator and the California Power Exchange
ER01–889, 003, California Independent System Operator Corporation
ER01–889, 005, California Independent System Operator Corporation
ER01–889, 006, California Independent System Operator Corporation
ER01–3013, 001, California Independent System Operator Corporation
ER01–3013, 002, California Independent System Operator Corporation
ER01–889, 009, California Independent System Operator Corporation

E–24.
Docket# ER01–3141, 001, American Electric Power Service Corporation
Other#s ER01–3141, 002, American Electric Power Service Corporation
ER01–3141 003 American Electric Power Service Corporation

E–25.
Docket# ER02–84, 001, Nevada Power Company

E–26.
Docket# ER02–42, 001, GWF Energy LLC
Other#s ER00–2998, 003, Southern Company Services, Inc.
ER00–2999, 003, Southern Company Services, Inc.
ER00–3000, 003, Southern Company Services, Inc.
ER00–3001, 003, Southern Company Services, Inc.

E–27.
Docket# EL00–95, 057, San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Service Into Markets Operated by the California Independent System Operator Corporation and the California Power Exchange

E–28.
Docket# EL01–93, 004, Mirant Americas Energy Marketing, L.P., Mirant New England, LLC, Mirant Kendall, LLC and Mirant, LLC v. ISO New England, Inc.
Other#s ER00–2998, 004, Southern Company Services, Inc.
ER00–2999, 004, Southern Company Services, Inc.
ER00–3000, 004, Southern Company Services, Inc.
ER00–3001, 004, Southern Company Services, Inc.

E–29.
Docket# ER01–702, 002, American Transmission Company, LLC
Other#s OA01–8, 001, Wisconsin Electric Power Company

E–30.
Docket# EL01–117, 000, Montana Power Company

E–31.
Docket# EL02–54, 000, San Diego Gas & Electric Company

E–32.
Docket# EL02–46, 000, Generator Coalition v. Entergy Services, Inc.
Other#s ER01–2201, 000, Generator Coalition v. Entergy Services, Inc.

E–33.
Docket# EL02–26, 000, Nevada Power Company and Sierra Pacific Power Company v. Duke Energy Trading and Marketing, L.L.C., Enron Power Marketing, Inc., El Paso Merchant Energy and American Electric Power Services Corporation
Other#s EL02–28, 000, Nevada Power Company and Sierra Pacific Power Company v. Duke Energy Trading and Marketing, L.L.C., Enron Power Marketing, Inc., El Paso Merchant Energy and American Electric Power Services Corporation
EL02–29, 000, Nevada Power Company v. Morgan Stanley Capital Group, Calpine Energy Services, Reliant Energy Services, Mirant Americas Energy Marketing, BP Energy Company and Allegheny Energy Supply Company, L.L.C.
EL02–30, 000, Nevada Power Company v. Morgan Stanley Capital Group, Calpine Energy Services, Reliant Energy Services, Mirant Americas Energy Marketing, BP Energy Company and Allegheny Energy Supply Company, L.L.C.
EL02–31, 000, Nevada Power Company v. Morgan Stanley Capital Group, Calpine Energy Services, Reliant Energy Services, Mirant Americas Energy Marketing, BP Energy Company and Allegheny Energy Supply Company, L.L.C.
EL02–32, 000, Nevada Power Company v. Morgan Stanley Capital Group, Calpine Energy Services, Reliant Energy Services, Mirant Americas Energy Marketing, BP Energy Company and Allegheny Energy Supply Company, L.L.C.
EL02–33, 000, Nevada Power Company and Sierra Pacific Power Company v. Duke Energy Trading and Marketing, L.L.C., Enron Power Marketing, Inc., El Paso Merchant Energy and American Electric Power Services Corporation
EL02–34, 000, Nevada Power Company v. Morgan Stanley Capital Group, Calpine Energy Services, Reliant Energy Services, Mirant Americas Energy Marketing, BP Energy Company and Allegheny Energy Supply Company, L.L.C.
EL02–38, 000, Nevada Power Company and Sierra Pacific Power Company v. Duke Energy Trading and Marketing, L.L.C., Enron Power Marketing, Inc., El Paso Merchant Energy and American Electric Power Services Corporation
EL02–39, 000, Nevada Power Company v. Morgan Stanley Capital Group, Calpine

Energy Services, Reliant Energy Services, Mirant Americas Energy Marketing, BP Energy Company and Allegheny Energy Supply Company, L.L.C.
EL02–43, 000, Southern California Water Company v. Mirant Americas Energy Marketing, LP
EL02–56, 000, Public Utility District No. 1 of Snohomish County, Washington v. Morgan Stanley Capital Group, Inc.
E–34.
Docket# EL02–63, 000, Constellation Power Source, Inc.
E–35.
Docket# EL02–44, 000, Indeck Maine Energy, LLC v. ISO New England, Inc.
E–36.
Omitted
E–37.
Docket# ER02–711, 000, American Electric Power Service Corporation
E–38.
Docket# OA96–77, 000, Consumers Energy Company
Other#s ER97–1502, 000, Consumers Energy Company
ER98–1247, 000, Consumers Energy Company
E–39.
Docket# EL00–43, 000, UtiliCorp United, Inc. v. City of Harrisonville, Missouri
Other#s EL00–68, 000, Missouri Joint Municipal Electric Utility Commission
E–40.
Docket# EL99–65, 003, Sithe/Independence Power Partners, L.P. v. Niagara Mohawk Power Corporation
Other#s EL95–38, 003, Sithe/Independence Power Partners, L.P. v. Niagara Mohawk Power Corporation
E–41.
Omitted
E–42.
Docket# TX97–5, 000, Tennessee Power Company
E–43.
Docket# ER99–230, 001, Alliant Services Company
E–44.
Docket# EL01–78, 001, LG&E Energy Marketing, Inc. v. Southern Company Services, Inc. and Georgia Transmission Corporation
E–45.
Docket# EL01–87, 000, South Eastern Energy Corporation and Morgan Stanley Capital Group Inc. v. City of Dalton, Georgia, Georgia Transmission Corporation, Georgia Power Company and the Municipal Electric Authority of Georgia
E–46.
Docket# EL00–95, 045, San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Services Into the Markets Operated by the California Independent System Operator Corporation and the California Power Exchange
Other#s EL00–98, 042, Investigation of Practices of the California Independent System Operator and the California Power Exchange

Miscellaneous Agenda

M–1.
Reserved

Markets, Tariffs, and Rates—Gas

G–1.
Omitted
G–2.
Docket# RP02–164, 000, PG&E Gas Transmission, Northwest Corporation
G–3.
Omitted
G–4.
Docket# RP02–166, 000, Florida Gas Transmission Company
Other#s RP02–167, 000, Florida Gas Transmission Company
G–5.
Docket# RP02–185, 000, Florida Gas Transmission Company
G–6.
Docket# RP96–320, 050, Gulf South Pipeline Company, LP
G–7.
Docket# RP96–320 051 Gulf South Pipeline Company, LP
G–8.
Docket# RP02–190 000 Northern Border Pipeline Company
G–9.
Docket# GT02–11, 000, Northwest Pipeline Corporation
G–10.
Omitted
G–11.
Docket# RP02–179, 000, Williams Gas Pipelines Central, Inc.
G–12.
Docket# RP02–186, 000, Vector Pipeline L.P.
G–13.
Omitted
G–14.
Docket# RP02–174, 000, Columbia Gas Transmission Corporation
G–15.
Docket# RP02–170, 000, Columbia Gas Transmission Corporation
G–16.
Omitted
G–17.
Docket# RP02–163, 000, Florida Gas Transmission Company
G–18.
Omitted
G–19.
Docket# RP02–171, 000, Transcontinental Gas Pipe Line Corporation
G–20.
Docket# RP02–181, 000, Colorado Interstate Gas Company
G–21.
Omitted
G–22.
Omitted
G–23.
Omitted
G–24.
Docket# RP00–477, 000, Tennessee Gas Pipeline Company
Other#s RP98–99, 000, Tennessee Gas Pipeline Company
RP00–477, 001, Tennessee Gas Pipeline Company
RP01–18, 000, Tennessee Gas Pipeline Company
RP01–18, 001, Tennessee Gas Pipeline Company
G–25.
Docket# RP00–478, 000, Honeoye Storage Corporation
Other#s RP00–574, 000, Honeoye Storage Corporation
G–26.
Omitted
G–27.
Docket# RP00–414, 000, PG&E Gas Transmission, Northwest Corporation
Other#s RP01–15, 001, PG&E Gas Transmission, Northwest Corporation
RP01–15, 000, PG&E Gas Transmission, Northwest Corporation
G–28.
Docket# RP00–413, 000, Pine Needle LNG Company, LLC
Other#s RP00–554, 000, Pine Needle LNG Company, LLC
G–29.
Docket# RP00–483, 000, Sabine Pipe Line LLC
Other#s RP00–603, 000, Sabine Pipe Line LLC
G–30.
Docket# RP00–464, 000, Stingray Pipeline Company
Other#s RP00–620, 000, Stingray Pipeline Company
RP00–620, 001, Stingray Pipeline Company
G–31.
Docket# RP02–188, 000, Petal Gas Storage, L.L.C.
Other#s RP00–491, 001, Petal Gas Storage, L.L.C.
CP01–69, 003, Petal Gas Storage, L.L.C.
RP00–491, 000, Petal Gas Storage, L.L.C.
G–32.
Docket# PR02–3, 000, Bay Gas Storage Company, Ltd.
G–33.
Docket# RP01–236, 003, Transcontinental Gas Pipe Line Corporation
Other#s RP00–481, 003, Transcontinental Gas Pipe Line Corporation
RP00–553, 006, Transcontinental Gas Pipe Line Corporation
G–34.
Docket# RP95–197, 041, Transcontinental Gas Pipe Line Corporation
Other#s RP97–71, 029, Transcontinental Gas Pipe Line Corporation
G–35.
Omitted
G–36.
Docket# RP01–262, 003, Columbia Gas Transmission Corporation
G–37.
Docket# RP99–518, 026, PG&E Gas Transmission, Northwest Corporation
G–38.
Docket# RP02–143, 000, Kansas Gas Service v. Enbridge Pipelines KPC
G–39.
Docket# RP00–426, 007, Texas Gas Transmission Corporation
G–40.
Docket# RP02–176, 000, Panhandle Eastern Pipe Line Company
G–41.
Docket# RP00–482, 000, Reliant Energy Gas Transmission Company
Other#s RP00–482, 001, Reliant Energy Gas Transmission Company
RP01–12, 000, Reliant Energy Gas Transmission Company
RP01–317, 000, Reliant Energy Gas Transmission Company
G–42.

Docket# RP02–165, 000, Horizon Pipeline Company, L.L.C.

Energy Projects—Hydro

H–1.
Docket# P–12020, 001, Marseilles Hydro Power, LLC
Other#s P–12150, 000, Marseilles Land and Water Power Company
H–2.
Omitted
H–3.
Docket# P–2622, 009, International Paper Company and Turner Falls Hydro LLC
Other#s P–2622, 010, International Paper Company and Turner Falls Hydro LLC
H–4.
Docket# P–2596, 004, Rochester Gas and Electric Corporation
Other#s P–2596, 002, Rochester Gas and Electric Corporation
H–5.
Docket# P–12055, 000, Dakota Pumped Storage, LLC
Other#s P–12134, 000, South Dakota Conservancy District

Energy Projects—Certificates

C–1.
Docket# CP00–6, 003, Gulfstream Natural Gas System, L.L.C.
C–2.
Docket# CP01–415, 000, East Tennessee Natural Gas Company
C–3.
Docket# CP01–427, 000, Dominion Transmission, Inc.
C–4.
Docket# CP01–438, 000, Northwest Pipeline Corporation
C–5.
Docket# CP02–4, 000, Northwest Pipeline Corporation
C–6.
Docket# CP96–152, 029, Kansas Pipeline Company
C–7.
Docket# CP01–22, 003, North Baja Pipeline LLC
Other#s CP01–23, 002, North Baja Pipeline LLC
CP01–24, 003, North Baja Pipeline LLC
CP01–25, 003, North Baja Pipeline LLC

Magalie R. Salas,

Secretary.

[FR Doc. 02–7197 Filed 3–21–02; 11:31 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[MO 153–1153; FRL–7161–8]

Notice of Deficiency for Clean Air Act Operating Permit Program in Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of deficiency and notice of availability.

SUMMARY: Pursuant to its authority under section 502(i) of the Clean Air Act (Act) and the regulations on Federal oversight and sanctions, EPA is publishing this Notice of Deficiency (NOD) for Missouri's Clean Air Act title V operating permits program. The NOD is based upon EPA's finding that several state requirements do not meet the minimum Federal requirements. Publication of this notice is a prerequisite for withdrawal of Missouri's title V program approval, but EPA is not withdrawing the program through this action. This notice also provides information regarding the availability of additional related information.

EFFECTIVE DATE: March 25, 2002. Because this Notice of Deficiency is an adjudication and not a final rule, the Administrative Procedure Act's 30-day deferral of the effective date of a rule does not apply.

FOR FURTHER INFORMATION CONTACT: Harriett Jones, EPA, Region 7, Air, RCRA, and Toxics Division, Air Permitting and Compliance Branch (ARTD/APCO), 901 North 5th Street, Kansas City, KS 66101, (913) 551–7703, or by e-mail at *jones.harriett@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On May 22, 2000, EPA promulgated a rulemaking that extended the interim approval period of 86 operating permits programs until December 1, 2001 (65 FR 32035). The Sierra Club and the New York Public Interest Research Group challenged the action. In settling the litigation, EPA agreed to publish a notice in the **Federal Register**, so that the public would have the opportunity to identify and bring to EPA's attention alleged deficiencies in title V programs. EPA published that notice on December 11, 2000 (65 FR 77376).

As stated in the **Federal Register** notice, EPA agreed to respond by December 1, 2001, to timely public comments on programs that have obtained interim approval; and EPA agreed to respond by April 1, 2002, to timely comments on fully approved programs. EPA is publishing a NOD because the Agency has determined that deficiencies exist and is notifying all commenters in writing to explain the reasons for not making a finding of deficiency on other issues. EPA received two timely comment letters pertaining to Missouri's title V program, one from the Sierra Club and the other from the National Environmental Development Association/Clean Air Regulatory Project (NEDA/CARP). In reviewing the commenters' concerns, EPA agreed that some of the comments identify deficiencies in Missouri's program. EPA is addressing those deficiencies in this notice. In addition, the commenters raised other issues that EPA has determined are not deficiencies. EPA is responding to the commenters in writing, explaining the basis for EPA's decision.

Under EPA's permitting regulations, citizens may, at any time, petition EPA regarding alleged deficiencies in state title V operating permit programs. In addition, EPA may on its own identify deficiencies. If, in the future, EPA agrees with a new citizen petition or otherwise identifies deficiencies, EPA may issue a new NOD.

II. Description of Action

1. Modifications to Acid Rain Portion of Operating Permit

EPA's regulations at 40 CFR 70.7(e), which pertain to minor and significant modifications of operating permits, specify that permit modifications for purposes of the acid rain portion of the permit shall be governed by regulations promulgated under title IV of the Act. Although Missouri's regulations do include this requirement at 10 CSR 10–6.065(6)(E)4.B. for administrative amendments, the requirement is not included in the minor and significant permit modification procedures at 10 CSR 10–6.065(6)(E)5. Because of the omission of this requirement, the state's program does not comply with the requirements of the Act and 40 CFR part 70. The state has initiated procedures to add this requirement to its regulations.

2. Minor Permit Modifications

EPA's regulations at 40 CFR 70.7(e)(2)(ii)(C) require that an application for a minor permit modification must include certification by a responsible official that the requested modification meets the criteria for use of the minor permit modification procedures and a request that such procedures be used. The state's regulations governing minor permit modifications at 10 CSR 10–6.065(6)(E)5.B. fail to include this requirement. Because of the omission of this requirement, the state's program does not comply with the requirements of the Act and 40 CFR part 70. The state has initiated procedures to add this requirement to its regulations.

3. Contemporaneous Written Notice of Off-Permit Changes

EPA's regulations at 40 CFR 70.4(b)(14)(ii) mandate that if an approved program allows certain ''off-permit'' changes (*i.e.,* changes that are not addressed or prohibited by the permit) to be made without a permit

revision, the state's regulations must require that the source provide ''contemporaneous'' written notice of each change to the permitting authority and to EPA, except for those that are determined to be insignificant. Missouri's regulations at 10 CSR 10–6.065(6)(C)9.A. do allow certain ''off-permit'' changes to be made without a permit revision, and written notice of each change is required at 10 CSR 10–6.065(6)(C)9.B. However, although this regulation is titled ''Contemporaneous notice, except insignificant activities'', the wording of Missouri's regulation (''permittee must provide written notice of the change * * * no later than the next annual emissions report'') effectively results in allowing up to one year for notification of the change to be submitted. Therefore, EPA does not believe that the rule ensures ''contemporaneous'' submission of the written notice, and finds that the state's program does not comply with the requirements of the Act and 40 CFR part 70. The state has initiated procedures to revise this regulation accordingly.

III. Availability of EPA Responses to Citizen Comments

As discussed above, EPA is responding in writing to all timely comments that citizens submitted pursuant to the settlement agreement. For all comments not resulting in a NOD, EPA will explain why it found that a NOD was not warranted. EPA Region 7 will also post its response letters on the Internet at *http://www.epa.gov/oar/oaqps/permits/response/* or you may obtain a copy by contacting Harriett Jones, EPA Region 7, by phone at (913) 551–7730 or by e-mail at *jones.harriett@epa.gov.*

IV. Effect of Notice of Deficiency

Part 70 provides that EPA may withdraw a part 70 program approval, in whole or in part, whenever the approved program no longer complies with the requirements of part 70 and the permitting authority fails to take corrective action. 40 CFR 70.10(c)(1). This section lists a number of potential bases for program withdrawal, including the case where the permitting authority's legal authority no longer meets the requirements of part 70. 40 CFR 70.10(b) sets forth the procedures for program withdrawal, and requires as a prerequisite to withdrawal, that the permitting authority be notified of any finding of deficiency by the Administrator and that the document be published in the **Federal Register.** Today's document satisfies this requirement and constitutes a finding of program deficiency. If the permitting authority has not taken ''significant action to assure adequate administration and enforcement of the program'' within 90 days after publication of a NOD, EPA may withdraw the state program, apply any of the sanctions specified in section 179(b) of the Act, or promulgate, administer, and enforce a Federal title V program. 40 CFR 70.10(b)(2). Section 70.10(b)(3) provides that if a state has not corrected the deficiency within 18 months of the finding of deficiency, EPA will apply the sanctions under section 179(b) of the Act, in accordance with section 179(a) of the Act. In addition, section 70.10(b)(4) provides that, if the state has not corrected the deficiency within 18 months after the date of NOD, EPA must promulgate, administer, and enforce a whole or partial program within 2 years of the date of the finding.

This document is not a proposal to withdraw Missouri's title V program. Consistent with 40 CFR 70.10(b), EPA will wait at least 90 days, at which point it will determine whether Missouri has taken significant action to correct the deficiencies.

V. Administrative Requirements

Under section 307(b)(1) of the Act, petitions for judicial review of today's action may be filed in the United States Court of Appeals for the appropriate circuit by May 24, 2002.

Dated: March 12, 2002.

James B. Gulliford,

Regional Administrator, Region 7.

[FR Doc. 02–6941 Filed 3–22–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–66301; FRL–6827–6]

Notice of Receipt of Requests to Voluntarily Cancel Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of request from the registrant Earth Care, Division of United Industries Corp., (previously Pursell Industries) to cancel its registration for the product Green Up Kerb 50W, EPA Reg. No. 8660–85, which contains the pesticide pronamide. Also under section 6(f)(1) of FIFRA, EPA is issuing a notice of receipt of request from the registrant International Paint Inc., to cancel its registration for the product 673 Black Co-Poly Crab Pot, EPA Reg. No. 23566–17, which contains the pesticide tributyltin methacrylate.

The EPA received these requests for voluntary cancellation as a result of activities related to the tolerance reassessment of pronamide and discussions on potential risks of tributyltin used in antifouling paints, respectively.

DATES: Comments on the requested cancellations must be submitted to the appropriate address provided below April 24, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–66301 in the subject line of the first page of your response.

FOR FURTHER INFORMATION CONTACT: For the pronamide product, Cecelia Watson, (703) 305–4329; e-mail address watson.cecelia@epa.gov Special Review and Reregistration Division (7508C), Office of Pesticides Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. By courier: Room 604W38, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202. For the tributyltin product, Jill Bloom, (703) 308–8019; email address bloom.jill@epa.gov (Same address as above, Room 604W53).

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. You may be potentially affected by this action if you manufacture, sell, distribute, or use pesticides. The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, does not apply because this action is not a rule, for purposes of 5 U.S.C. 804(3). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person or persons listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet homepage at http://www.epa.gov/. To access this document, on the homepage select ''Laws and Regulations'' ''Regulations and Proposed Rules'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings http://www.epa.gov/fedrgstr/.

2. *In person*. Contact Cecelia R Watson at 1921 Jefferson Davis Highway, Crystal Mall #2, Rm. 604W38, Arlington VA, telephone number (703) 305–4329. Available from 6:30 am to 4:00 pm, Monday through Friday, except for federal holidays. Contact Jill Bloom at the same address, Room 604W53, telephone number (703) 308–8019.

C. How and to Whom Do I Submit Comments or request withdrawal?

You may submit comments or, if you are a registrant, request withdrawal, through the mail, in person, or electronically.

1. *By mail*. Registrants who choose to withdraw a request for cancellation of the product pronamide must submit such withdrawal in writing to Cecelia R Watson, at the above address, postmarked April 24, 2002. Registrants who choose to withdraw a request for cancellation of the tributyltin product must submit such withdrawal in writing to Jill Bloom, at the above address, postmarked April 24, 2002.

2. *In person or by courier*. Deliver your withdrawal request to: Document Processing Desk (DPD), Information Services Branch, Office of Pesticides Programs (OPP), Environmental Protection Agency, Rm. 266A, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The DPD is open from 8:00 am to 4:30 pm, Monday through Friday, except for federal holidays. The DPD telephone number is (703) 305–5263.

3. *Electronically*. You may submit your comments electronically by e-mail to: watson.cecelia@epa.gov or bloom.jill@epa.gov. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format.

II. What Action is the Agency Taking?

Section 6(f)(1) of FIFRA provides that a registrant of pesticide products may at any time request that any of its pesticides registrations be cancelled. The Act further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, the Administrator may approve such a request.

This notice announces receipt by the Agency of request from registrants to cancel certain product registrations. These registrations are listed in the following Table 1 by registration number, product name, and active ingredient.

TABLE 1.—REGISTRATIONS REQUESTED TO BE CANCELLED

Registration No.	Product Name	Active Ingredients
8660–85	Green Up Kerb WB 50	Pronamide
23566–17	673 Black Co-Poly Crab Pot Paint	Tributyltin methacrylate

Note: EPA companies number 8660 and 23566 have waived the 180 day comment period for registrations listed.

Users of these products who desire continued use of the products being cancelled should contact the applicable registrant before [insert date 30 days from date of publication in Federal Register] unless indicated otherwise, to discuss withdrawal of the application for amendment. This 30-day period also permits interested members of the public to intercede with the registrant prior to the Agency's approval of the deletion.

The following Table 2 includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA company number.

TABLE 2.—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION

EPA Company No	Company Name and Address
8660	Earth Care, Division of United Corporation, P.O. Box 142642,St. Louis, MO 63114–0642
23566	International Paint Inc.,2270 Morris Ave., Union, NJ 07083

III. Provision for Disposition of Existing Stocks

Earth Care and International Paints Inc. have informed the Agency that they do not need any time to sell or distribute their existing stock of products EPA Reg. No. 8660–85 and EPA Reg No. 23566–17. As a result, the Agency has not authorized further sale or distribution of these products by the registrants.

IV. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for cancellation must submit such withdrawal in writing to the person listed under **FOR FURTHER INFORMATION CONTACT**, postmarked before September 23, 2002. This written withdrawal of the request for cancellation will apply only to the applicable FIFRA section 6(f)(1) request listed in this notice. If the product(s) have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling. The withdrawal request must also include a commitment to pay any reregistration fees due, and to fulfill any applicable unsatisfied data requirements.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: March 15, 2002.

Lois A. Rossi,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 02–7100 Filed 3–22–02; 8:45 a.m.]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[PF–1076; FRL–6827–8]

Notice of Filing a Pesticide Petition to Amend An Existing Tolerance for a Certain Microbial Pesticide Chemical in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the amendment of a pesticide petition proposing the revision of regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by docket control number PF–1076, must be received on or before April 24, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION**. To ensure

proper receipt by EPA, it is imperative that you identify docket control number PF–1076 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Shanaz Bacchus,Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8097; e-mail address: bacchus.shanaz@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

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

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an official record for this action under docket control number PF–1076. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–1076 in the subject line on the first page of your response.

1. *By mail*. Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically*. You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number PF–1076. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that youprovide.

5. Provide specific examples to illustrate your concerns.

6. Make sure to submit your comments by the deadline in this notice.

7. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received an amended pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide microbial in or on various food commodities under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains

data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated:March 14, 2002.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

Summary of Petition

The petitioner summary of the pesticide petition is printed below as required by section 408(d)(3) of the FFDCA. The summary of the petition was prepared by the petitioner and represents the view of the petitioner. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

Interregional Research Project Number 4

PP 5E4575

EPA has received an amended pesticide petition PP 5E4575 from Interregional Research Project Number 4 (IR–4), proposing pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to amend 40 CFR 180.1206 to extend the temporary exemption from tolerance for residues of the non-aflatoxin-producing microbial pesticide *Aspergillus flavus* AF 36 in/on cotton. This amended petition is filed by IR–4, New Jersey Agricultural Experiment Station, Technology Center of New Jersey, Technology Centre of New Jersey, 681 U. S. Highway #1 South, North Brunswick, NJ 08902–3390 on behalf of the USDA/ARS Southern Regional Center, 1100 Robert E. Lee Blvd., New Orleans, LA 70179–0687. The amendment seeks to extend the current temporary exemption from tolerance to include cotton treated with *A. flavus* AF36 in 9 counties in Texas. They propose to continue trials to collect research data, in accordance with Experimental Use Permit 69224–EUP–1, in both Arizona and Texas until December 31, 2005. (See 64 FR 8358, February 19, 1999) (FRL–6057–3)

The EUP currently allows for application of 200,000 pounds (90,179 kg) of the microbial pesticide to a total of 20,000 acres of commercial cotton fields in 5 counties in Arizona including Yuma, LaPaz, Maricopa, Mohave and Pinal counties. In addition to the 20,000 acres in AZ, they propose to apply a total of 20,000 pounds (9,018 kg) of the microbial pesticide on 2,000 acres of commercial cotton fields in 9 counties in Texas (Nueces, San Patricio, Bee, Calhoon, Jackson, Wharton, Hildalgo, Cameron, and Willacy counties).

Pursuant to section 408(d)(2)(A)(i) of the FFDCA, as amended, IR–4 and USDA ARS Southern Regional Center have submitted summaries of information, data, and arguments in support of their pesticide petition, to comply with the Food Quality Protection Act of 1996. The database was evaluated by EPA and a final rule published in the **Federal Register** on May 26, 1999 (Volume 64, Number 101) Page 28371. The temporary exemption from tolerance and the EUP were extended until December 30, 2003, as published in the **Federal Register** on May 23, 2001 (Volume 66, Number 100) Page 28383–28386. *Aspergillus flavus* AF36 is an atoxigenic strain which is proposed to displace the toxic aflatoxin-producing strains of *A. flavus* as discussed in the aforementioned final rule.

[FR Doc. 02–7101 Filed 3–22–02; 8:45 a.m.]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collections Approved by Office of Management and Budget

March 18, 2002.

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.: 3060–1005.

Expiration Date: 07/31/2002.

Title: Numbering Resource Optimization—Phase 3.

Form No.: N/A.

Respondents: Business or other for-profit; State, Local or Tribal Government.

Estimated Annual Burden: 53 respondents; 63.7 hour per response (avg.); 3380 total annual burden hours (for all collections under this control number).

Estimated Annual Reporting and Recordkeeping Cost Burden: $12,000.

Frequency of Response: On occasion; Third Party Disclosure.

Description: In the Communications Act of 1934, as amended by the Telecommunications Act of 1996, the Federal Communications Commission (Commission) was given ''exclusive jurisdiction over those portions of the North American Numbering Plan that pertain to the United States.'' Pursuant to that authority, the Commission conducted a rulemaking that, among other things, addressed regular reporting on numbering use by United States carriers. In the Third Report and Order and Second Order on Reconsideration in CC Docket No. 96–98 and CC Docket No. 99–200 (Third Report and Order), the Commission addresses the federal cost recovery mechanism, including the requirement for price cap carriers to file tariffs reflecting recovery through an exogenous recovery adjustment for a two-year period beginning April 2, 2002.

A. Reporting Requirements for Federal Cost Recovery

Section 251(e)(2) of the Act requires that ''[t]he cost of establishing telecommunications numbering administration arrangements and number portability shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission.'' This statutory provision applies both to the costs of numbering administration and to the costs of Local Number Portability (LNP). In the Third Report and Order, the Commission establishes a federal cost recovery mechanism under which price cap LECs may recover their extraordinary carrier-specific costs directly related to thousands-block number pooling through an exogenous adjustment to access charges. However, because thousands-block number pooling may actually reduce network costs, in order for carriers to qualify for the exogenous adjustment to access charges, the Commission requires them to demonstrate that pooling results in a net cost increase rather than a cost reduction. (*No. of respondents:* 18;

hours per response: 85 hours; *total annual burden:* 1530 hours).

B. Request for Safety Valve Mechanism by State Commission

In the Third Report and Order, the Commission established a safety valve to ensure that carriers experiencing rapid growth in a given market will be able to meet customer demand. States may use the safety valve to grant requests from carriers that demonstrate the following: (1) The carrier will exhaust its numbering resources in a market or rate area within three months (in lieu of 6 months-to-exhaust requirement); and (2) projected growth is based on the carrier's actual growth in the market or rate area, or in the carrier's actual growth in a reasonably comparable market, but only if that projected growth varies no more than 15 percent from historical growth in the relevant market. States may also grant relief if a carrier demonstrates that it has received a customer request for numbering resources in a given rate center that it cannot meet with its current inventory. Carriers may demonstrate such a need by providing the state with documentation of the customer request and current proof of utilization in the rate center. (*No. of respondents:* 15; *hours per response:* 50 hours; *total annual burden:* 750 hours).

C. Request for Delegated Authority To Implement Service-Specific and Technology-Specific Area Code Overlays

The Commission lifted the ban on service-specific and technology-specific overlays (collectively, specialized overlays or SOs) and will allow state commissions seeking to implement SOs to request delegated authority to do so on a case-by-case basis. State commission seeking to implement service-specific and/or technology-specific area code overlays, must request delegated authority to do so. As an initial matter, a state commission seeking to implement a SO should discuss why the numbering resource optimization benefits of the proposed SO would be superior to implementation of an all-services overlay. State commissions should also specifically address the following: (1) The technologies or services to be included in the SO; (2) the geographic area to be covered; (3) whether the SO will be transitional; (4) when the SO will be implemented and, if a transitional SO is proposed, when the SO will become an all-services overlay; (5) whether the SO will include take-backs; (6) whether there will be 10-digit dialing in the SO and the underlying area code(s); (7) whether the SO and underlying area code(s) will be subject to rationing; and (8) whether the SO will cover an area in which pooling is taking place. (*No. of respondents:* 20; *hours per response:* 55 hours; *total annual burden:* 1100 hours). Data from such reporting will be used by the Commission to determine whether carriers properly qualified for the exogenous adjustment to access charges because pooling resulted in a net cost increase. *Obligation to respond:* Required to obtain or retain benefits.

OMB Control No.: 3060–0470.

Expiration Date: 03/31/2005.

Title: 47 CFR Sections 64.901–64.903, Allocation of Cost, Cost Allocation Manual and RAO Letters 19 and 26.

Form No.: N/A.

Respondents: Business or other for-profit.

Estimated Annual Burden: 5 respondents; 400 hour per response (avg.); 2000 total annual burden hours (for all collections under this control number).

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion; Annually.

Description: Section 201(b) of the Communications Act of 1934, as amended, requires that common carriers establish just and reasonable charges, practices and regulation for the services they provide; the Commission is responsible for regulating the telecommunications industry and ensuring that common carriers abide by its mandate. Pursuant to Section 64.901 carriers are required to separate their regulated costs from nonregulated cost using the attributable cost method of cost allocation. Carriers must follow the principles described in Section 64.901. Section 64.903(a) requires local exchange carriers with annual operating revenues equal to or above the indexed revenue threshold as defined in 47 CFR 32.9000 to file a cost allocation manual, except mid-sized incumbent local exchange carriers, containing the information specified in Section 64.903(a)(1)–(6). Section 64.903(b) requires that carriers update their cost allocation manuals at least annually, except that changes to the cost apportionment table and the description of time reporting procedures must be filed at the time of implementation. Proposed changes in the description of time reporting procedures, the statement concerning affiliate transactions, and the cost apportionment table must be accompanied by a statement quantifying the impact of each change on regulated operations. Changes in the description of time reporting procedures and the statement concerning affiliate transactions must be quantified in $100,000 increments at the account level. Changes in the cost apportionment table must be quantified in $100,000 increments at the cost pool level. Moreover, filing of cost allocation manuals and occasional updates are subject to the uniform format and standard procedures specified in RAO Letter 19. RAO Letter 26 provides guidance to carriers in revising their CAMS to reflect changes to the affiliate transactions rules pursuant to the Accounting Safeguards Order. In CC Docket No. 01–199, the Commission eliminated the annual CAM updates and filing of other changes for mid-sized carriers. While mid-sized carriers no longer will be required to annually file a CAM, they, like all other carriers, must be prepared to produce documentation of how they separate regulated from nonregulated costs to the Bureau, upon request. The cost allocation manual is reviewed by the Commission to ensure that all costs are properly classified between regulated and nonregulated activity. Uniformity in the CAMs will help improve the joint cost allocation process. In addition, this uniformity will give the Commission greater reliability in financial data submitted by the carriers through the Automated Reporting Management Information System (ARMIS). Obligation to respond: Mandatory.

OMB Control No.: 3060–0384.

Expiration Date: 03/31/2005.

Title: Auditor's Attestation and Certification—Sections 64.904 and 64.905.

Form No.: N/A.

Respondents: Business or other for-profit.

Estimated Annual Burden: 12 respondents; 107.08 hour per response (avg.); 1285 total annual burden hours (for all collections under this control number).

Estimated Annual Reporting and Recordkeeping Cost Burden: $1,200,000.

Frequency of Response: On occasion; Annually; Biennially.

Description: Section 201(b) of the Communications Act of 1934, as amended, requires that common carriers establish just and reasonable charges, practices, and regulations for the service they provide. The Commission is responsible for regulating the telecommunications industry and ensuring that common carriers abide by its mandate. Since common carriers are allowed to provide non-common carrier services, the Commission must establish mechanisms to control cost shifting,

inhibiting carriers from imposing on ratepayers for regulated interstate services the costs and risks of nonregulated ventures. Pursuant to section 64.904(a), each incumbent local exchange carrier required to file a cost allocation manual shall elect to either (1) have an attest engagement performed by an independent auditor every two years, covering the prior two year period, or (2) have a financial audit performed by an independent auditor every two years, covering the prior two year period. In either case, the initial engagement shall be performed in the calendar year after the carrier is first required to file a cost allocation manual. See 47 CFR 64.904 (a)–(c). In CC Docket 00–199, the Commission eliminated the requirement that CAMs of mid-sized carriers be subject to an attest audit every two years. Instead of requiring mid-sized carriers to incur the expense of a biennial attestation engagement, they will file a certification with the Commission stating that they are complying with section 64.901 of the Commission's rules. The certification must be signed, under oath, by an officer of the incumbent LEC, and filed with the Commission on an annual basis. Such certification of compliance represents a less costly means of enforcing compliance with our cost allocation rules. See 47 CFR Section 64.905. The independent audit requirement is imposed to ensure that the carriers are properly implementing their cost allocation manual. The independent audits serve as an important aid in the Commission's monitoring program. Obligation to respond: Required to obtain or retain benefits.

OMB Control No.: 3060–0734.

Expiration Date: 03/31/2005.

Title: Accounting Safeguards, CC Docket No. 96–150 (47 U.S.C. Sections 260, 271–276 and 47 CFR Sections 53.209, 53.211 and 53.213).

Form No.: N/A.

Respondents: Businesses or other for-profit.

Estimated Annual Burden: 27 respondents; 4587.37 hours per response (avg.); 123,859 total annual burden hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $632,500.

Frequency of Response: On occasion; Biennially; Annually; Recordkeeping; Third Party Disclosure.

Description: In a Report and Order issued in CC Docket No. 96–150, the Commission addressed the accounting safeguards necessary to satisfy the requirements of Sections 260 and 271 through 276 of the Telecommunications Act of 1996. The Report and Order prescribed the way incumbent local exchange carriers (ILECs), including the Bell Operating Companies (BOCs), must account for transactions with affiliates involving, and allocate costs incurred in the provision of, both regulated telecommunications services and nonregulated services, including telemessaging, interLATA telecommunications and information services, telecommunications equipment and CPE manufacturing and others. In CC Docket No. 00–199, the Commission adopted a $500,000 threshold for transactions involving asset transfers. The $500,000 threshold represents a de minimus exception to the affiliate transaction fair market valuation rules. Carriers are still required to follow the affiliate transactions rules in recordkeeping these transactions in their books of accounts, however, they will not have to make the comparison between fair market value and fully distributed costs. The required information enables the Commission to ensure that the subscribers to regulated telecommunications services to not bear the costs of these new nonregulated services and that transactions between affiliates and carriers will be at prices that do not ultimately result in unfair rates being charged to ratepayers. Obligation to respond: Mandatory.

OMB Control No.: 3060–0370.

Expiration Date: 03/31/2005.

Title: Part 32—Uniform System of Accounts for Telecommunications Companies.

Form No.: N/A.

Respondents: Business or other for-profit.

Estimated Annual Burden: 239 respondents; 6,123.41 hour per response (avg.); 1,463,496 total annual burden hours (for all collections under this control number).

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion; Recordkeeping.

Description: Section 220 of the Communications Act of 1934, as amended, 47 U.S.C. 220, allows the Commission, in its discretion, to prescribe the forms of any and all accounts, records, and memoranda to be kept by carriers subject to this Act, including the accounts, records and memoranda of the movement of traffic, as well as of the receipts and expenditures of moneys. Section 219(b) of the Communications Act, as amended, 47 U.S.C. 219(b), authorizes the Commission by general or special orders to require any carrier subject to this Act to file monthly reports of earnings and expenses and to file periodical and/or special reports concerning any matters with respect to which the Commission authorized or required by law to act. The Uniform System of Accounts is a historical financial accounting system which reports the results of operational and financial events in a manner which enables both management and regulators to assess these results within a specified accounting period. Subject respondents are telecommunications companies. Entities having annual revenues from regulatory telecommunications operations of less than $114 million are designated as Class B and are subject to a less detailed accounting system than those designated as Class A companies. See 47 CFR part 32. In CC Docket No. 00–199, the Commission conducted its second comprehensive, biennial review of the accounting rules and the Automated Reporting Management Information System (ARMIS) reporting requirements that apply to incumbent local exchange carriers (LECs). The Commission made four major accounting and reporting reforms. The Commission substantially consolidated and streamlined Class A and reduced Class B accounting requirements; relaxed certain aspects of its affiliate transactions rules; significantly reduced the cost of regulatory compliance with its cost allocation rules for mid-sized carriers; and reduced the ARMIS reporting requirements for both large and mid-sized LECs. Obligation to respond: Mandatory.

Public reporting burden for the collections of information are as noted above. Send comments regarding the burden estimates 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,

Acting Secretary.

[FR Doc. 02–7017 Filed 3–22–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Election Administration Advisory Panel: Reestablishment of Charter

AGENCY: Federal Election Commission.

ACTION: Notice of Election Administration Advisory Panel: Advisory Panel Charter Reestablishment.

SUMMARY: The Federal Election Commission announces the reestablishment of the charter for the Election Administration Advisory Panel. The purpose of the Panel is to provide advice and consultation to the FEC's Office of Election Administration with respect to its research programs on election administration. The FEC adheres to the following criteria in the structuring of the twenty-member group: 1. The Panel should include representation of election officials from the major geographic subdivisions of the country as well as urban and rural areas. 2. The Panel membership should be bipartisan. 3. Every effort should be made to ensure a racially, ethnically and gender balanced Panel. The above criteria provide varied points of view that result in invaluable advice and counsel.

FOR FURTHER INFORMATION CONTACT: Bryan Whitener, Office of Election Administration, Federal Election Commission, 999 E Street, NW., Washington, DC 20463. Telephone: (202) 694–1095; Toll Free (800) 424–9530 (option 4).

Dated: March 19, 2002.

R. Bryan Whitener,

Election Specialist, Office of Election Administration, Federal Election Commission.

[FR Doc. 02–7031 Filed 3–22–02; 8:45 am]

BILLING CODE 6715–01–M

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 April 8, 2002.

A. Federal Reserve Bank of Minneapolis (Julie Stackhouse, Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. Mildred M. Hansen and Mildred M. Hansen Trust, Currie, Minnesota, and Donald Hansen, Slayton, Minnesota; to retain voting shares of Currie Bancorporation, Inc., Currie, Minnesota, and thereby indirectly retain voting shares of Currie State Bank, Currie, Minnesota.

Board of Governors of the Federal Reserve System, March 19, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–7059 Filed 3–22–02; 8:45 am]

BILLING CODE 6210–01–S

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0250]

Proposed Collection for Public Comments; Comment Request Entitled Zero Burden Information Collection Reports

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance (2090–0250), Zero Burden Information Collection Reports.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the General Services Administration (GSA) will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Zero Burden Information Collection Reports.

Public comments are particularly invited on: Whether this collection of information is necessary 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.

DATES: May 24, 2002.

ADDRESSES: Submit comments regarding this information collection to Stephanie Morris, General Services Administration, Acquisition Policy Division, 1800 F Street, NW., Room 4035, Washington, DC 20405 or fax to (202) 501–4067. Please cite OMB Control Number 3090–0250.

FOR FURTHER INFORMATION CONTACT: Linda Nelson, Acquisition Policy Division, GAS (202) 501–1900.

SUPPLEMENTARY INFORMATION:

A. Purpose

The GSA will be requesting the Office of Management and Budget (OMB) to review and approve information collection, 3090–0250, Zero Burden Information Collection Reports.

This information requirement consists of reports that do not impose collection burdens upon the public. These collections require information which is already available to the public at large or that is routinely exchanged by firms during the normal course of business. A general control number for these collections decreases the amount of paperwork generated by the approval process. Since May 10, 1992, GSA has published two rules that fall under Information Collection 3090–0250: ''Implementation of Public Law 99–506'' published at 56 FR 29442, June 27, 1991, and ''Industrial Funding Fee'' published at 62 FR 38475, July 18, 1997.

B. Annual Reporting Burden

None.

Obtaining Copies of Proposal

Requester may obtain a copy of the proposal from the General Services Administration, Acquisition Policy Division (MVP), 1800 F Street, NW., Room 4035, Washington, DC 20405, telephone (202) 501–4744. Please cite OMB Control No. 3090–0250, Zero Burden Information Collection Reports.

Dated: March 19, 2002.

Michael W. Carleton,

Chief Information Officer (I).

[FR Doc. 02–7139 Filed 3–22–02; 8:45 am]

BILLING CODE 6820–61–M

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0112]

Submission for OMB Review; Comment Request Entitled State Agency Monthly Donation Report of Surplus Property

AGENCY: Federal Supply Service, GSA.

ACTION: Notice of request for an extension to an existing OMB clearance (3090–0112).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Office of Acquisition Policy has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning GSA Form 3040, State Agency Monthly Donation Report of Surplus Personnel Property. A request

for public comments was published at 67 FR 331, January 3, 2002. No comments were received.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the GSA, to conduct a report assessing the distribution of surplus property, 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.

DATES: April 24, 2002.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to Ms. Jeanette Thornton, GSA Desk Officer, OMB, Room 10236, NEOB, Washington, DC 20503, and a copy to Ms. Stephanie Morris, General Services Administration (MVP), Room 4035, 1800 F Street, NW., Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Denise Thomas, Federal Supply Services (703) 308–0742.

SUPPLEMENTARY INFORMATION:

A. Purpose

The General Services Administration is requesting the Office of Management and Budget (OMB) to renew information collection, 3090–0112, concerning GSA Form 3040, State Agency Monthly Donation Report of Surplus Personal Property. This report complies with Public Law 94–519, which requires annual reports of donations of personal property to public agencies for use in carrying out such purposes as conservation, economic development, education, parks and recreation, public health, and public safety.

B. Annual Reporting Burden

Respondents: 55.
Annual responses: 220.
Burden hours: 330.

Copy of Proposal

A copy of this proposal may be obtained from the General Services Administration, Acquisition Policy Division (MVP), Room 4035, 1800 F Street NW., Washington, DC 20405, or by telephoning (202) 501–4744, or by faxing your request to (202) 501–4067. Please cite OMB Control No. 3090–0112, State Agency Monthly Donation Report of Surplus Property, in all correspondence.

Dated: March 19, 2002.

Michael W. Carleton,

Chief Information Officer (I).

[FR Doc. 02–7136 Filed 3–22–02; 8:45 am]

BILLING CODE 6820–61–M

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0023]

Submission for OMB Review: Comment Request Entitled Surplus Personal Property Mailing List Application

AGENCY: Property Management Division (FBP), GSA.

ACTION: Notice of request for an extension to an existing approved OMB clearance (3090–0023).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Office of Acquisition Policy has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved collection concerning Surplus Personal Property Mailing List Application. A request for public comments was published at 67 FR 330, January 3, 2002. No comments were received.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the GSA, mainly on the Surplus Mailing List, 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.

DATES: April 24, 2002.

FOR FURTHER INFORMATION CONTACT: Victor Arnold-Bik, Property Management Division, GSA (703) 305–5809.

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 Ms. Jeanette Thornton, GSA Desk Officer, OMB, Room 10236, NEOB, Washington, DC 20503, and a copy to Ms. Stephanie Morris, General Services Administration (MVP), 1800 F Street, NW., Room 4035, Washington, DC 20405.

SUPPLEMENTARY INFORMATION:

A. Purpose

The General Services Administration is requesting the Office of Management and Budget (OMB) to extend a currently approved information collection, 3090–0023, concerning Surplus Personal Property Mailing List Application. This GSA Form 2170 is completed by persons who wish to have their names placed on the Surplus Personal Property Mailing List maintained by GSA Regional Sales Offices. Mailing labels are produced based on the type of property and geographical area indicated by the prospective bidder on the mailing list application.

B. Annual Reporting Burden

Respondents: 12,000.
Annual responses: 12,000.
Burden hours: 996.

Obtaining Copies of Proposals

A copy of this proposal may be obtained from the General Services Administration, Acquisition Policy Division (MVP), Room 4035, 1800 F Street, NW., Washington, DC 20405, or by telephoning (202) 501–4744, or by faxing your request to (202) 501–4067. Please cite OMB Control No. 3090–0023, Surplus Personal Property Mailing List Application, in all correspondence.

Dated: March 19, 2002.

Michael W. Carleton,

Chief Information Officer (I).

[FR Doc. 02–7137 Filed 3–22–02; 8:45 am]

BILLING CODE 6820–61–M

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0006]

Submission for OMB Review: Comment Request Entitled GSAR Clause, 552.237–71, Qualifications of Employees

AGENCY: General Services Administration (GSA).

ACTION: Notice of request for an extension to an existing OMB clearance 3090–0006.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the General Services Administration 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 GSAR Clause, Qualifications of Employees. Information collected under this authority is required by regulation. A request for public comments was published at 67 FR 330, January 3, 2002. No comments were received.

Public comments are particularly invited on: Whether this information collection generated by the GSAR Clause, Qualifications of Employees, is necessary for security reasons, to properly determine if an employee is suitable to work under a GSA service contract for guards, child care, cleaning, and maintenance contract; 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.

DATES: April 24, 2002.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to Ms. Jeanette Thorton, GSA Desk Officer, OMB, Room 10236, NEOB, Washington, DC 20503, and a copy to Ms. Stephanie Morris, General Services Administration (MVP), Room 4035, 1800 F Street, NW., Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Julia Wise, Acquisition Policy Division, GSA (202) 208–1168.

SUPPLEMENTARY INFORMATION:

A. Purpose

The General Services Administration has various mission responsibilities related to the acquisition and provision of service contracts. These mission responsibilities generate requirements that are realized through the solicitation and award of service contracts for guards, childcare, cleaning, and maintenance. Individual solicitations and resulting contracts may impose unique information collection/reporting requirements on contractors, not required by regulation, but necessary to evaluate particular program accomplishments and measure success in meeting program objectives.

B. Annual Reporting Burden

Respondents: 15,496.
Responses Per Respondent: 1.
Total Responses: 15,496.
Hours Per Response: 1.
Total Burden Hours: 15, 496.

Obtaining Copies of Proposals

A copy of this proposal may be obtained from the General Services Administration, Acquisition Policy Division (MVP), Room 4035, 1800 F Street, NW., Washington, DC 20405, or by telephoning (202) 501–4744, or by faxing your request to (202) 501–4067. Please cite OMB Control No. 3090–0006, Qualifications of Employees, in all correspondence.

Dated: March 19, 2002.

Michael W. Carleton,

Chief Information Officer (I).

[FR Doc. 02–7138 Filed 3–22–02; 8:45 am]

BILLING CODE 6820–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Secretary's Advisory Committee on Genetic Testing; Request for Public Comment

AGENCY: Office of the Secretary, DHHS.

ACTION: Request for public comment on a draft information brochure on genetic tests for the general public.

SUMMARY: The Secretary's Advisory Committee on Genetic Testing (SACGT) is seeking public comment on a draft information brochure entitled *Genetic Testing: Some Basic Questions and Answers.* The content of the brochure is reproduced below. The brochure's objective is to provide an overview of genetic tests and to outline some questions to consider about having a genetic test. Its target audience is the general public.

DATES: The public is encouraged to provide written comments on the draft brochure by April 19, 2002. Comments may be sent by mail (SACGT, National Institutes of Health, Office of Biotechnology Activities, 6705 Rockledge Drive, Suite 750, Bethesda, Maryland 20892), facsimile (301–496–9839), or email (*sc112c@nih.gov).* All public comments received will be available for public inspection at the SACGT office between the hours of 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Questions about this request can be directed to Ms. Sarah Carr, SACGT Executive Secretary, by e-mail, *sc112c@nih.gov*, or telephone (301–496–9838). The draft brochure also will be posted on SACGT's website for review and comment.

SUPPLEMENTARY INFORMATION:

Ensuring the appropriate use of genetic tests is an important challenge, requiring dedicated efforts on several fronts, including public education. A well-informed public will have a basic understanding about the benefits, risks, and implications of genetic tests and, should the situation arise, will know what questions to ask to make an informed decision about whether to have a genetic test. SACGT has developed the following draft information brochure, *Genetic Testing: Some Basic Questions and Answers,* to help inform the general public about genetic tests and to suggest the type of questions they should consider asking if they are faced with a decision about whether to have a genetic test.

Using a question and answer format, the brochure explains what genetic tests are, the different purposes for which they are used, how they are similar to and different from other medical tests, and some of their limitations and possible outcomes (potential benefits and risks); addresses insurance policy implications, privacy, confidentiality, and discrimination; provides informational and services resources; and outlines questions to ask oneself and one's healthcare provider when considering a genetic test. The brochure does not provide information about specific genetic tests nor is it intended for patients or consumers who have had experience with genetic testing.

SACGT is seeking comments on the content, readability, and utility of the brochure and strategies for dissemination. In particular, SACGT would appreciate responses to the following specific questions:

1. Is the document useful? How might you use such a brochure?

2. Is the content appropriate and complete? Is it understandable and written at the appropriate reading level? Are there other issues that should be addressed? Are there other questions that should be included?

3. Is the tone of the brochure appropriate? Is it culturally appropriate to a wide range of groups?

4. Should the brochure be produced in other languages and, if so, which languages?

5. To whom and how should this brochure be disseminated?

6. Should the brochure serve as a model for the development of more specific test information brochures? Who should be tasked with developing such brochures? Is this an appropriate role for SACGT? Should SACGT recommend that HHS support the development of test-specific information brochures?

Draft Brochure

Genetic Testing: Some Basic Questions & Answers

Genetic tests have been available for a number of years, but more tests are becoming available and are being offered as part of medical care. At some point in the future, you may face a decision about whether to have a genetic test.

Genetic tests are like other medical tests in many ways, but they have some important differences and issues to consider. This brochure provides some basic information about genetic testing and highlights the kinds of questions you may want to ask.

What is a Genetic test?

(To include diagram of chromosomes, genes, gene products)

Our genetic information is contained in structures called chromosomes that are made up of a chemical called DNA. Chromosomes are made up of smaller units called genes. There are 23 pairs of chromosomes, one set from our father and one from our mother. Genes contain the information about how our bodies are put together and function. It may help to think of the chromosome as a necklace and genes as beads on the necklace.

Genetic tests usually involve having blood drawn to look for changes in DNA, genes, gene products, or chromosomes. Some changes, such as those that cause certain cancers, develop during one's lifetime, possibly through environmental factors like sun exposure. Other changes can be inherited from one or both parents and passed on to children.

What Are the Different Types of Genetic Tests?

- *Diagnostic tests* are used to diagnose a medical condition in people who have symptoms or health problems. Diagnostic tests can also be used to figure out the best course of treatment or how a medical condition might progress over time.
- *Predictive tests* are used to tell whether healthy people are at higher risk of developing a particular medical condition later in life.
- *Pharmacogenetic tests* are used to tell how genetic makeup may affect a person's reaction to specific medicines. This type of test may help healthcare providers prescribe the most effective drugs with the fewest side effects.
- *Newborn screening tests* are done when babies are born to tell whether they have certain genetic diseases. These are diseases that can be treated if they are found early enough. By state law or rules, all babies are screened unless the parents decline testing.
- *Carrier tests* are used to tell whether healthy people have one copy of a genetic change that puts their children (but not them) at higher risk for having a genetic condition.
- *Prenatal tests* diagnose genetic conditions in pregnancy.

Are Genetic Tests Different From Other Medical Tests?

Genetic tests are similar to other medical tests, but there are a couple of important differences to keep in mind. Medical tests generally provide information only about the person being tested. Genetic test results can provide information for the health or life decisions of other family members as well.

Medical tests usually look for a current health condition. Predictive genetic tests, on the other hand, are done when people are healthy to see whether they are at higher risk of developing a particular disease in the future.

Unlike most other medical tests, genetic education and counseling may be provided for some genetic tests to be sure that patients understand the test, the potential results, and issues to consider.

What Are Some Limitations of Genetic Testing?

Like other medical tests, genetic tests have limitations, and they differ depending on the type of genetic test. For example, predictive genetic tests do not give ''yes'' or ''no'' answers about whether you will develop a specific disease. Instead, they tell you what your chances might be of developing a medical condition. They do not establish for sure that you will develop the condition or how the condition will affect you.

A genetic test does not test for all genetic conditions. Rather, a genetic test is done for a specific genetic condition or group of genetic conditions. In addition, for some diseases, a genetic test may not detect all changes that cause a specific condition. If the test does not find a change, you could still have or be at risk for that condition or be at risk for having children with that condition. For some tests, a family member with the condition may need to be tested to identify the genetic change before other family members who may be at risk can be tested.

Your healthcare provider, genetic specialist, or a testing laboratory can provide more information about test limitations. Over time, additional research may reduce some of the current uncertainties with genetic tests.

What Are Some of the Risks and Benefits of Having a Genetic Test?

Each genetic test has different risks and benefits. In general, the risks of genetic tests are not physical, since they mostly involve routine procedures, such as drawing blood or swabbing a cheek. Instead, the benefits and risks have more to do with how prepared you and your family are to learn the results. Learning that you may be at higher risk for a disease, for example, may be difficult to handle emotionally. On the other hand, the knowledge may help you plan preventive measures or make better decisions about the future. Likewise, you may learn that you are healthy, but members of your family have a higher likelihood of disease. For these reasons, it is important to weigh carefully the possible positive and negative outcomes before deciding whether or not to have a genetic test.

Possible Benefits of Genetic Testing

- You may learn information that is important for your healthcare.
  - *You may learn that you have or are at risk for a medical condition.* The results of genetic testing may be useful for diagnosing a medical condition or predicting risks for conditions. The results may help predict the course of the disease or determine a treatment plan, screening options, or prevention strategies. Results of genetic tests could also be important for family members if they are at risk for the same medical condition.
  - *You may learn that you are not at increased risk for a medical condition.* Such information may give peace of mind. However, many conditions are caused by your environment, diet, or behavior, as well as genetics. You may still face the same odds of getting such a condition as the population at large.
  - *You may learn that you are a carrier for a medical condition.* You may have a disease-causing gene but not have the condition yourself. If your partner is a carrier too, you could have children with the genetic condition. If you find out that you are a carrier, your partner may want to be tested prior to having children to see if he or she is also a carrier. If you are a carrier of a genetic condition, your relatives may be carriers too, and they may also want to be tested.
- You may learn information that could be useful for future decision

making.

Finding out whether you have, or are at risk for, a particular genetic condition may be important information for your life decisions. If you decide to have children, you may want to undergo prenatal testing or prepare for a child with special needs. The results of a genetic test may also have an impact on your financial planning, career choices, and lifestyle.

- Test results may provide relief and reduce anxiety and uncertainty about the future.

Finding out that you are not at risk for a particular medical condition can bring a sense of relief and peace of mind. Sometimes, even people who learn that they have, or may develop, a genetic condition feel less anxious after learning their test results. They may experience more anxiety from ''not knowing'' than ''knowing'' their risk. For others, the reverse may be true.

Potential Risks of Genetic Testing

- You may learn information that can be difficult to handle.

Coping with the knowledge from genetic tests may be difficult. It is particularly hard if there is no treatment or cure for the medical condition or if the condition may not develop until later in life. It is not unusual for people to feel sad, angry, confused, or anxious. Talking these feelings over with your healthcare provider or a genetics specialist may help. You may also find support from therapists, religious leaders, your friends and family, and patient/consumer advocacy or support groups (listed under ''Informational Resources'').

- Family dynamics may change.

Genetic conditions may affect family members in different ways. Sharing medical information in a family and addressing feelings can sometimes be difficult and may change how family members relate to each other. It is important to keep in mind that there are supportive resources (some of which are listed below) that can help.

- The result may not be clear or uncertain.

There are limitations to today's testing technology. Sometimes a test may not produce a definite result. At other times, the meaning of a test result may not be known. Even after having a genetic test, you may not learn anything new or may be left with uncertainty about what a result means. Of course, the field of genetic testing is changing, so tests will become more refined over time.

- You may be at risk for insurance or employment discrimination.

People are often concerned that the results of genetic tests could be used by insurers to deny coverage or increase the cost of insurance. They also worry that employers might use the test results in hiring and promotion decisions. The way insurers use test results generally depends on the type of plan you have, such as whether it is individual or group coverage. There are some protections to help prevent such discrimination, and they are discussed in the next section.

Can the Results of Genetic Testing Affect Insurance Coverage or Employment?

Some states prohibit employers from using genetic information in hiring and promotion decisions. Some prohibit health insurers from increasing fees or denying coverage based on genetic information. There are also significant differences among states in the level of protection. In other words, the results of genetic tests could affect your coverage depending on the type of insurance you have, whether or not you have symptoms, and the state in which you live. You can find out about your state's laws by contacting the National Conference of State Legislatures at 303–830–2200 or *www.ncsl.org.* The National Human Genome Research Institute also posts information about current state laws, as well as information about federal efforts, at: *http://www.nhgri.nih.gov/Policy_and_public_affairs/Legislation/*

Will Test Results Be Kept Confidential?

Your medical records, including genetic test results, are confidential. Test results can only be released with your permission or unless specifically required by law. The terms of most health insurance policies give the insurance company access to your medical information, especially if you request insurance coverage of genetic testing. However, many companies have policies stating that your health information will not be shared without your consent. You have the right to see the information in your medical records.

Will Insurance Cover the Cost of Genetic Testing?

Insurance coverage for genetic testing will depend on the type of insurance you have and the indication for testing. Genetic tests can cost more than other tests because they can take longer to perform and the techniques are more complex. If your insurance does not cover the cost of genetic testing, you may have to pay out-of-pocket. Find out about the cost of the test and insurance coverage before having the test done.

Where Can I Find More Information About Genetic Disorders or Genetic Testing?

Patient and consumer advocacy or support groups can help you obtain information about genetics and specific genetic conditions. They can also help you make connections with people facing similar issues. In addition, many government agencies have helpful resources.

Informational Resources

- Genetic Alliance, Toll free number: 800–336–4363. (*www.geneticalliance.org*).
- Genetics Education Center, (*www.kumc.edu/gec/*).
- ''GeneTests'', (*http://www.genetests.org/*).
- March of Dimes, Toll free number: 888–663–4637. (*www.modimes.org*).
- National Human Genome Research Institute, (*http://www.nhgri.nih.gov/Policy_and_public_affairs/Communications/Patients_and_families/*).
- National Newborn Screening and Genetics Resources Center, (*www.genes-r-us.uthscsa.edu*).
- National Organization for Rare Disorders, Toll free number: 800–999–6673. (*www.rarediseases.org*).
- Office of Rare Diseases, National Institutes of Health, (*http://rarediseases.info.nih.gov/ord/*).
- Office of Genetics and Disease Prevention, Centers for Disease Control and Prevention, (*http://www.cdc.gov/genetics/default.htm*).
- U.S. Department of Energy, (*http://www.ornl.gov/hgmis/medicine/genetest.html*).

Genetics clinics provide care, information and support for individuals who have, or are at risk for, a genetic condition.

To locate genetic services, you can:

- Ask your healthcare provider
- Contact your local medical center/hospital and ask if there are genetic services
- Contact your state department of public health and request information on genetic services
- Contact the National Society of Genetic Counselors (610–872–7608) *www.nsgc.org*
- Contact the Genetic Alliance (toll free: 800–336–4363) *www.geneticalliance.org*
- Contact your local March of Dimes chapter (888–663–4637) *www.modimes.org*
- For cancer genetics specialists, contact the National Cancer Institute (toll free: 800–422–6237) *www.nci.nih.gov*

To Be Placed at the End of the Document as a Tear-Out Page

Questions to Ask About Genetic Testing

Below are some questions you can ask yourself and your healthcare provider as you consider genetic testing. Many of these same questions could be asked about any medical test. There may not be answers to all of these questions and some of the answers may change as our knowledge about genetic testing grows.

Questions to Ask Yourself

- ☐ Do I know what type of genetic test is being offered?
- ☐ Will the test results be helpful to me? Do I want to know this information?
- ☐ What might I do differently if I have the results?
  - ☐ Will I make changes in my healthcare based on the results?
  - ☐ Will I make changes in my life decisions (e.g. children, finances, career choice) based on the results?
- ☐ Is this a good time in my life for me to have the genetic test?
- ☐ What will my reactions be when receiving the genetic test results?
- ☐ Do I have the support that I may need or people who I can talk to, if needed?
- ☐ Have I given myself enough time to explore these issues?
- ☐ Do I have all the information I need to make a decision about genetic testing? Have all my questions been answered?

Questions to Ask Your Healthcare Provider

- ☐ *Specific genetic test and purpose:* What genetic test(s) will be done? What is the purpose of doing the genetic test? Why is the genetic test recommended?
- ☐ *Test accuracy & limitations:* How accurate is the genetic test? What are the limitations of the genetic test? How well does the test diagnose or predict the medical condition? Does the laboratory where the test will be performed have the appropriate certification?
- ☐ *Benefits & risks:* What are the benefits and risks of being tested? Of not being tested?
- ☐ *Result interpretation:* What are the possible test outcomes and what will the results mean?
- ☐ *Communication of results:* When can I expect to receive my test results? How will results be communicated to me?
- ☐ *Medical care:* What are the signs and symptoms of this condition? Are there medical treatments or preventive options available for the condition? Would options change depending on the test results? What would my options be if I decide not to be tested?
- ☐ *Insurance issues:* What is the cost of the genetic test(s)? Will my insurance cover the cost? Will the results of genetic testing affect my insurance rates, coverage or my ability to obtain insurance?
- ☐ *Confidentiality of test results:* Who will have access to my test results? Will the results be kept confidential?
- ☐ *Family issues:* What will my test results mean for other family members? Should other family members consider genetic testing? What should I tell my family members?
- ☐ *Sample issues:* Will part of my sample be left over from the test and, if so, what will happen to it?

Genetic Testing—It Should Be Your Decision

This brochure has provided some basic information about genetic testing. We hope it will be helpful if you have to make decisions about genetic testing. Some people may decide to have a genetic test because they feel the information would be important for their healthcare and/or life decisions. Others may decide not to have a genetic test because they feel that the risks outweigh the benefits of having the information, they feel their decisions would be no different, or they prefer not to know. The decision to have a genetic test is yours to make. It's your genetic information, and it's your choice.

Dated: March 18, 2002.

Sarah Carr,

Executive Secretary, SACGT.

[FR Doc. 02–7056 Filed 3–22–02; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; Comment Request; Agricultural Health Study (A Prospective Cohort Study of Cancer and Other Diseases Among Men and Women in Agriculture)—Validation Sub-Study, on Rheumatoid Arthritis

SUMMARY: Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Cancer Institute (NCI), the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on Tuesday, October 23, 2001, pages 53618–53619 and allowed 60 days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Proposed Collection

Title: Agricultural Health Study (A Prospective Cohort Study of Cancer and Other Diseases Among Men and Women in Agriculture)—validation sub-study on Rheumatoid Arthritis.

Type of Information Collection Request: Revision of a currently approved collection (0925–0406, expiration 11/31/03).

Need and Use of Information Collection: The Agricultural Health Study is an ongoing prospective cohort study of 89,189 farmers, their spouses, and commercial applicators of pesticides from Iowa and North Carolina. The proposed collection of additional information is intended to assess the validity of self-reported Rheumatoid Arthritis (RA) in the Agricultural Health Study (AHS) within small subgroups of individuals. The collection is intended to identify confirmed cases of RA to include in etiologic analyses of farming exposures and RA; evaluate the efficacy of certain questions or sets of questions for screening out false-positives for self-reported RA and identify subgroups to target for future etiologic studies of RA, based on a relatively high prevalence of RA and the feasibility of disease confirmation.

Frequency of Response: Single time reporting.

Affected Public: Individuals or households, Farms.

Type of Respondents: Private pesticide applicators and their spouses. The annual reporting burden is as follows:

Estimated Number of Respondents: 11,373..

Estimated Number of Responses per Respondent: 2.2;

Average Burden Hours Per Response: 1.18.

Estimated Total Annual Burden Hours Requested: 13,433.

The annualized cost to respondents is estimated at: $138,045. There are no Capital Costs to report. There are no

Operating or Maintenance Costs to report.

Request for Comments

Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Direct Comments to OMB

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503, Attention: Desk Officer for NIH. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Michael C.R. Alavanja, Dr. P.H., Division of Epidemiology and Genetics, National Cancer Institute, Executive Plaza South, Suite 8000, 6120 Executive Boulevard, Rockville, MD 20852, or call non-toll free (301) 435–4720, or E-mail your request, including your address to: *alavanjam@mail.nih.gov*

Comments Due Date

Comments regarding this information collection are best assured of having their full effect if received within 30 days of the date of this publication.

Dated: March 15, 2002.

Reesa Nichols,

NCI Project Clearance Liaison.

[FR Doc. 02–7055 Filed 3–22–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Director's Council of Public Representatives.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Director's Council of Public Representatives.

Date: April 15, 2002.

Time: 8:30 a.m. to 4:30 p.m.

Agenda: Among the topics proposed for discussion are: (1) The NIH Response to COPR's October Report on Human Research Protections; (2) Health Disparities; and (3) Research in Environmental Health Sciences by Dr. Kenneth Olden, Director, NIEHS.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31, Conference Room 10, Bethesda, MD 20892.

Contact Person: Jennifer E. Gorman, NIH Public Liaison/COPR Coordinator, Office of Communications and Public Liaison, Office of the Director, National Institutes of Health 9000 Rockville Pike, Building 1, Room 344, Bethesda, MD 20892, (301) 435–4448, *gorman@od.nih.gov.*

In the interest of security. NIH has instituted stringent procedures for entrance into the building by non-government employees. Persons without a government I.D. will need to show a photo I.D. and sign-in at the security desk upon entering the building.

Information is also available on the Institute's/Center home page: *www.nih.gov/about/publicliaison/index.html,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program, National Institutes of Health, HHS)

Dated: March 14, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–7051 Filed 3–22–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel

Date: March 27, 2002.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: Pooks Hill Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: C Michael Kerwin, PhD, Scientific Review Administrator, Special Review and Resources Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 8039, Rockville, MD 20892–7405, 301–496–7421.

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. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: March 14, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–7050 Filed 3–22–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Research Resources; 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 Center for Research Resources Special Emphasis Panel Comparative Medicine.

Date: April 10, 2002.

Time: 1 p.m. to Adjournment.

Agenda: To review and evaluate grant applications.

Place: Office of Review, National Center for Research Resources, 6705 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Eric H. Brown, PhD, Scientific Review Administrator, Office of Review, National Center for Research Resources, National Institutes of Health, 6705 Rockledge Drive, MSC 7965, One Rockledge Centre, Room 6081, Bethesda, MD 20892–7965, 301–435–0815, *browne@ncrr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333; 93.371, Biomedical Technology; 93.389, Research Infrastructure, National Institutes of Health, HHS)

Dated: March 15, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–7052 Filed 3–22–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Infectious Agents in Vascular Disease Molecular Mechanism for HCMV Mediated Atherogenesis RFA–HL–02–002.

Date: June 17–18, 2002.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton, 8727 Colesville Road, Silver Spring, MD 20910.

Contact Person: Alessandra Bini, PhD, Scientific Review Administrator, Review Branch, Room 7204, Division of Extramural Affairs, National Heart, Lung, and Blood Institute, National Institutes of Health, 6701 Rockledge Drive, MSC 7924, Bethesda, MD 20892, 301–435–0299.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: March 14, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–7049 Filed 3–22–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; 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 Institute on Drug Abuse Special Emphasis Panel, Training and Career Development.

Date: March 25, 2002.

Time: 3:30 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: 6001 Executive Blvd., Bethesda, MD 20814, (Telephone Conference Call).

Contact Person: Mark Swieter, PhD, Health Scientist Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547. (301) 435–1389

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. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Award; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS)

Dated: March 18, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–7043 Filed 3–22–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; 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 Institute of Environmental Health Sciences Special Emphasis Panel, Review of Program Project Applications.

Date: April 1–3, 2002.

Time: 7 p.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: Rochester Crowne Plaza, 70 State Street, Rochester, NY 14614.

Contact Person: Ethel B. Jackson, DDS, Chief Scientific Review Branch, Office of Program Operations, Division of Extramural Research and Training, Nat. Institute of Environmental Health Sciences, P.O. Box 12233, MD EC–30, Research Triangle Park, NC 27709, 919/541–7846, *jackson4@niehs.nih.gov.*

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. 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences, National Institutes of Health, HHS)

Dated: March 14, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–7044 Filed 3–22–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; 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 Institute of Child Health and Human Development Special Emphasis Panel.

Date: March 22, 2002.

Time: 1 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: 6100 Executive Blvd., Room 5E01, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Anne Krey, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, National Institutes of Health, 6100 Executive Blvd., Rm. 5E03, Bethesda, MD 20892, 301–435–6908.

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. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: March 14, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–7045 Filed 3–22–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of 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 contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, ''Prevention of Group B Streptococcal (GBS) Disease''.

Date: April 2, 2002.

Time: 10 a.m. to 1 p.m.

Agenda: To review and evaluate contract proposals.

Place: 6700 B Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call)

Contact Person: Gerald L. McLaughlin, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2217, 6700–B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301–435–2766, *gm145a@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: March 14, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–7046 Filed 3–22–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of 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 meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel.

Date: April 1819, 2002.

Time: 10 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Four Points by Sheraton, 8400 Wisconsin Avenue, Ambassador II Room, Bethesda, MD 20814.

Contact Person: Robert C. Goldman, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2217, 6700–B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301–496–8424, *rg159w@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: March 14, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–7047 Filed 3–22–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Multicenter Clinical Trial of Crohn's Disease.

Date: April 12, 2002.

Time: 3 pm to 4:30 pm.

Agenda: To review and evaluate grant applications.

Place: Room 754, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892. (Telephone Conference Call)

Contact Person: Lakshmanan Sankaran, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, Room 754, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892–6600, (301) 594–7799.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel.

Date: May 7, 2002.

Time: 8 am to 5 pm.

Agenda: To review and evaluate grant applications.

Place: 2899 Jefferson Davis Highway, Arlington, VA 22202.

Contact Person: Maxine Lesniak, Scientific Review Administrator, Review Branch, DEA, NIDDK, Room 756, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892–6600, (301) 594–7792, *lesniakm@extra.niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: March 14, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–7048 Filed 3–22–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel.

Date: April 5, 2002.

Time: 12 p.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: 6000 Executive Blvd., Rm 409, Rockville, MD 20892. (Telephone Conference Call)

Contact Person: L. Tony Beck, PhD, Scientific Review Administrator, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Suite 409, 6000 Executive Blvd., MSC 7003, Bethesda, MD 20892–7003, 301–443–0913, *lbeck@mail.nih.gov.*

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel, Career Development Awards (K23) in Alcohol Research.

Date: April 13, 2002.

Time: 11 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Willco Building, Suite 409, 6000 Executive Boulevard, Rockville, MD 20892. (Telephone Conference Call)

Contact Person: Sean N. O'Rourke, Scientific Review Administrator, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Suite 409, 6000 Executive Boulevard, Bethesda, MD 20892–7003, 301–443–2861.

(Catalogue of Federal Domestic Assistance Program No. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93:272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs, 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: March 15, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–7053 Filed 3–22–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; 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 contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: April 8, 2002.

Time: 3:30 p.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892. (Telephone Conference Call)

Contact Person: Susan M. Matthews, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6134, MSC 9607, Bethesda, MD 20892–9607, 301–443–5047.

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. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: March 15, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–7054 Filed 3–22–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: The Use of Macrocyclic Lactones as Inhibitors of Vacuolar-Type ATPases for the Treatment of Cancer

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: This is notice, in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i), that the National Institutes of Health (NIH), Department of Health and Human Services, is contemplating the grant of an exclusive license to practice the invention embodied in: 60/122,953 filed 3/5/99 (Provisional I, DHHS ref. No. E–244–97/2); 60/169,564 filed 12/8/99 (Provisional II, DHHS ref. No. E–244–97/0) and PCT (PCT/US00/05582), filed 3/3/00 and claiming priority to both Provisionals I and II, ''Vacuolar-Type (H^+) ATPase Inhibiting Compounds, Compositions and Uses Thereof;'' and 60/053,784, filed 7/25/97 (DHHS Ref. No. E–244–97/1), converted into PCT/US98/15011 filed 7/23/98, ''Antitumor Macrocyclic Lactones, Compositions and Methods of Use'', to Attenuon, L.L.C., having a place of business in San Diego, CA. The aforementioned patent rights have been assigned to the United States of America.

DATES: Only written comments and/or application for a license which are received by the NIH Office of Technology Transfer on or before May 24, 2002, will be considered.

ADDRESSES: Requests for a copy of the patent application, inquiries, comments and other materials relating to the contemplated license should be directed to: Wendy R. Sanhai, Ph.D., Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; e-mail: *sanhaiw@od.nih.gov*; Telephone: (301) 496–7056, ext. 244; Facsimile: (301) 402–0220.

SUPPLEMENTARY INFORMATION: This invention describes a class of macrocyclic lactones (benzolactone enamides) derived from marine sponges, and which inhibit vacuolar-type (H^+) ATPases (V–ATPases). Selective inhibition of V–ATPases may represent an effective means of treating various disease states: Alzheimer's disease, glaucoma and osteoporosis and cancer (via affecting cellular proliferation, angiogenesis, tumor cell invasiveness, metastasis and drug resistance). The compounds have been shown to be active against a specific group of human tumors when tested in the NCI 60-cell line panel. The licensee of these inventions will be required to comport with all applicable federal and country-of-collection policies relating to biodiversity.

The field of use may be limited to the treatment of cancer, angiogenesis-dependent diseases and osteoporosis.

The prospective exclusive license will be royalty bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within 60 days from the date of this published Notice, NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Properly filed competing applications for a license filed in response to this notice will be treated as objections to the contemplated license. Comments and objections submitted in response to this notice will not be made available for public inspection, and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: March 14, 2002.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer.

[FR Doc. 02–7057 Filed 3–22–02; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (301) 443–7978.

Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: GPRA Client Outcomes for the Substance Abuse and Mental Health Services Administration (SAMHSA)—(OMB No. 0930–0208, Extension)

The mission of the Substance Abuse and Mental Health Services Administration (SAMHSA) is to improve the effectiveness and efficiency of substance abuse and mental health treatment and prevention services across the United States. All of SAMHSA's activities are designed to ultimately reduce the gap in the availability of substance abuse and mental health services and to improve their effectiveness and efficiency.

Data are collected from all SAMHSA knowledge development and application and targeted capacity expansion grants and contracts where client outcomes are to be assessed at intake and post-treatment. SAMHSA-funded projects are required to submit this data as a contingency for their award. The analysis of the data will also help determine whether the goal of reducing health and social costs of drug use to the public is being achieved.

The primary purpose of the proposed data collection activity is to meet the reporting requirements of the Government Performance and Results Act (GPRA) by allowing SAMHSA to quantify the effects and accomplishments of SAMHSA programs. In addition, the data will be useful in addressing goals and objectives outlined in ONDCP's *Performance Measures of Effectiveness.* Following is the estimated annual response burden for this effort.

Center	Number of clients	Responses/ client	Hours/ response	Annual burden hours
Center for Substance Abuse Treatment	3,750	3	.70	2,625

Center	Number of clients	Responses/ client	Hours/ response	Annual burden hours
Center for Substance Abuse Prevention	12,150	3	.63	7,654
Center for Mental Health Services	13,837	3	.25	3,459
Total				13,738

Send comments to Nancy Pearce, SAMHSA Reports Clearance Officer, Room 16–105, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: March 19, 2002.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 02–7064 Filed 3–22–02; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Request for Comments Regarding the Prevention, Identification, and Treatment of Co-occurring Disorders—Extension of Due Date

In compliance with section 503A of the Public Health Service Act (42 U.S.C. 290aa–2a), the Substance Abuse and Mental Health Services Administration (SAMHSA) is required to provide to the United States Congress a report on the prevention, identification, and treatment of co-occurring disorders. Public comment is solicited in order to aid in the development of this report. On March 6, 2002, SAMHSA published a notice requesting written input on this subject to be provided by March 27, 2002.

DATES: The new deadline for receipt of public comment has been extended until April 5, 2002.

ADDRESSES: All comments should be sent to James Winarski; Advocates for Human Potential; 323 Boston Post Road; Sudbury, MA 01776.

FOR FURTHER INFORMATION CONTACT: Eileen Elias, M.Ed., Special Expert, SAMHSA, 301–443–8742.

Dated: March 19, 2002.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 02–7030 Filed 3–22–02; 8:45 am]

BILLING CODE 4162–20–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4739–N–08]

Notice of Proposed Information Collection: Comment Request; Home Equity Conversion Mortgages (HECM): Consumer Protection Measures Against Excessive Fees

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: May 24, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., L'Enfant Plaza Building, Room 8001, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Vance T. Morris, Director, Office of Single Family Program Development, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 708–2121 (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Home Equity Conversion Mortgages (HECM): Consumer Protection Measures Against Excessive Fees.

OMB Control Number, if applicable: 2502–0534.

Description of the need for the information and proposed use: Events in the marketplace have given rise to vendors who prey on the elderly to use the HECM program as a vehicle for earning excessive fees for services which are of little or no value, or which can be obtained free of charge (or at minimal cost) from other sources—including HUD-approved Housing Counseling Agencies. The information is needed to assure that the homeowner is not obtaining a HECM mortgage under an obligation to pay excessive fees for services.

Agency form numbers, if applicable: None.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: An estimation of the total numbers of hours needed to prepare the information collection is 6,800, the number of respondents is 8,000 generating 32,000 responses annually, the frequency of response is once per mortgagor, and the hours per response is .25 hours.

Status of the proposed information collection: Extension of a currently approved collection.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: March 17, 2002.

John Weicher,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 02–7126 Filed 3–22–02; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4739–N–07]

Notice of Proposed Information Collection: Comment Request; Statement of Taxes

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting comments on the subject proposal.

DATES: May 24, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to Wayne Eddins, Reports Management Office, Department of Housing and Urban Development, 451 7th Street, SW., L'Enfant Plaza Building, Room 8003, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Betty A. Belin, Systems Accountant, Office of Financial Services, 451 7th Street, SW., Washington, DC 20410, telephone (202) 401–2168, extension 2807, (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Statement of Taxes.

OMB Control Number: 2505–0418.

Description of the need for the information and proposed use: When a lender with an insured multifamily mortgage assigns a mortgage or conveys a property to HUD, the lender is required to submit all records and accounts relative to the mortgage to HUD. These provisions are spelled out in Statute 12 U.S.C. 1713(g); Title II, section 207(g) of the National Housing Act; and 24 CFR 207.258(b)(4). Included in the records is the Statement of Taxes. From this Statement, HUD updates its records of the mortgagor's real estate taxes, the location (lot and block numbers) of the property, taxes due dates, and penalty dates. During the claim audit for insurance benefits, this form is used to verify the last taxes paid.

Agency form number: HUD–434.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The estimated number of respondents is 215, frequency of response is once per claim, the burden per response is estimated to be .50 hours, and the total estimated annual burden hours requested is 107.

Status of the proposed information collection: Extension of a currently approved collection.

Authority: The paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: March 19, 2002.

John C. Weicher,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 02–7127 Filed 3–22–02; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4743–N–03]

Notice of Planned Closing of Topeka, Kansas Post-of-Duty Station

AGENCY: Office of Inspector General, HUD.

ACTION: Notice of planned closing of Topeka, Kansas post-of-duty station.

SUMMARY: This notice advises the public that the HUD Office of Inspector General (OIG) is closing its Topeka, Kansas post-of-duty station, and also provides a cost-benefit analysis of the impact of the closure.

FOR FURTHER INFORMATION CONTACT: Bryan Saddler, Counsel to the Inspector General, Room 8260, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, (202) 708–1613. (This is not a toll free number.) A telecommunications device for hearing- and speech-impaired persons (TTY) is available at 1–800–877–8339 (Federal Information Relay Services). (This is a toll-free number.)

SUPPLEMENTARY INFORMATION:

Background

In 1998, HUD/OIG established a one-person post-of-duty station in Topeka, Kansas, to give direct support to the HUD/OIG's Operation Safe Home (OSH) initiative to combat violent and drug-related crime in public and assisted housing in Topeka and nearby communities. Although the Topeka post-of-duty station is only about 50 miles from HUD/OIG's Kansas City Regional Office, nationwide experience since the initiation of OSH in 1994 had proven that the best results/impact could be obtained when HUD/OIG Special Agents were physically located in the target city. However, in accordance with the requirements of the Fiscal Year 2002 HUD Appropriations Act (Pubic Law 107–73, approved November 26, 2001), HUD/OIG is terminating OSH and re-deploying staff to focus on investigations involving single-family fraud and property flipping. This change eliminates the need to maintain a separate post-of-duty station in Topeka, Kansas, and gives HUD/OIG the opportunity to generate cost savings associated with discontinuing an additional office.

Section 7(p) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(p)) provides that a plan for field reorganization, which may involve the closing of any field or regional office, of the Department of Housing and Urban Development may not take effect until 90 days after a cost-benefit analysis of the effect of the plan on the office in question is published in the **Federal Register**. The required cost-benefit analysis should include: (1) An estimate of cost savings anticipated; (2) an estimate of the additional cost which will result from the reorganization; (3) a discussion of the impact on the local economy; and (4) an estimate of the effect of the reorganization on the availability, accessibility, and quality of services provided for recipients of those services.

Legislative history pertaining to section 7(p) indicates that not all reorganizations are subject to the requirements of section 7(p). Congress stated that ''[t]his amendment is not intended to [apply] to or restrict the internal operations or organization of the Department (such as the

establishment of new or combination of existing organization units within a field office, the duty stationing of employees in various locations to provide on-site service, or the establishment or closing, based on workload, of small, informal offices such as valuation stations).'' (*See* House Conference Report No. 95–1792, October 14, 1978 at 105–106.)

The two-person duty station in Topeka, Kansas, is a single-purpose duty station, and the duty station is being closed based on workload rather than on a reorganization of HUD/OIG field offices. Although notice of the closing of a duty station is not subject to the requirement of section 7(p), as supported by legislative history, HUD/OIG nevertheless prepared a cost-benefit analysis for its own use in determining whether to proceed with the closing. Through this notice, HUD/OIG advises the public of the closing of the Topeka, Kansas duty station and provides the cost-benefit analysis of the impact of the closure.

Impact of the Closure of the Topeka, Kansas Post-of-Duty Station

HUD/OIG considered the costs and benefits of closing the Topeka, Kansas post-of-duty, and is publishing its cost-benefit analysis with this notice. In summary, HUD/OIG has determined that the closure will result in a cost savings, and, as a result of the size and limited function of the office, will cause no appreciable impact on the provision of authorized investigative services/activities in the area (*i.e.*, OSH activities, of course, will be impacted, but HUD/OIG has been directed to terminate these activities).

Cost-Benefit Analysis

A. *Cost Savings:* The Topeka, Kansas post-of-duty currently costs $21,415 per year in lease and other expenses. Thus, closing the post-of-duty will result in an annual savings of at least $21,415. In addition, by closing the office HUD/OIG will not be required to incur additional costs associated with current plans to install high-speed computer access lines to and on the premises, nor will HUD/OIG incur costs associated with the lease or purchase of duplicative office equipment.

B. *Additional Costs:* There are no offsetting expenses anticipated. The Special Agent assigned to the Topeka, Kansas post-of-duty will be reassigned to the Kansas City Regional Office, without need for relocation reimbursement. Further, there is adequate existing office space to accommodate the Special Agent within the Kansas City Regional Office.

C. *Impact on Local Economy:* The Topeka, Kansas post-of-duty office space comprises a mere 1,162 square feet of space, which can easily be released to other tenants. Thus, no appreciable impact on the local economy is anticipated.

D. *Effect on Availability, Accessibility and Quality of Services Provided to Recipients of Those Services:* The establishment of the Topeka, Kansas post-of-duty was based entirely on the needs of the HUD/OIG to have a Special Agent in closer proximity to OSH activities conducted in the Topeka area. These activities are being terminated. Further, as was the case prior to 1998, fraud investigations in the Topeka area can be cost effectively addressed by agents assigned to the Kansas City Regional Office, which is about 50 miles away.

For the reasons stated in this notice, HUD/OIG intends to proceed to close its Topeka, Kansas post-of-duty station at the expiration of the 90-day period from the date of publication of this notice.

Dated: March 15, 2002.

Michael P. Stephens,

Deputy Inspector General.

[FR Doc. 02–7125 Filed 3–22–02; 8:45 am]

BILLING CODE 4210–78–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of a Permit Application (Rockledge) for Incidental Take of the Golden-Cheeked Warbler

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: Rockledge, Inc. (Applicant) has applied for an incidental take permit (TE–051567–0) pursuant to section 10(a) of the Endangered Species Act (Act). The requested permit would authorize the incidental take of the endangered golden-cheeked warbler. The proposed take would occur as the result of the construction and occupation of a low-density residential development of 35 to 40 homesites on 53.5 acres of the 193.0-acre Russell Park Estates, Williamson County, Texas.

DATES: Written comments on the application should be received within 60 days of the date of this publication.

ADDRESSES: Persons wishing to review the application may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Room 4102, Albuquerque, New Mexico 87103. Persons wishing to review the EA/HCP may obtain a copy by contacting Scott Rowin, U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, Texas 78758 (512/490–0057). Documents will be available for public inspection by written request, by appointment only, during normal business hours (8 am to 4:30 pm) at the U.S. Fish and Wildlife Service, Austin, Texas. Written data or comments concerning the application and EA/HCP should be submitted to the Supervisor, U.S. Fish and Wildlife Service, Austin, Texas, at the above address. Please refer to permit number TE–051537–0 when submitting comments.

FOR FURTHER INFORMATION CONTACT: Scott Rowin, U.S. Fish and Wildlife Service, Austin Office, (512) 490–0057.

SUPPLEMENTARY INFORMATION: Section 9 of the Act prohibits the ''taking'' of endangered species such as the golden-cheeked warbler. However, the Fish and Wildlife Service (Service), under limited circumstances, may issue permits to take endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

The Service has prepared the Environmental Assessment/Habitat Conservation Plan (EA/HCP) for the incidental take application. A determination of jeopardy to the species or a Finding of No Significant Impact (FONSI) will not be made until at least 60 days from the date of publication of this notice. This notice is provided pursuant to Section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

Applicants: Rockledge, Inc. plans to construct a low-density residential development of 35 to 40 homesites, within 30 years, on approximately 53.5 acres of the 193.0-acre Russell Park Estates, located approximately 0.25 miles south of the intersection of County Road 262 and Farm to Market 3405, Williamson County, Texas. This action will eliminate up to 53.5 acres of golden-cheeked warbler habitat. In addition, the vulnerability of another approximately 34.4 acres of warbler habitat may be reduced as a result of indirect effects associated with the development. The Applicant has made every effort to minimize and/or avoid impacts to the Bone Cave harvestman and believes the proposed action will not impact the harvestman. No take for this species is being requested or would be granted by issuance of this permit. The Applicant proposes to compensate for this incidental take of the golden-cheeked warbler by preserving

approximately 139.4 acres of the highest quality warbler habitat onsite. This preserve land is adjacent to property owned by the U.S. Army Corps of Engineers.

Bryan Arroyo,

Acting Regional Director, Region 2.

[FR Doc. 02–7014 Filed 3–22–02; 8:45 am]

BILLING CODE 4510–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Bureau of Reclamation

Trinity River Mainstem Fishery Restoration Program

AGENCY: Fish and Wildlife Service and Bureau of Reclamation, Interior.

ACTION: Notice of intent to prepare a Supplemental Environmental Impact Statement/Supplemental Draft Environmental Impact Report (SEIS/SDEIR).

SUMMARY: The Fish and Wildlife Service (FWS) and the Bureau of Reclamation (Reclamation), along with the Hoopa Valley Tribe and Trinity County, California are preparing a Supplemental Environmental Impact Statement/Supplemental Draft Environmental Impact Report for the Trinity River Mainstem Fishery Restoration Program (Program). The purpose of the SEIS/SDEIR is to analyze the effects of two biological opinions associated with the Program issued on October 12, 2000, one by the FWS and the other by the National Marine Fisheries Service of the Department of Commerce (NMFS), on Central Valley Project (CVP) operations and the effects of the Program on energy generation within the context of the state of deregulation and supply uncertainty for electricity within California.

A final environmental impact statement (EIS) on the Program was issued in November, 2000, and a Record of Decision (ROD) executed on December 19, 2000. Central Valley water and power interests filed suit seeking to enjoin implementation of the ROD. On March 22, 2001, the court issued a Memorandum Decision and Order enjoining the federal defendants from implementing any of the flow related aspects of the ROD. *Westlands Water District* v. *United States Department of the Interior*, CIV–F–00–7124–OWW/DLB (E.D. Calif., filed May 3, 2001). In its Memorandum Decision and Order the court found that the effects of reasonable and prudent measures in the two biological opinions as well as the effects on power in light of the California energy crisis, were not adequately analyzed in the EIS. The federal agencies are now seeking to address these issues in a SEIS and are soliciting public input and comment on this process.

The overall objective of the Program is to meet Federal trust responsibilities for tribal fishery resources and restore the fisheries in the Trinity River basin to the level that existed prior to the construction of the Trinity River Division (TRD) of the CVP. These actions are authorized by the Act of August 12, 1955, 69 Stat. 719; the Trinity River Basin Fish and Wildlife Management Act, Public Law 98–541 (1984), as amended, and the Central Valley Project Improvement Act, Public Law 102–575, Title XXXIV (1992) (CVPIA). The FWS and Reclamation are the federal co-leads for purposes of complying with National Environmental Policy Act (NEPA); along with Hoopa Valley Tribe, which is also acting in a co-lead agency role. Trinity County functions as the state lead agency for purposes of complying with the California Environmental Quality Act (CEQA).

The purpose for the October 2000 EIS/EIR is as follows: to restore and maintain the natural production of anadromous fish on the Trinity River mainstem downstream of Lewiston Dam. The purpose of the SEIS/SEIR will be the same.

DATES: A scoping meeting will be held on Thursday, May 9, 2002, from 1:30 to 4:30 p.m. in Redding, California, to solicit public input on alternatives, concerns, and issues to be addressed in the SEIS/SDEIR.

Written comments on the scope of the SEIS/SDEIR may be mailed to Reclamation at the address below by May 23, 2002. Comments received after this date will be considered but may not be included in the resulting SEIS/SDEIR scoping report.

ADDRESSES: The scoping meeting will be held at the Holiday Inn, 1900 Hilltop Drive, Redding, CA 96002.

Written comments on the scope of the SEIS/SDEIR should be sent to Mr. Russell Smith, Bureau of Reclamation, Shasta Dam Office, 16349 Shasta Dam Boulevard, Shasta Lake CA 96019; telephone: (530) 275–1554; fax (530) 275–2441.

FOR FURTHER INFORMATION CONTACT: Mr. Russell Smith at the above address or by telephone at (530) 275–1554.

SUPPLEMENTARY INFORMATION: In 1983 an EIS on the Trinity River Basin Fish and Wildlife Management Program was prepared by the FWS (U.S. Fish and Wildlife Service, 1983). The environmental document analyzed habitat restoration actions, watershed rehabilitation, and improvements to the Trinity River Salmon and Steelhead Hatchery (TRSSH). The EIS clarified that the hatchery's purpose was to mitigate for the loss of the 109 miles of habitat upstream of Lewiston Dam; whereas, the restoration and rehabilitation projects were explicitly designed to increase natural fish production below the dam.

In 1984, the Trinity River Basin Fish and Wildlife Management Act (Public Law 98–541) was enacted. It formalized the existence of the Trinity River Basin Fish and Wildlife Task Force (Task Force), and directed the Secretary of the Interior (Secretary) to implement measures to restore fish and wildlife habitat in the Trinity River. The Task Force was directed at implementation of a fish and wildlife management program ''to restore natural fish and wildlife populations to levels approximating those which existed immediately prior to the construction of the Trinity Division.'' In 1996 Congress re-authorized and amended the original Trinity River Basin Fish and Wildlife Management Act (Public Law 104–143). The 1996 amendments clarified that ''restoration is to be measured not only by returning adult anadromous fish spawners, but by the ability of dependent tribal, commercial, and sport fisheries to participate fully, through enhanced in-river and ocean harvest opportunities, in the benefits of restoration * * * ''.

In 1992 Congress passed the CVPIA (Public Law 102–575, Title XXXIV) in order to protect, restore, and enhance fish, wildlife, and associated habitats in the Central Valley, including the Trinity River Basin. Specifically, the CVPIA provides at section 3406(b)(23) that ''[i]n order to meet Federal trust responsibilities to protect the fishery resources of the Hoopa Valley Tribe and meet the fishery restoration goals' of Public Law 98–541, the Secretary is directed to complete the Trinity River Flow Evaluation Study (TRFES) and to develop recommendations ''based on the best available scientific data, regarding permanent instream fishery flow requirements and TRD operating criteria and procedures for the restoration and maintenance of the Trinity River fishery.'' The CVPIA also specifically provided for the Secretary to consult with the Hoopa Valley Tribe on the TRFES and, upon the Tribe's concurrence, to implement the restoration recommendations accordingly.

A joint EIS/EIR, for the Trinity River Mainstem Fishery Restoration Program (TRMFRP) was prepared by the FWS, Reclamation, Trinity County, and the Hoopa Valley Tribe, and was completed in October, 2000. A ROD selecting the alternative to be implemented for the TRMFRP, was signed by the Secretary, with the concurrence of the Hoopa Valley Tribe, pursuant to section 3406(b)(23) of the CVPIA, and issued in December 2000. However, the EIR was not certified by Trinity County and it is not a finalized document under CEQA.

Subsequent to execution of the ROD, water and power interests in the Central Valley of California amended a previously filed lawsuit against the federal agencies materially involved in either the decision making process for the ROD or the associated Endangered Species Act approvals for the TRMFRP (Reclamation, FWS, and NMFS), in federal district court. Plaintiffs sought, and were granted a preliminary injunction for implementation of the flow related aspects of the ROD. The terms of the injunction limit the increase in flows in the Trinity River which may be implemented in the ROD, but allow the Secretary to proceed with all other activities approved by the ROD. *Westlands Water District* v. *United States Department of the Interior*, CIV-F–00–7124–OWW/DLB (E.D. Calif., filed May 3, 2001). Subsequently, the plaintiff and plaintiff-intervenors and federal defendants, but not defendant-intervenors Hoopa Valley and Yurok Tribes, jointly agreed to stay the case, pending the development of a supplemental NEPA document that would address the issues identified by the *Westlands* court as requiring further analysis; including the effect that the change in operations of the TRD would have within the context of deregulation of electrical utilities in California and the effects that compliance with the biological opinions issued by the FWS and NMFS would have upon CVP operations.

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: March 19, 2002.

Frank Michny,

Regional Environmental Officer, Mid-Pacific Region, Bureau of Reclamation.

Dated: March 19, 2002.

Mary Ellen Mueller,

Fisheries Supervisor, California and Nevada Operations Office, Fish and Wildlife Service.

[FR Doc. 02–7066 Filed 3–22–02; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–067–02–1610–JP–064B]

Notice of Intent To Prepare an Amendment to the California Desert Conservation Area Plan

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to prepare an amendment to the California Desert Conservation Area (CDCA) Plan and Environmental Assessment (EA) in the Western Colorado section of Imperial County, CA.

SUMMARY: Pursuant to 43 CFR 1610.2(c), notice is hereby given that the Bureau of Land Management proposes to amend the CDCA Plan, as amended in 1980. The proposed amendment will establish or revise designations of areas and trails for off-road vehicles in accordance with 43 CFR part 8342. The proposals will pertain to public lands addressed by the California Desert Conservation Area Plan in Imperial County that lie west of the Southern Pacific Railroad and the Chocolate Mountain Gunnery Range (excluding the Imperial Sand Dunes) and the western boundary of the CDCA in San Diego County, California. The proposed plan amendment will include an EA in accordance with the National Environmental Policy Act and CFR 1610.5–5.

DATES: The public is invited to submit comments on the scope of the plan amendment and EA. Written comments will be accepted until May 17, 2002. Two (2) public meetings California area. The times and places for meetings will be published in the Imperial Valley Press and the Yuma Daily Sun.

ADDRESSES: Comments should be sent to Greg Thomsen, Field Manager, Bureau of Land Management, El Centro Field Office, 1661 South 4th Street, El Centro, CA 92243–4561. Comments, including names and addresses of respondents, will be available for public review at the El Centro Field Office during normal working hours (7:45 AM to 4:30 PM, except holidays), and may be published as part of the EA or other related documents. Individuals may request confidentiality. If you wish to withhold your name or address from public review or from disclosure under the Freedom of Information Act, you must state this promptly at the beginning of your comment. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses will be made available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Arnold F. Schoeck, Lead Outdoor Recreation Planner, at the above address, telephone number (760) 337–4441, or e-mail at Arnold_Schoeck.ca.blm.gov.

SUPPLEMENTARY INFORMATION: Public input from previous public meetings and written comments in response to previous designations efforts will be used to define issues. Preliminary issues identified include: providing for off-highway vehicle use; providing adequate vehicle access for other casual uses; visitor safety; providing protection for Peninsular Bighorn Sheep and Flat-tailed Horned Lizards; and homeland defense (*i.e.*, US-Mexican Border issues).

Planning criteria will include honoring valid existing rights. The CDCA amendment will be consistent with officially approved resource related plans, policies and programs of other Federal agencies, State and local governments, and Indian Tribes. The proposed route of travel designation changes to the CDCA Plan requires a formal plan amendment before the designation changes can be implemented. The amendment process and ORV trail designations shall be conducted in compliance with the Federal Land Policy Management Act of 1976 (FLPMA), planning regulations (43 CFR part 1600), ORV trail designation regulations (43 CFR part 8340), BLM manual guidance, and all applicable Federal laws affecting BLM land use decisions and ORV designations. The planning process shall include an EA with a biological evaluation prepared in compliance with the National Environmental Policy Act of 1969 (NEPA), the President's Council of Environmental Quality (CEQ) regulations (40 CFR part 1500), and Bureau guidance.

The Bureau intends to rely largely on existing route inventory data, information obtained from coordination with other federal, state, and local

agencies, and consultation with Indian tribes, and public comments.

Three alternatives are anticipated to be: (1) A No Action Alternative that will maintain the existing designations. (2) The Updated Designation Alternative that will propose the designation changes identified in the previous update effort (1997). (3) A Protection Alternative that will propose additional seasonal closures and route closures in addition to changes in the Updated Designation Alternative.

Dated: March 15, 2002.

Greg Thomsen,

Field Manager.

[FR Doc. 02–7237 Filed 3–22–02; 8:45 am]

BILLING CODE 1610–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–958–1430–ET; GPO–0; OR–55334]

Public Land Order No. 7519; Withdrawal of National Forest System Land To Protect the White King/Lucky Lass Mine Reclamation Project Area; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws 40 acres of National Forest System land from location and entry under the United States mining laws until August 8, 2013, to protect the White King/Lucky Lass Mine reclamation project area. The land has been and will remain open to such forms of disposition as may by law be made of National Forest System land and to mineral leasing.

EFFECTIVE DATE: March 25, 2002.

FOR FURTHER INFORMATION CONTACT: Richard A. Woodward, Fremont National Forest, HC 10 Box 337, Lakeview, Oregon 97630, 541–947–2151.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. Subject to valid existing rights, the following described National Forest System land is hereby withdrawn from location or entry under the United States mining laws (30 U.S.C. Ch. 2 (1994)), to protect reclamation work on the White King/Lucky Lass Mine area:

Willamette Meridian

Fremont National Forest
T. 37 S., R. 19 E.,
Sec. 30, NW¼NE¼.

The area described contains 40.00 acres in Lake County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of National Forest System land under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal will expire on August 8, 2013, unless, as a result of a review conducted before the expiration date pursuant to section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1994), the Secretary determines that the withdrawal shall be extended.

Dated: March 13, 2002.

Rebecca W. Watson,

Assistant Secretary.

[FR Doc. 02–7061 Filed 3–22–02; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

National Park Service

Cape Cod National Seashore, South Wellfleet, MA; Cape Cod National Seashore Advisory Committee Two Hundred Thirty Seventh Meeting; Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770, 5 U.S.C. App 1, section 10), that a meeting of the Cape Cod National Seashore Advisory Commission will be held on Friday, April 26, 2002.

The Commission was reestablished pursuant to Public Law 87–126 as amended by Public Law 105–280. The purpose of the Commission is to consult with the Secretary of the Interior, or his designee, with respect to matters relating to the development of Cape Cod National Seashore, and with respect to carrying out the provisions of sections 4 and 5 of the Act establishing the Seashore.

The Commission members will meet at 1 p.m. at Headquarters, Marconi Station, Wellfleet, Massachusetts for the regular business meeting to discuss the following:

1. Adoption of Agenda
2. Approval of minutes of previous meeting (February 1, 2002)
3. Reports of Officers
4. Reports of Subcommittees
   Dune Shacks
   Nickerson Fellowship
5. Superintendent's Report
   News from Washington
   PWC Update
   Zoning Standards
   Highlands Center
   Doane Road Environmental Assessment Public Comment
6. Old Business
   Pheasant Hunting
7. New Business
8. Date and agenda for next meeting
9. Public comment and
10. Adjournment

The meeting is open to the public. It is expected that 15 persons will be able to attend the meeting in addition to Commission members.

Interested persons may make oral/written presentations to the Commission during the business meeting or file written statements. Such requests should be made to the park superintendent at least seven days prior to the meeting. Further information concerning the meeting may be obtained from the Superintendent, Cape Cod National Seashore, 99 Marconi Site Road, Wellfleet, MA 02667.

Dated: February 11, 2002.

Maria Burks,

Superintendent.

[FR Doc. 02–7003 Filed 3–22–02; 8:45 am]

BILLING CODE 4310–70–M

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 American Museum of Natural History, New York, NY

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 American Museum of Natural History, New York, NY.

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 American

Museum of Natural History professional staff in consultation with representatives of the Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; and Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah.

In 1921, human remains representing a minimum of one individual were collected by Charles L. Bernheimer and Earl Morris from the vicinity of Long Hollow, La Plata River, La Plata County, CO, during an expedition sponsored by the American Museum of Natural History. No known individual was identified. No associated funerary objects are present.

This individual has been identified as Native American based on the American Museum of Natural History's documentation, which refers to these remains as ''Ute.'' These human remains originate from an area utilized by Ute bands during the postcontact period.

Based on the above-mentioned information, officials of the American Museum of Natural History have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of a minimum of one individual of Native American ancestry. Officials of the American Museum of Natural History 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 Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; and Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah.

This notice has been sent to officials of the Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; and Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains should contact Elaine Guthrie, Acting Director of Cultural Resources, American Museum of Natural History, Central Park West at 79th Street, New York, NY 10024-5192, telephone (212) 769-5835, before April 24 2002. Repatriation of the human remains to the Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; and Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah may begin after that date if no additional claimants come forward.

Dated: February 5, 2002.

Robert Stearns,

Manager, National NAGPRA Program.

[FR Doc. 02–7008 Filed 3–22–02; 8:45 am]

BILLING CODE 4310–70–S

DEPARTMENT OF THE INTERIOR

National Park Service

CORRECTION—Notice of Inventory Completion for Native American Human Remains in the Control of the Arizona State Office, Bureau of Land Management, Phoenix, 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 Arizona State Office, Bureau of Land Management, Phoenix, 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 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.

This notice corrects the list of culturally affiliated groups cited in the Notice of Inventory Completion published July 21, 2000. The list of culturally affiliated groups for four of the sites listed in the original notice is corrected by adding the following group: Hopi Tribe of Arizona. These four sites are AZ T:13:9(ASM), AZ EE:1:154(ASM), AZ EE:1:155(ASM), and AZ EE:1:9:107(ASM).

Paragraphs 21 and 22 of the July 21, 2000, notice are corrected by substituting the following paragraphs:

Continuities of ethnographic materials, technology, and architecture indicate affiliation of sites AZ T:13:9(ASM), AZ EE:1:154(ASM) and AZ EE:1:155(ASM) with present-day Piman and O'odham cultures, and the **Hopi Tribe of Arizona**. Oral traditions presented by representatives of the Ak-Chin Indian Community of the Maricopa (Ak-Chin) Indian Reservation, Arizona; the Gila River Indian Community of the Gila River Indian Reservation, Arizona; **Hopi Tribe of Arizona**; the Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; the Tohono O'odham Nation of Arizona support affiliation with Hohokam sites in southern Arizona.

Based on the above-mentioned information, officials of the Bureau of Land Management have 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. Officials of the Bureau of Land Management have also determined that, pursuant to 43 CFR 10.2 (d)(2), the 32 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 the death rite or ceremony. Lastly, officials of the Bureau of Land Management 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 associated funerary objects and the Ak-Chin Indian Community of the Maricopa (Ak-Chin) Indian Reservation, Arizona; the Gila River Indian Community of the Gila River Indian Reservation, Arizona; **Hopi Tribe of Arizona**; the Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; and the Tohono O'odham Nation of Arizona.

Paragraphs 29, 30, 31, 32, 33 and 34 of the July 21, 2000, notice are corrected by substituting the following eight paragraphs for this section of the published notice. For clarity, paragraphs 29, 30 and 31, 32 are republished unchanged, although their positions in the notice are altered. The cultural affiliation for site AZ EE:4:9 (BLM) has not changed.

In 1987, human remains representing three individuals were recovered during legally authorized salvage excavations of site AZ EE:9:107(ASM) in Nogales, AZ. No known individuals were identified. No associated funerary object are present.

Based on ceramics and architecture, site AZ EE:9:107(ASM) was identified as a Hohokam village dating to A.D. 700-1200.

Continuities of ethnographic materials, technology, and architecture indicate affiliation of site AZ EE:9:107(ASM) with present-day Piman and O'odham cultures **and the Hopi Tribe of Arizona**. Oral traditions presented by representatives of the Ak-Chin Indian Community of the Maricopa (Ak-Chin) Indian Reservation, Arizona; the Gila River Indian Community of the Gila River Indian

Reservation, Arizona; **the Hopi Tribe of Arizona**; the Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; and the Tohono O'odham Nation of Arizona support affiliation with Hohokam sites in southern Arizona.

Based on the above-mentioned information, officials of the Bureau of Land Management have determined that, pursuant to 43 CFR 10.2(d)(1), the human remains listed above represent the physical remains of **three** individuals of Native American ancestry. Officials of the Bureau of Land Management 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 Ak-Chin Indian Community of the Maricopa (Ak-Chin) Indian Reservation, Arizona; the Gila River Indian Community of the Gila River Indian Reservation, Arizona; **the Hopi Tribe of Arizona**; the Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; and the Tohono O'odham Nation of Arizona.

In 1988, human remains representing two individuals were recovered during legally authorized salvage excavations of site AZ EE:4:9(BLM) along the San Pedro River near Fairbank, AZ. No known individuals were identified. No associated funerary objects are present.

Based on artifacts and site organization, site AZ EE:4:9(BLM) was identified as Sobaipuri.

Continuities of ethnographic materials, technology, and architecture indicate affiliation of site AZ EE:4:9(BLM) with present-day Piman and O'odham cultures. Oral traditions presented by representatives of the Ak-Chin Indian Community of the Maricopa (Ak-Chin) Indian Reservation, Arizona; the Gila River Indian Community of the Gila River Indian Reservation, Arizona; the Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; and the Tohono O'odham Nation of Arizona support affiliation with Sobaipuri sites in southern Arizona.

Based on the above-mentioned information, officials of the Bureau of Land Management have determined that, pursuant to 43 CFR 10.2(d)(1), the human remains listed above represent the physical remains of **two** individuals of Native American ancestry. Officials of the Bureau of Land Management 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 Ak-Chin Indian Community of the Maricopa (Ak-Chin) Indian Reservation, Arizona; the Gila River Indian Community of the Gila River Indian Reservation, Arizona; the Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; and the Tohono O'odham Nation of Arizona.

This notice has been sent to officials of the Hopi Tribe of Arizona; the Zuni Tribe of the Zuni Reservation, New Mexico; the Navajo Nation, Arizona, New Mexico and Utah; the Yavapai-Prescott Tribe of the Yavapai Reservation, Arizona; the Kaibab Band of Paiute Indians of the Kaibab Indian Reservation, Arizona; the Ak-Chin Indian Community of the Maricopa (Ak-Chin) Indian Reservation, Arizona; the Gila River Indian Community of the Gila River Indian Reservation, Arizona; the Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; the Tohono O'odham Nation of Arizona; the Fort Mohave Indian Tribe of Arizona, California and Nevada; and the Colorado River Indian Tribes of the Colorado River Indian Reservation, Arizona and California. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Gary Stumpf, Bureau of Land Management, Arizona State Office, 222 N. Central Avenue, Phoenix, AZ 85004, telephone (602) 417-9509, before April 24, 2002. Repatriation of the human remains and associated funerary objects to the respective culturally affiliated Indian tribes may begin after that date if no additional claimants come forward.

Dated: February 8, 2002.

Robert Stearns,

Manager, National NAGPRA Program.

[FR Doc. 02–7011 Filed 3–22–02; 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 Louisiana Department of Culture, Recreation, and Tourism, Division of Archaeology, Baton Rouge, LA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given under the Native American Graves Protection and Repatriation Act, 43 CFR 10.10 (a)(3), of the intent to repatriate cultural items in the possession of the Louisiana State Division of Archaeology, Baton Rouge, LA, that meet the definition of ''unassociated funerary object'' under Section 2 of the Act.

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 cultural items. The National Park Service is not responsible for the determinations within this notice.

The 49 cultural items are complete pottery vessels.

At an unknown date prior to 1985, Roy Pohler purchased these vessels from unknown sources. Museum records indicate that 36 pots were removed from locations in Clark County, AR; 5 pots were removed from the Bowman site, on the Little River, Clark County, AR; 2 pots were removed from Murfreesboro, Pike County, AR; 2 pots were removed from Pike County, AR; 1 pot was removed from Broken Bow, McCurtain County, OK; and 3 pots have no provenience. In 1985, Mr. Pohler donated the pottery vessels to the Louisiana Department of Culture, Recreation, and Tourism, Division of Archaeology.

Consultations with representatives of the Caddo Indian Tribe of Oklahoma and professional staff at the Louisiana Division of Archaeology and Louisiana State University indicate that, based on stylistic attributes, the ceramic vessels are culturally affiliated with the archaeological Caddo culture. The vessels date to the 16th century. The present day descendants of the Caddo people in Arkansas are the Caddo Indian Tribe of Oklahoma.

Because the Caddo are known to have buried their dead along with whole vessels, these pots are considered to be unassociated funerary objects. Based on the above-mentioned information, officials of Louisiana Division of Archaeology have determined that, pursuant to 43 CFR 10.2 (d)(2)(ii), these cultural items are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual. Officials of the Louisiana Division of Archaeology 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 unassociated funerary objects and the Caddo Indian Tribe of Oklahoma.

This notice has been sent to officials of the Caddo Indian Tribe of Oklahoma. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these unassociated funerary objects should contact Dr. Thomas Eubanks, State Archaeologist, Louisiana State Division of Archaeology, 1051 North 3rd Street Room 405, Baton Rouge, LA, telephone (225) 342-8170, before April 24, 2002. Repatriation of these unassociated funerary objects to the Caddo Indian Tribe of Oklahoma may begin after that date if no additional claimants come forward.

Dated: February 6, 2002.

Robert Stearns,

Manager, National NAGPRA Program.

[FR Doc. 02–7009 Filed 3–22–02; 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 Milwaukee Public Museum, Milwaukee, WI

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 Milwaukee Public Museum, Milwaukee, WI.

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 Milwaukee Public Museum professional staff and contract specialists in physical anthropology in consultation with representatives of the Zuni Tribe of the Zuni Reservation, New Mexico, and the Hopi Tribe of Arizona.

At an unknown date, human remains representing one individual were removed from a grave in an unknown location near Frisco, Catron County, NM, by an unknown person. These human remains were donated to the Milwaukee Public Museum by Mary E. Stewart in 1899. Ms. Stewart also donated human hair, believed to be from the same individual, to the Milwaukee Public Museum in 1901. No known individual was identified. No associated funerary objects are present.

While the exact age of the remains cannot be determined from existing evidence, cranial deformation associated with the use of hard cradleboards was noted and suggests a post-AD 700 date.

Based on cranial morphology and dental traits, these human remains are identified as Native American. Consultation evidence provided by representatives of the Zuni Tribe of the Zuni Reservation, New Mexico, and the Hopi Tribe of Arizona indicates that the geographical location of the burial is consistent with the traditional territories of the Zuni and Hopi peoples. Both groups claim descent from the archeologically defined Anasazi culture in Catron County, NM.

Based on the above-mentioned information, officials of the Milwaukee Public Museum 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 Milwaukee Public Museum 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 Zuni Tribe of the Zuni Reservation, New Mexico, and the Hopi Tribe of Arizona.

This notice has been sent to officials of the Zuni Tribe of the Zuni Reservation, New Mexico, and the Hopi Tribe of Arizona. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains should contact Dr. Alex Barker, Anthropology Section Head, Milwaukee Public Museum, 800 West Wells Street, Milwaukee, WI 53233, telephone (414) 278-2786, before April 24, 2002. Repatriation of the human remains to the Zuni Tribe of the Zuni Reservation, New Mexico, and the Hopi Tribe of Arizona may begin after that date if no additional claimants come forward.

Dated: February 7, 2002.

Robert Stearns,

Manager, National NAGPRA Program.

[FR Doc. 02–7010 Filed 3–22–02; 8:45 am]

BILLING CODE 4310–70–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate a Cultural Item in the Possession of the Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given under the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.10 (a)(3), of the intent to repatriate a cultural item in the possession of the Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA, that meets the definition of ''unassociated funerary object'' under Section 2 of the Act.

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 this cultural item. The National Park Service is not responsible for the determinations within this notice.

The cultural item is one headdress made of metal, copper, leather, and fiber.

In 1886, a ''Tlingit'' headdress was recovered from a ''shaman's grave,'' on Baranof Island, 17 miles from Sitka, AK, by Walter G. Chase, who donated the cultural item to the Peabody Museum of Archaeology and Ethnology in 1891.

Peabody Museum documentation indicates that this cultural item is Tlingit. Research and consultation with the Sealaska Corporation on behalf of the Kiks.adi Clan has indicated that this headdress (identified as Kiks.adi Ixt' Shaadaa) was recovered from an area considered to be the traditional territory of the Kiks.adi Clan, a Raven Clan of Tlingit people, who are represented by the Sealaska Corporation.

Based on the above-mentioned information, officials of the Peabody Museum of Archaeology and Ethnology have determined that, pursuant to 43 CFR 10.2 (d)(2)(ii), this one cultural item is reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and is believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual. Officials of the Peabody Museum of Archaeology and Ethnology 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 this cultural item and the Kiks.adi Clan of Tlingit people, who are represented by the Sealaska Corporation.

This notice has been sent to officials of the Angoon Community Association; Central Council of the Tlingit & Haida Indian Tribes; Kake Tribal Council; Petersburg Indian Association; Sealaska Corporation; Shaan Set, Inc.; and the Sitka Tribe of Alaska. Representatives of any other Indian tribe that believes itself to be culturally affiliated with this unassociated funerary object should contact Patricia Capone, Repatriation Coordinator, Peabody Museum of Archaeology and Ethnology, Harvard, 11 Divinity Avenue, Cambridge, MA 02138, telephone (617) 496-3702, before April 24, 2002. Repatriation of this unassociated funerary object to the Sealaska Corporation on behalf of the Kiks.adi Clan may begin after that date if no additional claimants come forward.

Dated: February 5, 2002.

Robert Stearns,

Manager, National NAGPRA Program.

[FR Doc. 02–7004 Filed 3–22–02; 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 Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA

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 Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA.

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 human remains was made by Peabody Museum of Archaeology and Ethnology professional staff in consultation with representatives of the Aleut Corporation; Aleutian/Pribilof Islands Association Inc.; Chaluka Corporation; and the Native Village of Nikolski, which is represented by the Nikolski IRA Council.

In 1874, human remains representing one individual were collected from Kagamil Island, AK, by Captain Hennings of the Alaska Commercial Company. These human remains were donated to the Peabody Museum of Archaeology and Ethnology by the Alaska Commercial Company through the Smithsonian Institution in 1875. No known individual was identified. No associated funerary objects are present.

Museum documentation and published sources describe the human remains as an ''Aleut'' and date them to the 18th century. Historical documents and consultation information indicate that the Native Village of Nikolski, which is today represented by the Nikolski IRA Council and the Chaluka Corporation, occupied the area where the human remains were collected during the 18th century.

Based on the above-mentioned information, officials of the Peabody Museum of Archaeology and Ethnology 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 Peabody Museum of Archaeology and Ethnology 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 Native Village of Nikolski, which is represented by the Nikolski IRA Council and the Chaluka Corporation.

This notice has been sent to officials of the Aleut Corporation; Aleutian/Pribilof Islands Association, Inc.; the Native Village of Nikolski; the Nikolski IRA Council; and the Chaluka Corporation. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains should contact Patricia Capone, Repatriation Coordinator, Peabody Museum of Archaeology and Ethnology, Harvard University, 11 Divinity Avenue, Cambridge, MA 02138, telephone (617) 496-3702, before April 24, 2002. Repatriation of the human remains to the Native Village of Nikolski, which is represented by the Nikolski IRA Council and the Chaluka Corporation, may begin after that date if no other additional claimants come forward.

Dated: February 5, 2002.

Robert Stearns,

Manager, National NAGPRA Program.

[FR Doc. 02-7005 Filed 3–22–02; 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 Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA

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 Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA.

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 human remains was made by Peabody Museum of Archaeology and Ethnology professional staff in consultation with representatives of the Aleut Corporation; Aleutian/Pribilof Islands Association, Inc.; Ounalashka Corporation; and the Qawalangin Tribe of Unalaska.

In 1872, human remains representing one individual were collected from the Amaknak Spit site, Dutch Harbor, Unalaska, AK, by William H. Dall, who donated these human remains to the Peabody Museum of Archaeology and Ethnology that same year. No known individual was identified. No associated funerary objects are present.

In 1886, human remains representing one individual were collected from a cave at Unalaska, AK, by Alice C. Fletcher, who donated these human remains to the Peabody Museum of Archaeology and Ethnology in 1887. No

known individual was identified. No associated funerary objects are present.

Peabody Museum of Archaeology and Ethnology documentation describes both of these sets of human remains as ''Aleut.'' Historical documents and consultation information indicate that the Qawalangin Tribe of Unalaska, which is today represented by the Ounalashka Corporation, has traditionally occupied the area of the Aleutian Islands from which the human remains were collected.

Based on the above-mentioned information, officials of the Peabody Museum of Archaeology and Ethnology have determined that, pursuant to 43 CFR 10.2 (d) (1), the human remains listed above represent the physical remains of two individuals of Native American ancestry. Officials of the Peabody Museum of Archaeology and Ethnology 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 Qawalangin Tribe of Unalaska, which is represented by the Ounalashka Corporation.

This notice has been sent to officials of the Aleut Corporation; Aleutian/Pribilof Islands Association, Inc.; Ounalashka Corporation; and the Qawalangin Tribe of Unalaska. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains should contact Patricia Capone, Repatriation Coordinator, Peabody Museum of Archaeology and Ethnology, Harvard University, 11 Divinity Avenue, Cambridge, MA 02138, telephone (617) 496-3702, before April 24, 2002. Repatriation of the human remains to the Qawalangin Tribe of Unalaska, which is represented by the Ounalashka Corporation, may begin after that date if no additional claimants come forward.

Dated: February 5, 2002.

Robert Stearns,

Manager, National NAGPRA Program.

[FR Doc. 02–7006 Filed 3–22–02; 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 Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA

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 Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA.

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 human remains was made by the Peabody Museum of Archaeology and Ethnology professional staff in consultation with representatives of the Bering Straits Native Corporation, the Unalakleet Native Corporation, and the Native Village of Unalakleet.

In 1869, human remains representing one individual were collected from Norton Sound, AK, by William H. Dall, who donated these human remains to the Peabody Museum of Archaeology and Ethnology in the same year. No known individual was identified. No associated funerary objects are present.

Peabody Museum of Archaeology and Ethnology documentation describes the remains as ''Unaleet [sic], Eskimo.'' Given the proximity of Norton Sound to the village of Unalakleet, the human remains are probably from Unalakleet. Historical documents and consultation information indicate that the Native Village of Unalakleet has traditionally occupied the area from which the human remains were collected.

Based on the above-mentioned information, officials of the Peabody Museum of Archaeology and Ethnology 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 Peabody Museum of Archaeology and Ethnology 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 Native Village of Unalakleet.

This notice has been sent to officials of the Native Village of Unalakleet, Unalakleet Native Corporation, and Bering Straits Native Corporation. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains should contact Patricia Capone, Repatriation Coordinator, Peabody Museum of Archaeology and Ethnology, Harvard University, 11 Divinity Avenue, Cambridge, MA 02138, telephone (617) 496-3702, before April 24, 2002. Repatriation of the human remains to the Native Village of Unalakleet may begin after that date if no additional claimants come forward.

Dated: February 5, 2002.

Robert Stearns,

Manager, National NAGPRA Program.

[FR Doc. 02–7007 Filed 3–22–02; 8:45 am]

BILLING CODE 4310–70–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate a Cultural Item in the Possession of the Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given under the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.10 (a)(3), of the intent to repatriate a cultural item in the possession of the Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA, that meets the definition of ''unassociated funerary object'' under Section 2 of the Act.

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 this cultural item. The National Park Service is not responsible for the determinations within this notice.

The cultural item is one beaded blanket fragment.

This object was purchased on behalf of William Claflin by Mrs. D. F. Craig, who lived near Fort Sill, OK, from 1922 to 1925. In 1985, the object was bequeathed to the Peabody Museum of Archaeology and Ethnology as part of the William Claflin Collection.

Peabody Museum of Archaeology and Ethnology records indicate that the object ''was bought by Mrs. Craig from an Indian Trader near Ft. Sill who claimed it had been taken from a grave'' and that the grave was that of a ''Comanche?'' individual. Based on the

specific cultural affiliation suggested by the collector, as noted in museum records, this burial was most likely a Comanche burial from the historic period. This unassociated funerary object originated in a region historically occupied by the Comanche, Apache, and Kiowa tribes. Therefore, the preponderance of historical, geographic, and archaeological evidence indicates that a reasonable link of shared group identity can be made between this unassociated funerary object and the Comanche Indian Tribe, Oklahoma.

Based on the above-mentioned information, officials of the Peabody Museum of Archaeology and Ethnology have determined that, pursuant to 43 CFR 10.2 (d)(2)(ii), this cultural item is reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and is believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual. Officials of the Peabody Museum of Archaeology and Ethnology 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 this cultural item and the Comanche Indian Tribe, Oklahoma.

This notice has been sent to officials of the Apache Tribe of Oklahoma; Fort Sill Apache Tribe of Oklahoma; Comanche Indian Tribe, Oklahoma; and Kiowa Indian Tribe of Oklahoma. Representatives of any other Indian tribe that believes itself to be culturally affiliated with this unassociated funerary object should contact Patricia Capone, Repatriation Coordinator, Peabody Museum of Archaeology and Ethnology, Harvard, 11 Divinity Avenue, Cambridge, MA 02138, telephone (617) 496-3702, before April 24, 2002. Repatriation of this unassociated funerary object to the Comanche Indian Tribe, Oklahoma may begin after that date if no additional claimants come forward.

Dated: February 5, 2002.

Robert Stearns,

Manager, National NAGPRA Program.

[FR Doc. 02–7012 Filed 3–22–02; 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 Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA

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 Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA.

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 the Peabody Museum of Archaeology and Ethnology professional staff in consultation with officials of the Wampanoag Repatriation Confederation, representing the Wampanoag Tribe of Gay Head (Aquinnah), the Mashpee Wampanoag Indian Tribe (a nonfederally recognized Indian group), and the Assonet Band of the Wampanoag Nation (a nonfederally recognized Indian group).

In 1936, human remains representing one individual from Nantucket, MA, were donated to the Peabody Museum by Miss Harwood of the Nantucket Observatory Astronomy Laboratory. The remains were recovered by an unknown collector at an unknown date. No known individual was identified. No associated funerary objects are present.

Osteological characteristics indicate that the individual is Native American. This interment most likely dates to the late Woodland period or later (post-A.D. 1000). Based on a compilation of radiocarbon-dated human remains from Nantucket by the Nantucket Historical Society, it is likely that these human remains are not older than 1,000 years. To date, no radiocarbon dates for human remains from Nantucket are earlier than circa A.D. 1000. According to archeological evidence and oral tradition, the island of Nantucket is located within the traditional territory of the Wampanoag Nation during the late Woodland period. The present-day tribes that are most closely affiliated with members of the Wampanoag Nation are the Wampanoag Tribe of Gay Head (Aquinnah), the Mashpee Wampanoag Indian Tribe (a nonfederally recognized Indian group), and the Assonet Band of the Wampanoag Nation (a nonfederally recognized Indian group).

In 1941, human remains representing one individual from the Hughes site, Nantucket, MA, were recovered by Arthur F. Hughes. The human remains were donated to the Peabody Museum of Archaeology and Ethnology through Edward Brooks of the Massachusetts Archaeological Society the same year. No known individual was identified. No associated funerary objects are present.

According to museum documentation, ceramic sherds, a broken bone awl, a bent ceramic pipe stem, and a probable Levanna-style triangular projectile point were found in association with the human remains, but are not in the possession of the Peabody Museum of Archaeology and Ethnology.

These human remains were found in a traditional Native American-style burial context, with the head oriented to the northeast and the face to the east. This interment most likely dates to the late Woodland period or later (post-A.D. 1000). Based on a compilation of radiocarbon-dated human remains from Nantucket by the Nantucket Historical Society, it is likely that these human remains are not older than 1,000 years. To date, no radiocarbon dates for human remains from Nantucket are earlier than circa A.D. 1000. Attributed dates of the stylistic characteristics of the funerary objects from the Hughes site are consistent with this radiocarbon information. Native ceramic pipes with bent stems are identified initially during the middle Woodland period (circa A.D. 1), but are most strongly associated with the late Woodland period and later (post-A.D. 1000) in New England. Levanna-style projectile points date to the middle Woodland period and later in the New England area (post-A.D. 1). According to archeological evidence and oral tradition, the Hughes site is located within the traditional territory of the Wampanoag Nation during the late Woodland period. The present-day tribes that are most closely affiliated with members of the Wampanoag Nation are the Wampanoag Tribe of Gay Head (Aquinnah), the Mashpee Wampanoag Indian Tribe (a nonfederally recognized Indian group), and the Assonet Band of the

Wampanoag Nation (a nonfederally recognized Indian group).

In 1956, human remains representing two individuals from Nantucket, MA, were donated to the Peabody Museum of Archaeology and Ethnology by the Robert S. Peabody Museum, Andover, MA. These human remains had been collected by Alfred Shurrocks and his wife in 1935, who then donated them to the Robert S. Peabody Museum. No known individuals were identified. No associated funerary objects are present.

Osteological characteristics indicate that the human remains are Native American. Based on a compilation of radiocarbon-dated human remains from Nantucket by the Nantucket Historical Society, it is likely that these human remains are not older than 1,000 years. To date, no radiocarbon dates for human remains from Nantucket are earlier than circa A.D. 1000. According to archeological evidence and oral tradition, the island of Nantucket is located within the traditional territory of the Wampanoag Nation during the late Woodland period. The present-day tribes that are most closely affiliated with members of the Wampanoag Nation are the Wampanoag Tribe of Gay Head (Aquinnah), the Mashpee Wampanoag Indian Tribe (a nonfederally recognized Indian group), and the Assonet Band of the Wampanoag Nation (a nonfederally recognized Indian group).

In 1959, human remains representing one individual from Nantucket, MA, were permanently loaned to the Peabody Museum of Archaeology and Ethnology by the Warren Anatomical Museum at the Harvard Medical School. These human remains may have been collected by J.M. Warren at an unknown date because they are from the J.M. Warren collection, which was assembled by Mr. Warren himself. No known individual was identified. No associated funerary objects are present.

Osteological characteristics indicate that the human remains are Native American. This interment most likely dates to the historic/contact period (post-A.D. 1500). The pattern of copper stains present on the cranial remains indicates that they were interred some time after European contact. Also, based on a compilation of radiocarbon-dated human remains from Nantucket by the Nantucket Historical Society, it is likely that these human remains are not older than 1,000 years. To date, no radiocarbon dates for human remains from Nantucket result earlier than circa A.D. 1000. Oral tradition and historic documentation indicate that the island of Nantucket is within the aboriginal and historic homeland of the Wampanoag Nation during the late Woodland period. The present-day tribes that are most closely affiliated with members of the Wampanoag Nation are the Wampanoag Tribe of Gay Head (Aquinnah), the Mashpee Wampanoag Indian Tribe (a nonfederally recognized Indian group), and the Assonet Band of the Wampanoag Nation (a nonfederally recognized Indian group).

Based on the above-mentioned information, officials of the Peabody Museum of Archaeology and Ethnology have 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. Officials of the Peabody Museum of Archaeology and Ethnology 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 Wampanoag Tribe of Gay Head (Aquinnah), and that there is a cultural relationship between these Native American human remains and the Mashpee Wampanoag Indian Tribe (a nonfederally recognized Indian group), and the Assonet Band of the Wampanoag Nation (a nonfederally recognized Indian group).

This notice has been sent to officials of the Wampanoag Repatriation Confederation, the Wampanoag Tribe of Gay Head (Aquinnah), the Mashpee Wampanoag Indian Tribe, and the Assonet Band of the Wampanoag Nation. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary object should contact Patricia Capone, Repatriation Coordinator, Peabody Museum of Archaeology and Ethnology, Harvard University, 11 Divinity Avenue, Cambridge, MA 02138, telephone (617) 496-3702, before April 24, 2002. Repatriation of these human remains to the Wampanoag Repatriation Confederation on behalf of the Wampanoag Tribe of Gay Head (Aquinnah), the Mashpee Wampanoag Indian Tribe (a nonfederally recognized Indian group), and the Assonet Band of the Wampanoag Nation (a nonfederally recognized Indian group), may begin after that date if no additional claimants come forward.

Dated: February 12, 2002.

Robert Stearns,

Manager, National NAGPRA Program.

[FR Doc. 02–7013 Filed 3–22–02; 8:45 am]

BILLING CODE 4310–70–S

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Freeport Regional Water Project, Sacramento River, CA

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of Intent to prepare an Environmental Impact Statement/ Environmental Impact Report.

SUMMARY: Pursuant to the National Environmental Policy Act of 1969 as amended, Reclamation proposes to participate in a joint Environmental Impact Statement/Environmental Impact Report (EIS/EIR) on the Freeport Regional Water Project (FRWP). The FRWP is being proposed by the Freeport Regional Water Authority (FRWA), a joint powers agency formed by the Sacramento County Water Agency (SCWA) and East Bay Municipal Utility District (EBMUD) to make use of Central Valley Project (CVP) contract and other water supplies, reduce rationing during droughts, reduce groundwater overdraft in Sacramento County, and to increase water service reliability for customers. The FRWP would enable Reclamation to meet delivery obligations under its water supply contracts with SCWA and EBMUD. The FRWA will be the lead agency under the California Environmental Quality Act (CEQA). The City of Sacramento will serve as a responsible agency under CEQA.

DATES: Reclamation and the Joint Powers Authority will seek public input on alternatives, concerns, and issues to be addressed in the EIS/EIR through scoping meetings in March. The schedule and locations of the scoping meetings are as follows:

- Monday, April 8, 2002, 6:30–8:30 p.m, Oakland, CA
- Thursday, April 11, 2002, 6:30–8:30 p.m., Sacramento, CA (Freeport)
- Monday, April 15, 2002, 6:30–8:30 p.m., Sacramento, CA (Meadowview)
- Thursday, April 18, 2002, 6:30–8:30 p.m, Herald, CA

Written comments on the scope of alternatives and impacts to be considered should be sent to the Freeport Regional Water Project at the address below by May 2, 2002. Reclamation estimates that the draft EIS/EIR will be available for public review in the summer of 2002.

ADDRESSES: The meeting locations are:

- Oakland at the EBMUD Training Room, 375 11th Street, 2nd Floor
- Sacramento at the Bartley Cavanaugh Golf Course, 8301 Freeport Boulevard

• Sacramento at the Meadowview Community Center, 2450 Meadowview Road

• Herald at the Herald Fire Department, Hendrickson Hall, 127 Ivie Road

Written comments on the project scope should be sent to Freeport Regional Water Project, c/o Gregg Ellis, 2600 V Street, Sacramento, CA 95818.

FOR FURTHER INFORMATION CONTACT: Rob Schroeder at 7794 Folsom Dam Road, Folsom California, 95630, telephone number (916) 989–7274.

SUPPLEMENTARY INFORMATION: SCWA provides water to two separate retail service areas within the unincorporated areas of central Sacramento County, SCWA Zone 41, and Elk Grove Water Service on the east side of the City of Elk Grove. SCWA is responsible for providing water supplies and facilities throughout these areas including the Laguna, Vineyard, Elk Grove and Mather Field communities through a capital funding zone known as ''Zone 40''. The long-term master plan for Zone 40 envisions meeting present and future water needs through a program of conjunctive use of groundwater and surface water. SCWA presently has a CVP entitlement of 22,000 acre-feet. Water for SCWA is currently delivered through the City of Sacramento's intake and treatment facilities, based on SCWA need and available City capacity. These and additional water supplies are expected to be conveyed through the FRWP.

EBMUD is a multipurpose regional agency that provides water to over 1.3 million municipal and industrial water users throughout portions of Contra Costa and Alameda Counties in the East Bay region. EBMUD currently obtains most of its supply from Pardee Reservoir on the Mokelumne River, with the remainder collected from local runoff in its East Bay terminal reservoirs. On July 26, 2001, EBMUD and Reclamation entered into an amendatory CVP contract which allows EBMUD to take delivery of its CVP supply at the location known as Freeport on the Sacramento River south of downtown Sacramento subject to all applicable environmental laws and regulations.

The FRWP is intended by the Joint Powers Authority to meet the identified water delivery needs of the SCWA and EBMUD. It would also enable Reclamation to meet its CVP water delivery obligations to these agencies under existing water supply contracts with EBMUD and SCWA.

The general purposes of the Freeport Regional Water Project are to:

• Provide surface water facilities through which SCWA can deliver water to Zone 40 to support growth approved under the County of Sacramento General Plan. Water would be delivered under SCWA's CVP water supply contract with Reclamation and other anticipated CVP contract assignments, appropriated water rights, and water rights transfers;

• Provide surface water facilities through which EBMUD can deliver water under its amendatory CVP water service contract to provide EBMUD with a supplemental water supply that would reduce existing and future customer deficiencies to manageable levels during drought conditions; and

• Capitalize on the opportunity to cooperate in an endeavor that would minimize costs to each agency and minimize environmental effects by constructing joint facilities to the extent feasible.

The FRWP would also enable Reclamation to deliver water under its CVP amendatory contract with EBMUD and its contract with SCWA.

The FRWP as currently envisioned would consist of:

• An approximately 185 million gallon per day (mgd) intake/pumping facility

• A raw water pipeline to a turnout at approximately Bradshaw Road in central Sacramento County,

• A new water treatment plant in central Sacramento County to serve SCWA needs,

• A raw water pipeline connecting to the Folsom South Canal,

• A new pumping plant near the end of the Folsom South Canal,

• A pipeline from the Folsom South Canal to the Mokelumne Aqueducts,

• A new pumping and treatment facility at the Mokelumne Aqueducts to deliver water to EBMUD.

The EIS/EIR will consider a range of alternatives including the no-action alternative.

Scoping is an early and open process designed to determine the issues and alternatives to be addressed in the EIS/EIR. The following are issues that have been identified by Reclamation to date: Sacramento River fishery effects; water quality; agricultural and municipal water supply availability, and quality; construction-related effects on the Sacramento River, urban areas, and natural habitats; and, wetland, upland, and aquatic habitats.

The draft EIS/EIR will focus on the impacts and benefits of implementing the various alternatives. It will contain an analysis of the physical, biological, social, and economic impacts arising from the alternatives. In addition, it will address the cumulative impacts of implementation of the alternatives in conjunction with other past, present, and reasonably foreseeable actions.

If special assistance is required, contact Mr. Robert Schroeder at Reclamation (916) 989–7274. Please notify Mr. Schroeder as far in advance of the workshops as possible to enable Reclamation to secure the needed services. If a request cannot be honored, the requestor will be notified. A telephone device for the hearing impaired (TDD) is available at (916) 989–7285.

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: February 20, 2002.

Frank Michny,

Regional Environmental Officer.

[FR Doc. 02–7065 Filed 3–22–02; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Proposed Construction of Campbell County Force Road

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Notice of application for grant funding; public comment period on request to fund the reconstruction of Campbell County Force Road.

SUMMARY: OSM is announcing its receipt of a grant application from the Wyoming Department of Environmental Quality, Abandoned Mine Land Division (AMLD). Wyoming is requesting $255,000 from the Abandoned Mine Land Reclamation Fund to pay 8.2 percent of the cost of building the Campbell County Force Road. In its application, the State proposes paying for part of the construction cost as a public facility project that will benefit a community impacted by coal mining.

This notice describes when and where you may read the grant application for funding the Campbell County Force Road. It also sets the time period during which you may send written comments on the request to us.

DATES: We will accept written comments until 4:00 p.m., m.s.t. April 24, 2002.

ADDRESSES: You should mail or hand-deliver written comments to Guy V. Padgett, Casper Field Office Director, at the address shown below. You may read Wyoming's grant application for this proposed project during normal business hours Monday through Friday (excluding holidays) at the same address. Also, we will send one free copy of the grant application to you if you contact OSM's Casper Field Office. Guy V. Padgett, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, Federal Building, Rm. 2403, 100 East ''B'' Street, Casper, Wyoming 82601–1918.

FOR FURTHER INFORMATION CONTACT: Guy V. Padgett, Telephone: (307) 261–6555.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking [or administrative] record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking [or administrative] record a respondent's identity, 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. However, we will not consider anonymous comments. We will take all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

SUPPLEMENTARY INFORMATION:

I. Background on Title IV of SMCRA

Title IV of the Surface Mining Control and Reclamation Act (SMCRA) established an Abandoned Mine Land Reclamation (AMLR) program. The purpose of the AMLR program is to reclaim and restore lands and waters that were adversely affected by past mining. The program is funded by a reclamation fee paid by active coal mining operations. Lands and waters eligible for reclamation under Title IV are primarily those that were mined, or affected by mining, and abandoned or inadequately reclaimed before August 3, 1977, and for which there is no continuing reclamation responsibility under State, Federal, or other laws.

Title IV of SMCRA allows States to submit AMLR plans to us. We, on behalf of the Secretary review those plans and consider any public comments we receive about them. If we determine that a State has the ability and necessary legislation to operate an AMLR program, the Secretary can approve it. The Secretary's approval gives a State exclusive authority to put its AMLR plan into effect.

Once the Secretary approves a State's AMLR plan, the State may apply to us for money to fund specific projects that will achieve the goals of its approved plan. We follow the requirements of the Federal regulations at 30 CFR parts 874, 875, and 886 when we review and approve such applications.

II. Background on the Wyoming AMLR Plan

The Secretary of the Interior approved Wyoming's AMLR plan on February 14, 1983. You can find background information on the Wyoming AML program, including the Secretary's findings and our responses to comments, in the February 14, 1983 **Federal Register** (48 FR 6536). Wyoming changed its plan a number of times since the Secretary first approved it. In 1984, we accepted the State's certification that it had addressed all known coal-related impacts in Wyoming that were eligible for funding under its program. As a result, the State may now reclaim low priority non-coal reclamation projects. You can read about the certification and OSM's acceptance in the May 25, 1984, **Federal Register** (49 FR 22139). At the same time, we also accepted Wyoming's proposal that it will ask us for funds to reclaim any additional coal-related problems that occur during the life of the AML program as soon as it becomes aware of them. In the April 13, 1992, **Federal Register** (57 FR 12731), we announced our decision to accept other changes in Wyoming's plan that describe how it will rank eligible coal, non-coal, and public facility projects for funding. Those changes also authorized the Governor of Wyoming to elevate the priority of a project based upon the Governor's determination of need and urgency. They also expanded the State's ability to construct public facilities under section 411 of SMCRA. We approved additional changes in Wyoming's plan concerning non-coal lien authority and contractor eligibility that improved the efficiency of the State's AML program. That approval is described in the February 21, 1996, **Federal Register** (61 FR 6537).

Once a State certifies that it has addressed all remaining abandoned coal mine problems and the Secretary concurs, then it may request funds to undertake abandoned non-coal mine reclamation, community impact assistance, and public facilities projects under sections 411(b), (e), and (f), of SMCRA.

State law regulations that apply to the proposed Abandoned Coal Mine Land Program Campbell County Force Road funding request include Wyoming Statue 35–11–1202 and Wyoming Abandoned Mine Land Regulations, Chapter VII, of the Wyoming Abandoned Mine Program.

III. Wyoming's Request To Fund the Cost of the Campbell County Force Road

The Wyoming Department of Environmental Quality will submitted to us a grant application in the fall of 2003. In that application, Wyoming will ask for $255,000 to pay for a part of the cost of constructing the Campbell County Force Road. This is 8.2 percent of the estimated cost of the project. The Governor of Wyoming certified the need and urgency to fund this project prior to completing the State's remaining inventory of non-coal reclamation work, as allowed by section 411(f) of SMCRA. that certification says the project is in a community impacted by coal mining activities. Campbell County will provide the balance of funding from county reserves, and may seek additional grant funding for future phases of the project.

This project will allow the realignment of a hazardous secondary road to reduce dangerous 90 degree curves which are public safety hazards. The Governor's certification states that the safety hazards impacting the Campbell County Force Road warrant funding of this project before the remaining inventory of non-coal projects are completed.

IV. How We Will Review Wyoming's Grant Application

We will review the grant application using regulations at 30 CFR 875.15; specifically subsections 875.15(e)(1) through (7). As stated in those regulations, the application must include the following information: (1) The need or urgency for the activity or the construction of the public facility; (2) the expected impact the project will have on Wyoming's coal or minerals industry; (3) the availability of funding from other sources and, if other funding is provided, its percentage of the total cost involved; (4) documentation from

other local, State, Federal agencies with oversight for such utilities or facilities describing what funding they have available and why their agency is not fully funding this specific project; (5) the impact on the State, the public, and the minerals industry if the facility is not funded; (6) the reason why this project should be selected before the priority projects relating to the protection of public health and safety or the environment from the damages caused by past mining activities, and (7) an analysis and review of the procedures Wyoming used to notify and involve the public in this request, and a copy of all comments received and their resolution by the State. Wyoming's application for the Campbell County Force Road project contains the information described in these seven subsections.

Section 875.15(f) requires us to evaluate all comments we receive and determine whether the funding meets the requirements of sections 875.15(e)(1) through (7) described above. It also requires us to determine if the request is in the best interests of the State's AML program. We will approve Wyoming's request to fund this project if we conclude that it meets all the requirements of 30 CFR 875.15.

V. What To Do if You Want To Comment on the Proposed Project

We are asking for public comments on Wyoming's request for funds to pay for part of the cost of reconstructing the Campbell County Force Road. You are welcome to comment on the project. If you do, please send us written comments. Make sure your comments are specific and pertain to Wyoming's funding request in the context of the regulations at 30 CFR 875.15 and the provisions of section 411 of SMCRA. You should explain any recommendations you make. If we receive your comments after the time shown under **DATES** or at locations other than the Casper Field Office, we will not necessarily consider them in our final decision or include them in the administrative record.

Dated: March 18, 2002.

Guy Padgett,

Director, Casper Field Office.

[FR Doc. 02–7090 Filed 3–22–02; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Proposed Construction of City of Lander Water Treatment Plant

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Notice of application for grant funding; public comment period on request to fund the City of Lander Water Treatment Plant.

SUMMARY: OSM is announcing its receipt of a grant application from the Wyoming Department of Environmental Quality, Abandoned Mine Land Division (AMLD). Wyoming is requesting $1,000,000 from the Abandoned Mine Land Reclamation Fund to pay part of the cost of building a City of Lander Water Treatment Plant. In its application, the State proposes paying for part of the construction cost as a public facility project that will benefit a community impacted by mineral mining.

This notice describes when and where you may read the grant application for funding the City of Lander Water Treatment Plant. It also sets the time period during which you may send written comments on the request to us.

DATES: We will accept written comments until 4 p.m., m.s.t., April 24, 2002.

ADDRESSES: You should mail or hand-deliver written comments to Guy V. Padgett, Casper Field Office Director, at the address shown below. You may read Wyoming's grant application for this proposed project during normal business hours Monday through Friday (excluding holidays) at the same address. Also, we will send one free copy of the grant application to you if you contact OSM's Casper Field Office.

Guy V. Padgett, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, Federal Building, Rm. 2403, 100 East ''B'' Street, Casper, Wyoming 82601–1918.

FOR FURTHER INFORMATION CONTACT: Guy V. Padgett, Telephone: (307) 261–6555.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking [or administrative] record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking [or administrative] record a respondent's identity, 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. However, we will not consider anonymous comments. We will take all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

SUPPLEMENTARY INFORMATION:

I. Background on Title IV of SMCRA

Title IV of the Surface Mining Control and Reclamation Act (SMCRA) established an Abandoned Mine Land Reclamation (AMLR) program. The purpose of the AMLR program is to reclaim and restore lands and waters that were adversely affected by past mining. The program is funded by a reclamation fee paid by active coal mining operations. Rands and waters eligible for reclamation under Title IV are primarily those that were mined, or affected by mining, and abandoned or inadequately reclaimed before August 3, 1977, and for which there is no continuing reclamation responsibility under State, Federal, or other laws.

Title IV of SMCRA allows States to submit AMLR plans to us. We, on behalf of the Secretary review those plans and consider any public comments we receive about them. If we determine that a State has the ability and necessary legislation to operate an AMLR program, the Secretary can approve it. The Secretary's approval gives a State exclusive authority to put its AMLR plan into effect.

Once the Secretary approves a State's AMLR plan, the State may apply to us for money to fund specific projects that will achieve the goals of its approved plan. We follow the requirements on the Federal regulations at 30 CFR parts 874, 875, and 886 when we review and approve such applications.

II. Background on the Wyoming AMLR Plan

The Secretary of the Interior approved Wyoming's AMLR plan on February 14, 1983. You can find background information on the Wyoming AML program, including the Secretary's findings and our responses to comments, in the February 14, 1983 **Federal Register** (48 FR 6536). Wyoming changed its plan a number of times since the Secretary first approved it. In 1984, we accepted the State's certification that it had addressed all known coal-related impacts in Wyoming that were eligible for funding under its program. As a result, the State may now

reclaim low priority non-coal reclamation projects. You can read about the certification and OSM's acceptance in the May 25, 1984, **Federal Register** (49 FR 22139). At the same time, we also accepted Wyoming's proposal that it will ask us for funds to reclaim any additional coal-related problems that occur during the life of the AML program as soon as it becomes aware of them. In the April 13, 1992, **Federal Register** (57 FR 12731), we announced our decision to accept other changes in Wyoming's plan that describe how it will rank eligible coal, non-coal, and public facility projects for funding. Those changes also authorized the Governor of Wyoming to elevate the priority of a project based upon the Governor's determination of need and urgency. They also expanded the State's ability to construct public facilities under section 411 of SMCRA. We approved additional changes in Wyoming's plan concerning non-coal lien authority and contractor eligibility that improved the efficiency of the State's AML program. That approval is described in the February 21, 1996, **Federal Register** (61 FR 6537).

Once a State certifies that it has addressed all remaining abandoned coal mine problems and the Secretary concurs, then it may request funds to undertake abandoned non-coal mine reclamation, community impact assistance, and public projects under sections 411(b), (e), and (f), of SMCRA.

State law and regulations that apply to the proposed Abandoned Coal Mine Land Program City of Lander Water Treatment Plant funding request include Wyoming Statue 35–11–1202 and Wyoming Abandoned Mine Land Regulations, Chapter VII, of the Wyoming Abandoned Mine Program.

III. Wyoming's Request To Fund the Cost of the City of Lander Water Treatment Plant

The Wyoming Department of Environmental Quality will submit to us a grant application in the fall of 2003. In that application, Wyoming will ask for $1,000,000 to pay for a part of the cost of constructing the City of Lander Water Treatment Plant. The Governor of Wyoming certified the need and urgency to fund this project prior to completing the State's remaining inventory of non-coal reclamation work, as allowed by section 411(f) of SMCRA. That certification says the project is in a community impacted by mineral mining activities. This project is the second phase of AML Project 44 which was included in the 2001 AML grant. This grant provided $887,239 of funding for the initial design and construction of the City of Lander Water Treatment Plant.

This project addresses an Enforcement Order from the EPA. The Governor's certification states that the safety hazards impacting the City of Lander water users warrant funding of this project before the remaining inventory of non-coal projects are completed.

IV. How We Will Review Wyoming's Grant Application

We will review the grant application using regulations at 30 CFR 875.15; specifically subsections 875.15(e)(1) through (7). As stated in those regulations, the application must include the following information: (1) The need or urgency for the activity or the construction of the public facility; (2) the expected impact the project will have on Wyoming's coal or minerals industry; (3) the availability of funding from other sources and, if other funding is provided, its percentage of the total cost involved; (4) documentation from other local, State, Federal agencies with oversight for such utilities or facilities describing what funding they have available and why their agency is not fully funding this specific project; (5) the impact on the State, the public, and the minerals industry if the facility is not funded; (6) the reason why this project should be selected before the priority projects relating to the protection of public health and safety or the environment from the damages caused by past mining activities, and (7) an analysis and review of the procedures Wyoming used to notify and involve the public in this request, and a copy of all comments received and their resolution by the State. Wyoming's application for the City of Lander Water Treatment Plant project contains the information described in these seven subsections.

Section 875.15(f) requires us to evaluate all comments we received and determine whether the funding meets the requirements of sections 875.15(e)(1) through (7) described above. It also requires us to determine if the request is in the best interests of the State's AML program. We will approve Wyoming's request to fund this project if we conclude that it meets all the requirements of 30 CFR 875.15.

V. What To Do If You Want To Comment on the Proposed Project

We are asking for public comments on Wyoming's request for funds to pay for part of the cost of constructing the City of Lander Water Treatment Plant. You are welcome to comment on the project. If you do, please send us written comments. Make sure your comments are specific and pertain to Wyoming's funding request in the context of the regulations at 30 CFR 875.15 and the provisions of section 411 of SMCRA. You should explain any recommendations you make. If we receive your comments after the time shown under **DATES** or at locations other than the Casper Field Office, we will not necessarily consider them in our final decision or include them in the administrative record.

Dated: March 18, 2002.

Guy Padgett,

Director, Casper Field Office.

[FR Doc. 02–7089 Filed 3–22–02; 8:45 am]

BILLING CODE 4310–05–M

INTERNATIONAL TRADE COMMISSION

Index and Description of Major Information Systems and Availability of Records

AGENCY: United States International Trade Commission.

ACTION: Notice announcing availability of public information.

SUMMARY: The United States International Trade Commission (USITC or Commission) provides notice of its index and description of major information systems and availability of its records.

FOR FURTHER INFORMATION CONTACT: Marilyn R. Abbott (202–205–2799), Secretary, 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 and persons seeking information on the Commission, or making submittals or requests, and seeking decisions, may contact the Office of the Secretary at 202–205–2000.

SUPPLEMENTARY INFORMATION: The Commission makes agency records available to the public in a number of ways: *Electronic Document Information System.* This system provides Internet access to public documents filed with the Office of the Secretary. Docketing information for USITC investigations instituted since 1996 is available electronically by accessing the USITC Internet site at ''*http://www.usitc.gov*'' or directly at ''*http://dockets.usitc.gov/eol/public/.*''

FOIA. Commission records may also be requested under the Freedom of Information Act (FOIA) (5 U.S.C. 552). These requests are filed with the Secretary at 500 E Street, SW., Washington, DC 20436, and must clearly be identified in the request letter and on the envelope as a ''Freedom of Information Act Request.'' Commission rules for requesting information under FOIA are set out in 19 CFR 201.17–201.21.

Government Information Locator. The USITC has an entry in the Government Information Locator Service, at ''*http://www.access.gpo.gov/su_docs/gils/gils.html.*''

Libraries. The Commission maintains two libraries, its National Library of International Trade (the Commission's main reference library), located on the 3rd floor of the Commission building, and a law library, located on the 6th floor. Both are open to the public during normal business hours of 8:45 a.m. to 5:15 p.m. The libraries contain, among other things, complete sets of Commission reports. To determine whether the respective libraries have the information sought, persons seeking information may call the main library at 202–205–2630, or the law library at 202–205–3287.

Public Reading Room. The Commission's docket files in the Office of the Secretary contain the submissions made in all Commission investigations. The files are available for inspection in the Public Reading Room in the Office of the Secretary. The Public Reading Room is located on the 1st floor of the Commission building. Persons having questions regarding availability of records may call the Dockets staff at 202–205–1802. Depending on the age of the records requested, the files are available electronically, in hard copy, and/or on microfiche.

Reports. Reports containing the findings and conclusions of Commission investigations and Commissioner opinions are available in hard copy, generally at no charge, from the Office of the Secretary (telephone 202–205–1809). Reports are also made available for download from the USITC Internet site.

Rules. The Commission's Rules of Practice and Procedure set out the procedures used in Commission proceeding. The rules in 19 CFR parts 200–213 are located in the Code of Federal Regulations and the Commission's Internet site.

Tariff and Trade Data Web. The Commission's DataWeb ''*http://dataweb.usitc.gov,*'' provides public access to tariff and trade data. Data from 1989 are available and can be retrieved in a number of classification systems.

USITC Internet Site. Recent Commission notices, news releases, meeting agendas, monthly calendars, general information ''fact sheets,'' Commissioner biographies, schedules of pending investigations (including hearing dates and deadlines for written submissions), reports, information frequently requested under FOIA, and general information about the Commission are available electronically through the Internet at ''*http://www.usitc.gov.*''

Copies of Commission public records can also be obtained from the Secretary through an on-site duplicating service for a minimum fee.

By order of the Commission.

Issued: March 19, 2002.

Marilyn R. Abbott,

Secretary.

[FR Doc. 02–7140 Filed 3–22–02; 8:45 am]

BILLING CODE 3–22–M

JUDICIAL CONFERENCE OF THE UNITED STATES

Hearing of the Judicial Conference Advisory Committee on Rules of Bankruptcy Procedure

AGENCY: Judicial Conference of the United States, Advisory Committee on Rules of Bankruptcy Procedure.

ACTION: Notice of cancellation of open hearing.

SUMMARY: The public hearing on proposed amendments to the Federal Rules of Bankruptcy Procedure, scheduled for April 12, 2002, in Washington, DC, has been canceled. [Original notice of hearing appeared in the **Federal Register** of March 4, 2002.]

FOR FURTHER INFORMATION CONTACT: John K. Rabiej, Chief, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502–1820.

Dated: March 19, 2002.

John K. Rabiej,

Chief, Rules Committee Support Office.

[FR Doc. 02–7076 Filed 3–22–02; 8:45 am]

BILLING CODE 2210–55–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act (''CERCLA'')

Pursuant to Section 122(d)(2) of CERCLA, 42 U.S.C. 9622(d)(2), notice is hereby given that on March 4, 2002, a proposed Consent Decree in *United States* v. *Hybard Paul*, Civil Action No. 01–0184–P–L, was lodged with the United States District Court for the Southern District of Alabama.

In this action the United States sought to recover response costs incurred by the Environmental Protection Agency (''EPA'') during the performance of a response action to address releases and threatened releases of hazardous substances at the Walker Springs Wood Treater Superfund Site (''Site'') in Walker Springs, Clarke County, Alabama. The Decree resolves the liability of Defendant Hybard Paul for the United States' past response costs and future costs. The Defendant will make a one-time payment of $250,000 to the Hazardous Substances Superfund. In return, the United States will covenant not to sue or to take administrative action against defendant under Sections 106 and 107(a) of CERCLA.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the 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. *Hybard Paul*, DOJ Ref. 90–11–3–07380.

The Consent Decree may be examined at the Office of the United States Attorney, Southern District of Alabama, Riverview Plaza, Suite 600, 63 S. Royal Street, Mobile, Alabama 36602, and at EPA Region 4, Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303. A copy of the 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 refer to *United States* v. *Hybard Paul*, No. 01–0184–P–L (S.D. Ala.), DOJ Ref. 90–11–3–07380, and enclose a check in the amount of $3.75 (25 cents

per page reproduction cost) payable to the Consent Decree Library.

Ellen M. Mahan,

Assistant Section Chief, Environmental Enforcement Section, Environment & Natural Resources Division.

[FR Doc. 02–7025 Filed 3–22–02; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Clean Water Act

Under 28 CFR 50.7, notice is hereby given that on March 5, 2002, a proposed consent decree in *United States and Ohio* v. *City of Youngstown, Ohio,* Civil Action No. 4:98 CV 2438, was lodged with the United States District Court for the Northern District of Ohio.

In this action, the United States sought injunctive relief and civil penalties under Section 309(b) and (d) of the Clean Water Act (''the Act''), 33 U.S.C. 1319(b) and (d), against the City of Youngstown, Ohio, (''Youngstown'') for violations of Section 301 of the Act, 33 U.S.C. 1311, and the terms and conditions of Youngstown's National Pollutant Discharge Elimination System (''NPDES'') permits at Youngstown's wastewater treatment plant and throughout its sewer collection system. The Complaint alleges that Youngstown violated the Clean Water Act and its applicable NPDES permits by failing to meet certain permit deadlines, failing to comply with effluent limitations in its permits, discharging wastewater and raw sewage through unpermitted point sources, failing to monitor its discharges in accordance with its permit requirements, and failing to notify the regulatory agencies of missed deadlines.

The proposed Clean Water Act consent decree provides for injunctive relief consisting of the following: (1) Elimination of the overflow point known as outfall 6108 at the Orchard Meadow area of Mill Creek Park; (2) elimination of certain specified direct discharges of sanitary sewage and process wastewater that are not currently connected to the Youngstown collection system; (3) development and implementation of Youngstown's long term control plan as required by its discharge permit; (4) removal of accumulated sewer sediments in the Mill Creek collector; (5) short-term improvements to Youngstown's collection system maintenance programs, documentation, and data management; (6) an evaluation of Youngstown's collection system maintenance programs and data management and proposed improvements; (7) replacement of the Meadowbrook pump station and the Lansdowne pump station and evaluation of additional upgrades at the Dry Run pump station; (8) implementation of a revised inspection schedule for combined sewer overflows; (9) implementation of measures to reduce vandalism at manholes within the collection system; and (10) installation of additional level sensing equipment at certain specified overflow structures. In addition, Youngstown will pay a civil penalty of $60,000, to be split evenly between the United States and its co-plaintiff the State of Ohio, to resolve the claims in the Complaint.

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 and Ohio* v. *City of Youngstown,* DOJ Ref. #90–5–1–1–4383.

The proposed consent decree may be examined at the office of the United States Attorney for the Northern District of Ohio, 1800 Bank One Center, 600 Superior Avenue East, Cleveland, Ohio 44114, and at U.S. EPA Region 5, 77 West Jackson Boulevard, Chicago, IL 60604. A copy of the 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, or by faxing a request to Tonia Fleetwood, fax no. (202) 514–0097 phone confirmation number (202) 514–1547. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $9.75 (25 cents per page reproduction costs), payable to the U.S. Treasury.

William D. Brighton,

Assistant Chief, Environment Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 02–7026 Filed 3–22–02; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Center for Waste Reduction Technologies (CWRT): Solvent Selection Guide

Notice is hereby given that, on February 7, 2002, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. *et seq.* (''the Act''), CWRT: Solvent Selection Guide has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties are Center for Waste Reduction Technologies (''CWRT''), New York, NY; Cytec Industries Inc., West Paterson, NJ; The Dow Chemical Company, Midland, MI; E.I. du Pont de Nemours & Company, Wilmington, DE; GalxoSmithKline, King of Prussia, PA; Pharmacia, Peapack, NJ; Pfizer Corporation, New London, CT; and Rohm and Haas Company, Philadelphia, PA. The nature and objectives of the venture are to develop solvent selection tools to facilitate the selection of solvent candidates in early compound development, make life cycle EHS impacts/issues visible for each solvent candidate, facilitate process optimization in late compound development, explore solvent mixtures that do not introduce additional complexity into managing solvents, and explore designer solvent possibilities.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 02–7028 Filed 3–22–02; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production act of 1993—DVD Copy Control Association (''DVD CCA'')

Notice is hereby given that, on January 15, 2002, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), DVD Copy Control Association (''DVD CCA'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Alphacast Co. Ltd., Seoul, REPUBLIC OF KOREA; Almedio, Inc., Tokyo, JAPAN; AniMeta Systems, Inc.,

Taipei, TAIWAN; CMC Magnetics Corporation, Taipei, TAIWAN; Flextronics International Denmark A/S, Pandrup, DENMARK; Guangdong Cosmic Digital Technology, Co., Ltd., Dong Guan City, Guangdong, PEOPLE'S REPUBLIC OF CHINA; Guangzhou Telefield Limited, Guangdong, PEOPLE'S REPUBLIC OF CHINA; Hibino Corporation, Minato-Ku Tokyo, JAPAN; Homenema Disk Incorporation, Taipei Hsien, TAIWAN; iCEBOX LLC, Seattle, WA; Linn Products Limited, Glasgow, Scotland, UNITED KINGDOM; NewSoft Technology Corp., Taipei, TAIWAN; ODME B.V., Eindhoven, THE NETHERLANDS; Optical Disc Stampers, Orange, CA; Tanway Electronic Factory, Guangzhou, PEOPLE'S REPUBLIC OF CHINA; Zhongshan Kenloon Digital Technology Co., Ltd., Zhongshan, Guangdong, PEOPLE'S REPUBLIC OF CHINA; and Zhong Shan Shi NEON Electronic Fty. Ltd., Kowloon, HONG-KONG-CHINA have been added as parties to this venture.

Also, Alcorn McBride Inc., Orlando, FL; Amoisonic Electronics Co., Ltd., Xiamen, PEOPLE'S REPUBLIC OF CHINA; ANAM Electronics Co. Ltd., Ansan-City, Kyungki-Do, REPUBLIC OF KOREA; C-Cube Semiconductor II Inc., Milpitas, CA; Chaintech Computer Co. Ltd., Tapiei Hsien, TAIWAN; Cinet AS, Oslo, NORWAY; C-Media Electronics Inc., Taipei, TAIWAN; CNERC–OD, Taipei, TAIWAN; Coach Master International dba CMI Worldwide, Inc., Seattle, WA; Comjet Information Systems Corp., Taipei, TAIWAN; Compal Electronics, Taipei, TAIWAN; Compaq Computer Corporation, Houston, TX; Computer & Entertainment, Inc., Taipei, TAIWAN; Creative Technology Ltd., Singapore, SINGAPORE; Daesung Eltec Co., Ltd., Seoul, REPUBLIC OF KOREA; Daikin Industries, Tokyo, JAPAN; Diskware Co., Ltd., Koutou-ku, Tokyo, JAPAN; Eastman Kodak Company (Digital & Applied Imaging Division), Rochester, NY; E-Smart Electronics, Ltd., Kowloon, HONG-KONG-CHINA; First International Computer, Inc., Taipei Hsien, TAIWAN; Fly Ring Digital Technology, Ltd., Hong Kong, HONG KONG-CHINA; Freindly CD-Tek Corporation, Taipei, TAIWAN; Fema O.D. S.A., Barcelona, SPAIN; Gigastorage Corporation, Hsinchu, TAIWAN; Goldteck International Inc., Taipei, TAIWAN; Great China Technology, Inc., Taipei Hsien, TAIWAN; Gynco Electronics (HK) Ltd., Tainan Hsien, TAIWAN; Hermosa Cysware Ltd., Taipei, TAIWAN; Highlead Technology, Inc., Taipei Hsien, TAIWAN; Hisaki Sekkei Inc., Fukushima, JAPAN; Hua Du shi Teng Wei Electronic Factory, Kowloon Bay, HONG KONG-CHINA; InterMagic Corporation, Seoul, REPUBLIC OF KOREA; Jeu Hang Technology Co., Ltd., Taipei, TAIWAN; Kenden Corporation, Chiyoda-ku, Tokyo, JAPAN; Konka Group Co., Ltd., Shenzhen Special Zone, PEOPLE'S REPUBLIC OF CHINA; Lection Technology Co., Ltd., Fremong, CA; Luxsonor Semiconductor Inc., Fremont, CA; Makidol Electronics Co., Ltd., Shenzhen, PEOPLE'S REPUBLIC OF CHINA; MbyN Inc., Kyungki-do, REPUBLIC OF KOREA; Media Dimensions, Inc., Austin, TX; Metatec International Corporation, Dublin, OH; Motorola, Inc., Austin, TX; National Semiconductor, Corp. (Mediamatics), Santa Clara, CA; Novac Co., Ltd., Tokyo, JAPAN; Pan-International Industrial Corp., Hsinchu City, TAIWAN; PitsExpert Technology Co., Ltd., Taipei, TAIWAN; Proside Corporation, Chiba, JAPAN; Provac Disc Media Inc., Toronti, Ontario, CANADA; QNX Software Systems Ltd., Kanata, Ontario, CANADA; Sasken Communication Technologies Limited, Bangalore, INDIA; Sensory Science Corporation, Scottsdale, AZ; Shinwa Industries (PRC), Ltd., Guangdong, PEOPLE'S REPUBLIC OF CHINA; Silicon Integrated Systems Corporation, Sunnyvale, CA; Silicon Magic Corporation, Sunnyvale, CA; Soft4D Co., Ltd., Songnam-Si, REPUBLIC OF KOREA; Spruce Technologies, Inc., San Jose, CA; STMicroelectronics, Inc., Carrollton, TX; Stream Machine Company, Milpitas, CA; Sun Microsystems Inc., Palo Alto, CA; Takaya Corporation, Okayama, JAPAN; Toolex International N.V., Eindhoven, THE NETHERLANDS; Trident Microsystems, Inc., Santa Clara, CA; Videolar S/A, Alphaville-Barueri, BRAZIL; Yuan High-Tech Development Co., Ltd., Taipei, TAIWAN; and Zen Research N.V., Curacao, NETHERLANDS ANTILLES have been dropped as parties to this venture.

The following members have changed their names: Ahead Software GmbH to Ahead Software AG, Karlsbad, GERMANY; and Lite-On Technology to JVC Lite-On IT Manufacture and Sales, Limited, Hong Kong, HONG KONG-CHINA.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and DVD Copy Control Association (''DVD CCA'') intends to file additional written notification disclosing all changes in membership.

On April 11, 2001, DVD Copy Control Association (''DVD CCA)'' filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on August 3, 2001 (66 FR 40727).

The last notification was filed with the Department on October 12, 2001. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on January 3, 2002 (67 FR 349).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 02–7027 Filed 3–22–02; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—the Oceanic Institute: Biosecure Zero-Exchange Shrimp Technology

Notice is hereby given that, on February 6, 2002, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), The Oceanic Institute: Biosecure Zero-Exchange Shrimp Technology (BioZEST) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties are PIC–USA, Berkeley, CA; Kahuku Shrimp Company, Kahuku, HI; Zeigler Brothers, Inc., Gardners, PA; and The Oceanic Institute, Waimanalo, HI. The nature and objectives of the venture are to develop and demonstrate an economically viable, environmentally responsible, and sustainable production system for shrimp in the U.S. using selectively bred animals in a closed environment that prevents the introduction of disease agents. The system entails zero exchange of water and is termed the ''Biosecure Zero-exchange Shrimp Technology'' or BioZEST. The activities of this joint venture project will be partially funded by an award from the Advanced Technology Program, National Institute

of Standards and Technology, Department of Commerce.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 02–7029 Filed 3–22–02; 8:45 am]

BILLING CODE 4410–11–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 the 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 Section 1301.34 of title 21, Code of Federal Regulations (CFR), notice is hereby given that on October 12, 2001, Chiragene, Inc., Technology Centre of New Jersey, 661 Highway One, North Brunswick, New Jersey 08902, made application by renewal to the Drug Enforcement Administration to be registered as an importer of phenylacetone (8501), a basic class of controlled substance listed in Schedule II.

The firm plans to import the phenylacetone to manufacture amphetamine.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic class of controlled substance 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 in 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed, in quintuplicate, to the Deputy Assistant Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than April 24, 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 basic class of any controlled substance 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: March 12, 2002.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 02–7115 Filed 3–22–02; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated July 13, 2001, and published in the **Federal Register** on July 23, 2001, (66 FR 38324), Stepan Company, Natural Products Department, 100 W. Hunter Avenue, Maywood, New Jersey 07607, made application to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Cocaine (9041)	II
Benzoylecgonine (9180)	II

The firm plans to manufacture bulk controlled substances for distribution to its customers.

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 Stepan Company to manufacture the listed controlled substances is consistent with the public interest at this time. DEA has investigated Stepan Company 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 controlled substances listed above is granted.

Dated: March 12, 2002.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 02–7116 Filed 3–22–02; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Parole Commission

[(Public Law 94–409) (5 U.S.C. Sec. 552b)]

Record of Vote of Meeting Closure

I, Edward F. Reilly, Jr., Chairman of the United States Parole Commission, was present at a meeting of said Commission which started at approximately 11:00 a.m. on Thursday, March 15, 2002, at the U.S. Parole Commission, 5550 Friendship Boulevard, 4th Floor, Chevy Chase, Maryland 20815. The purpose of the meeting was to decide four appeals from the National Commissioners' decisions pursuant to 28 CFR 2.27. Three Commissioners were present, constituting a quorum when the vote to close the meeting was submitted.

Public announcement further describing the subject matter of the meeting and certifications of General Counsel that this meeting may be closed by vote of the Commissioners present were submitted to the Commissioners prior to the conduct of any other business. Upon motion duly made, seconded, and carried, the following Commissioners voted that the meeting be closed: Edward F. Reilly, Jr., Michael J. Gaines, and John R. Simpson.

In witness whereof, I make this official record of the vote taken to close this meeting and authorize this record to be made available to the public.

Dated: March 19, 2002.

Edward F. Reilly, Jr.,

Chairman, U.S. Parole Commission.

[FR Doc. 02–7170 Filed 3–21–02; 10:18 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Office of the Secretary; Submission for OMB Review; Comment Request

March 15, 2002.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in

accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contract Marlene Howze at (202) 693–4158 or e-mail *Howze-Marlene@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, Office of Management and Budget, Room 10235, Washington, DC 20503 (202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

* Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

* Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumption used;

* Enhance the quality, utility, and clarity of the information to be collected; and minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Type of Review: Extension of a currently approved collection.

Agency: Bureau of Labor Statistics (BLS).

Title: Producer Price Index Survey.

OMB Number: 1220–0008.

Affected Public: Business or other for-profit.

Estimated Time Per Response and Total Burden Hours:

Form	Number of respondents	Frequency	Total responses	Average time per response (minutes)	Estimated total burden (hours)
BLS 1810A, A1, B, C, C1, and E	1,585	Once	6,340	120	12,680
BLS 473P	26,250	Monthly	1,260,000	18	378,000
Totals	27,835		1,266,340		390,680

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing service): $0.

Description: The Producer Price Index, one of the Nation's leading economic indicators, is used as a measure of price movements, as an indicator of inflationary trends, for inventory valuation, and as a measure of purchasing power of the dollar at the primary market level. It is also used for market and economic research and as a basis for escalation in long-term contracts and purchase agreements. The failure to calculate data would tend to extend the time frame required for accurate recognition of and appropriate adaptation to economic events.

Ira L. Mills,

DOL Clearance Officer.

[FR Doc. 02–7142 Filed 3–22–02; 8:45 am]

BILLING CODE 4510–24–M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c) (2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The Bureau of Labor Statistics (BLS) is soliciting comments concerning the revision of the *''Labor Market Information (LMI) Cooperative Agreement.''* A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the Addresses section of this notice.

DATES: Written comments must be submitted to the office listed in the Addresses section of this notice on or before May 24, 2002.

ADDRESSES: Send comments to Amy A. Hobby, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 4080, 2 Massachusetts Avenue, NE., Washington, DC 20212, telephone number 202–691–7628 (this is not a toll free number).

FOR FURTHER INFORMATION CONTACT: Amy A. Hobby, BLS Clearance Officer, telephone number 202–691–7628. (See Addresses section.)

SUPPLEMENTARY INFORMATION:

I. Background

The BLS enters into Cooperative Agreements with State Employment Security Agencies (SESAs) annually to provide financial assistance to the SESAs for the production and operation of the following LMI statistical programs: Current Employment Statistics, Local Area Unemployment Statistics, Occupational Employment Statistics, Covered Employment and Wages Report, and Mass Layoff Statistics. The Cooperative Agreement provides the basis for managing the administrative and financial aspects of these programs.

II. Desired Focus of Comments

The BLS is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology,

e.g., permitting electronic submissions of responses.

III. Current Action

Office of Management and Budget (OMB) clearance is being sought for the LMI Cooperative Agreement. The existing collection of information allows Federal staff to negotiate the Cooperative Agreement with the SESAs and monitor their financial and programmatic performance and adherence to administrative requirements imposed by common regulations implementing OMB Circular A–102 and other grant-related regulations. The information collected also is used for planning and budgeting at the Federal level and in meeting Federal reporting requirements.

Type of Review: Revision of a currently approved collection.

Agency: Bureau of Labor Statistics.

Title: Labor Market Information (LMI) Cooperative Agreement.

OMB Number: 1220–0079.

Affected Public: State, Local or Tribal Governments.

Frequency: Monthly, quarterly, annually.

Information collection	Respondents	Frequency	Responses	Time	Total hours
Work Statements	55	1	55	1–2 hr	55–110
BIF (LMI 1A, 1B)	55	1	55	1–6 hr	55–330
Quarterly Automated Financial Reports	48	4	192	10–50 min	32–160
Monthly Automated Financial Reports	48	*8	384	5–25 min	32–160
BLS Cooperative Statistics Financial Report (LMI 2A)	7	12	84	1–5 hr	84–420
Quarterly Status Report (LMI 2B)	1–30	4	4–120	1 hr	4–120
Total	1–55		774–890		262–1300
Average Totals	55		832		781

*Reports are not received for end-of-quarter months, *i.e.*, December, March, June, September.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC, this 12th day of March, 2002.

Jesús Salinas,

Acting Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 02–7141 Filed 3–22–02; 8:45 am]

BILLING CODE 4510–24–P

COMMISSION ON OCEAN POLICY

Public Meeting

AGENCY: U.S. Commission on Ocean Policy.

ACTION: Notice.

SUMMARY: The U.S. Commission on Ocean Policy will hold its fourth regional meeting, the Commission's sixth public meeting, to hear and discuss coastal and ocean issues of concern to the Southwest region of the United States, covering the coastal area of California.

DATES: Public meetings will be held Thursday, April 18, 2002 from 12:30 p.m. to 6:15 p.m. and Friday, April 19, 2002 from 8:30 a.m. to 6:00 p.m.

ADDRESSES: The meeting location is the Embassy Room, Davidson Executive Conference Center, University of Southern California, 3415 Figueroa Street, Los Angeles, California 90089–0871.

FOR FURTHER INFORMATION CONTACT: Terry Schaff, U.S. Commission on Ocean Policy, 1120 20th Street, NW, Washington, DC, 20036, 202–418–3442, *schaff@oceancommission.gov.*

SUPPLEMENTARY INFORMATION: This meeting is being held pursuant to requirements under the Oceans Act of 2000 (Public Law 106–256, Section 3(e)(1)(E)). The agenda will include presentations by invited speakers representing local and regional government agencies and non-governmental organizations, comments from the public and any required administrative discussions and executive sessions. Invited speakers and members of the public are requested to submit their statements for the record electronically by April 10, 2002 to the meeting Point of Contact. Public comment periods are scheduled for Thursday, April 18 and Friday, April 19. The agenda for the meeting, including specific times for the public comment periods, and guidelines for making public comments will be posted on the Commission's website at *http://www.oceancommission.gov* prior to the meeting.

Dated: March 19, 2002.

Admiral James D. Watkins,

USN (ret.), Chairman, U.S. Commission on Ocean Policy.

[FR Doc. 02–7063 Filed 3–22–02; 8:45 am]

BILLING CODE 6820–WM–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for OMB Review; Comment Request for Reinstatement of a Revised Information Collection: RI 20–80

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) has submitted to the Office of Management and Budget (OMB) a request for reinstatement of a revised information collection. RI 20–80, Alternative Annuity Election, is used for individuals who are eligible to elect whether to receive a reduced annuity and a lump-sum payment equal to their retirement contributions (alternative form of annuity) or an unreduced annuity and no lump sum.

Approximately 200 RI 20–80 forms are completed annually. We estimate it takes approximately 20 minutes to complete the form. The annual burden is 67 hours.

For copies of this proposal, contact Mary Beth Smith-Toomey on (202) 606–8358, FAX (202) 418–3251 or E-mail to *mbtoomey@opm.gov.* Please include your mailing address with your request.

DATES: Comments on this proposal should be received on or before April 24, 2002.

ADDRESSES: Send or deliver comments to—

Ronald W. Melton, Chief, Operations Support Division, Retirement and Insurance Service, U.S. Office of Personnel Management, 1900 E Street, NW., Room 3349A, Washington, DC 20415–3540.

and

Joseph Lackey, OPM Desk Officer, Office of Information & Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW., Room 10235 Washington, DC 20503.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION—CONTACT: Donna G. Lease, Team Leader, Desktop Publishing and Printing, Budget and Administrative Services Division, (202) 606–0623.

Office of Personnel Management.

Kay Coles James,

Director.

[FR Doc. 02–7020 Filed 3–22–02; 8:45 am]

BILLING CODE 6325–50–P

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedule C in the excepted service, as required by Civil Service Rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: Pam Shivery, Director, Washington Service Center, Employment Service (202) 606–1015.

SUPPLEMENTARY INFORMATION: Individual authorities established under Schedule C between February 1, 2002, and February 28, 2002, appear in the listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities as of June 30 will also be published.

Schedule C

The following Schedule C authorities were established during February 2002:

Broadcasting Board of Governors

Senior Projects Officer to the Director, Voice of America. Effective February 21, 2002.

Senior Projects Officer to the Director, Voice of America. Effective February 21, 2002.

Commission on Civil Rights

Special Assistant to the Commissioner. Effective February 8, 2002.

Department of Agriculture

Confidential Assistant to the Administrator, Rural Utilities Service. Effective February 1, 2002.

Special Assistant to the Director, Office of Communications. Effective February 1, 2002.

Confidential Assistant to the Assistant Secretary for Congressional Relations. Effective February 8, 2002.

Confidential Assistant to the Assistant Secretary for Congressional Relations. Effective February 11, 2002.

Special Assistant to the Under Secretary for Farm and Foreign Agricultural Service. Effective February 25, 2002.

Confidential Assistant to the Administrator, Animal and Plant Health Inspection Service. Effective February 28, 2002.

Department of the Air Force (DOD)

Confidential Assistant to the Assistant Secretary (Financial Management Comptroller). Effective February 8, 2002.

Department of the Army (DOD)

Secretary (Office Automation) to the Under Secretary of the Army. Effective February 6, 2002.

Secretary (Office Automation) to the Assistant Secretary of the Army (Civil Works). Effective February 8, 2002.

Secretary (Office Automation) to the General Counsel of the Army. Effective February 8, 2002.

Special Assistant to the Secretary of the Army. Effective February 15, 2002.

Personal And Confidential Assistant to the Assistant Secretary of the Army (Financial Management and Comptroller). Effective February 22, 2002.

Special Assistant to the Assistant Secretary of the Army (Civil Works) for Congressional Affairs. Effective February 26, 2002.

Department of Commerce

Chief Information Officer to the Under Secretary of Technology. Effective February 4, 2002.

Deputy Director to the Director, Office of Public Affairs, International Trade Administration. Effective February 6, 2002.

Confidential Assistant to the Assistant Secretary for Export Administration. Effective February 6, 2002.

Confidential Assistant to the Deputy Assistant Secretary for Domestic Operations. Effective February 19, 2002.

Confidential Assistant to the Assistant Secretary and Director General of the U.S. and Foreign Commercial Service. Effective February 22, 2002.

Deputy Director to the Director, Office of the White House Liaison. Effective February 28, 2002.

Department of Defense

Electronic Commerce Specialist to the Deputy Assistant Secretary of Defense (Deputy Chief Information Officer). Effective February 1, 2002.

Defense Fellow to the Special Assistant to the Secretary of Defense for White House Liaison. Effective February 4, 2002.

Staff Assistant to the Deputy Assistant Secretary of Defense (Near East/South Asia). Effective February 4, 2002.

Defense Fellow to the Special Assistant to the Secretary of Defense (White House Liaison). Effective February 5, 2002.

Speech Writer to the Director, Directorate for Editorial Services. Effective February 5, 2002.

Public Affairs Specialist to the Assistant Secretary of Defense for Public Affairs. Effective February 6, 2002.

Special Assistant to the Principal Deputy Assistant Secretary of Defense (Legislative Affairs). Effective February 8, 2002.

Public Affairs Specialist to the Deputy Assistant Secretary of Defense (Public Affairs) for Issues and Strategy Management. Effective February 8, 2002.

Defense Fellow to the Special Assistant to the Secretary (White House Liaison). Effective February 11, 2002.

Defense Fellow to the Special Assistant to the Secretary of Defense (White House Liaison). Effective February 11, 2002.

Director, Communications Strategy to the Assistant Secretary of Defense for Public Affairs). Effective February 11, 2002.

Defense Fellow to the Special Assistant to the Secretary of Defense (White House Liaison). Effective February 11, 2002.

Defense Fellow to the Special Assistant to the Secretary of Defense (White House Liaison). Effective February 11, 2002.

Special Assistant to the Assistant Secretary of Defense (Legislative Affairs). Effective February 13, 2002.

Executive Assistant to the Special Assistant to the Secretary of Defense for White House Liaison. Effective February 13, 2002.

Special Assistant to the Principal Deputy Under Secretary of Defense (Policy). Effective February 19, 2002.

Defense Fellow to the Director, Administration and Management. Effective February 21, 2002.

Defense Fellow to the Director, Administration and Management. Effective February 21, 2002.

Writer-Editor to the Director, Strategic Communications. Effective February 21, 2002.

Confidential Assistant to the Assistant Secretary of Defense. Effective February 22, 2002.

Public Affairs Specialist to the Assistant Secretary of Defense for Public Affairs. Effective February 24, 2002.

Defense Fellow to the Special Assistant to the Secretary of Defense (White House Liaison). Effective February 25, 2002.

Department of Education

Special Assistant to the Deputy Assistant Secretary for Intergovernmental, Constituent Relations and Corporate Liaison. Effective February 1, 2002.

Special Assistant to the Assistant Secretary for Elementary and Secondary Education. Effective February 1, 2002.

Confidential Assistant to the Director, White House Initiative on Hispanic Education. Effective February 5, 2002.

Confidential Assistant to the Assistant Secretary for Postsecondary Education. Effective February 5, 2002.

Confidential Assistant to the Chief of Staff. Effective February 6, 2002.

Special Assistant to the Chief of Staff. Effective February 6, 2002.

Confidential Assistant to the Chief of Staff. Effective February 6, 2002.

Special Assistant to the Director, Office of Public Affairs. Effective February 11, 2002.

Confidential Assistant to the Assistant Secretary for Elementary and Secondary Education. Effective February 14, 2002.

Special Assistant to the Chief of Staff. Effective February 14, 2002.

Confidential Assistant to the Chief of Staff. Effective February 14, 2002.

Confidential Assistant to the Chief of Staff. Effective February 14, 2002.

Special Assistant to the Assistant Secretary for Postsecondary Education. Effective February 14, 2002.

Secretary's Regional Representative to the Deputy Assistant Secretary for Regional Services. Effective February 14, 2002.

Special Assistant to the Chief of Staff. Effective February 21, 2002.

Director, Office of Scheduling and Briefing to the Chief of Staff. Effective February 24, 2002.

Confidential Assistant to the Director, Office of Public Affairs. Effective February 25, 2002.

Special Assistant to the Chief of Staff. Effective February 27, 2002.

Special Assistant to the Assistant Secretary for Postsecondary Education. Effective February 28, 2002.

Secretary's Regional Representative, Region 7 to the Deputy Assistant Secretary for Regional Services. Effective February 28, 2002.

Department of Energy

Policy Advisor to the Secretary of Energy. Effective February 1, 2002.

Special Assistant to the Assistant Secretary for Policy and International Affairs. Effective February 4, 2002.

Trip Coordinator to the Deputy Director for Advance. Effective February 5, 2002.

Senior Policy Advisor for Middle East Affairs to the Assistant Secretary for Policy and International Affairs. Effective February 7, 2002.

Special Assistant to the Assistant Secretary for Fossil Energy. Effective February 8, 2002.

Special Assistant to the Secretary of Energy. Effective February 13, 2002.

Deputy Director to the Director, Office of Economic Impact and Diversity. Effective February 15, 2002.

Special Assistant to the Deputy Secretary of Energy. Effective February 25, 2002.

White House Liaison to the Secretary of Energy. Effective February 27, 2002.

Department of Health and Human Services

Deputy Director for Operations to the Director of Intergovernmental Affairs. Effective February 5, 2002.

Deputy Director of the Director of Scheduling. Effective February 11, 2002.

Special Assistant to the Secretary of Health and Human Services. Effective February 13, 2002.

Confidential Assistant to the Director of Scheduling. Effective February 25, 2002.

Director of Communications to the Deputy Assistant Secretary for Public Affairs (Policy and Strategy). Effective February 27, 2002.

Special Assistant to the Chief of Staff. Effective February 27, 2002.

Department of Housing and Urban Development

Staff Assistant to the Deputy Assistant Secretary for Public Affairs. Effective February 1, 2002.

Deputy Assistant Secretary for Special Needs to the Assistant Secretary for Community Planning and Development. Effective February 19, 2002.

Staff Assistant to the Assistant Deputy Secretary for Field Policy and Management. Effective February 20, 2002.

Special Assistant to the Deputy Secretary of Housing and Urban Development. Effective February 28, 2002.

Department of the Interior

Speechwriter to the Director of Communications. Effective February 15, 2002.

Associate Director to the Director, Office of Congressional and Legislative Affairs. Effective February 22, 2002.

Special Assistant to the Director, Minerals Management Service. Effective February 26, 2002.

Department of Justice

Attorney Advisor to the Attorney General. Effective February 4, 2002.

Attorney Advisor/Special Assistant to the Director, Office of Domestic Preparedness, Office of Justice Programs. Effective February 5, 2002.

Attorney Advisor to the Assistant Attorney General, Civil Division. Effective February 5, 2002.

Secretary (OA) to the United States Attorney, District of Maryland. Effective February 8, 2002. Deputy Assistant Attorney General to the Assistant Attorney General, Tax Division. Effective February 8, 2002.

Counsel to the Assistant Attorney General, Civil Division. Effective February 11, 2002.

Senior Advisor to the Director, Office of Public Affairs. Effective February 12, 2002.

Special Assistant to the Director, Office of Congressional and Public Relations. Effective February 14, 2002.

Secretary (OA) to the United States Attorney, Southern District of Alabama. Effective February 21, 2002.

Secretary (Office Automation) to the United States Attorney, District of New Mexico. Effective February 25, 2002.

Department of Labor

Senior Intergovernmental Liaison to the Assistant Secretary for Congressional and Intergovernmental Affairs. Effective February 4, 2002.

Speech Writer to the Assistant Secretary, Office of Public Affairs. Effective February 4, 2002.

Staff Assistant to the Deputy Secretary. Effective February 4, 2002.

Special Assistant to the Deputy Under Secretary for International Labor Affairs. Effective February 11, 2002.

Special Assistant to the Assistant Secretary for Employment and Training Administration. Effective February 13, 2002.

Special Assistant to the Director, Women's Bureau. Effective February 19, 2002.

Senior Intergovernmental Officer to the Assistant Secretary for Congressional and Intergovernmental Affairs. Effective February 20, 2002.

Staff Assistant to the Assistant Secretary for Policy. Effective February 21, 2002.

Special Assistant to the Assistant Secretary for Disability Employment Policy. Effective February 22, 2002.

Special Assistant to the Assistant Secretary for Public Affairs. Effective February 25, 2002.

Staff Assistant to the Assistant Secretary for Congressional and Intergovernmental Affairs. Effective February 27, 2002.

Special Assistant to the Assistant Secretary for Administration and Management. Effective February 28, 2002.

Department of the Navy (DOD)

Staff Assistant to the Secretary of the Navy. Effective February 12, 2002.

Department of State

Senior Advisor to the U.S. Permanent Representative to the Organization of American States. Effective February 4, 2002.

Senior Advisor to the Assistant Secretary for South Asian Affairs. Effective February 6, 2002.

Legislative Management Officer to the Assistant Secretary for Legislative Affairs. Effective February 8, 2002.

Protocol Officer (Ceremonials) to the Chief of Protocol. Effective February 22, 2002.

Public Affairs Specialist to the Assistant Secretary for Public Affairs. Effective February 26, 2002.

Staff Assistant to the Senior Advisor (White House Liaison). Effective February 26, 2002.

Special Assistant to the Secretary of State. Effective February 26, 2002.

Department of Transportation

Associate Director to the Assistant Secretary for Government Affairs. Effective February 5, 2002.

Special Assistant to the Assistant Secretary for Transportation Policy. Effective February 8, 2002.

Special Assistant to the Administrator, National Highway Traffic Safety Administration. Effective February 25, 2002.

Chief, Consumer Information Division to the Administrator, National Highway Traffic Safety Administration. Effective February 26, 2002.

Director, Office of Public and Consumer Affairs to the Administrator, National Highway Traffic Safety Administration. Effective February 26, 2002.

Department of the Treasury

Speechwriter to the Assistant Secretary for Public Affairs. Effective February 14, 2002.

Senior Advisor to the Assistant Secretary for Management and Chief Financial Officer. Effective February 25, 2002.

Department of Veterans Affairs

Director, Congressional Affairs to the Assistant Secretary for Congressional and Legislative Affairs. Effective February 8, 2002.

Environmental Protection Agency

Senior Advisor on Outreach to the Assistant Administrator for Solid Waste and Emergency Response. Effective February 11, 2002.

Associate Assistant Administrator to the Assistant Administrator for Office of Prevention, Pesticides and Toxic Substances. Effective February 11, 2002.

Special Assistant to the Director of Operations. Effective February 11, 2002.

Special Assistant for Communications to the Assistant Administrator, Office of Water. Effective February 11, 2002.

Public Affairs Specialist to the Associate Administrator. Effective February 14, 2002.

Export-Import Bank of the United States

Special Assistant to the Vice President for Public Affairs. Effective February 26, 2002.

Federal Emergency Management Agency

Deputy Chief of Staff to the Director. Effective February 8, 2002.

Staff Assistant to the General Counsel. Effective February 22, 2002.

Special Assistant to the Chief Information Officer to the Assistant Director, Information Technology Services Directorate. Effective February 27, 2002.

Federal Housing Finance Board

Special Assistant to the Chairman. Effective February 26, 2002.

National Transportation Safety Board

Senior Policy Advisor to the Chairman, National Transportation Safety Board. Effective February 25, 2002.

Office of Management and Budget

Counselor to the Controller, Office of Federal Financial Management. Effective February 4, 2002.

Confidential Assistant to the Deputy Director, Office of Management and Budget. Effective February 8, 2002.

Deputy Director to the Associate Director for Communications. Effective February 11, 2002.

Office of National Drug Control Policy

Associate Deputy Director to the Deputy Director, State and Local Affairs. Effective February 8, 2002.

Securities and Exchange Commission

Director of Communications to the Chairman. Effective February 8, 2002.

Senior Advisor for Legislative Affairs to the Director of Communications. Effective February 8, 2002.

Director of Public Affairs to the Director of Communications. Effective February 8, 2002.

Small Business Administration

Special Assistant to the Assistant Administrator for Congressional and Legislative Affairs. Effective February 4, 2002.

Special Assistant to the Chief Operating Officer. Effective February 20, 2002.

Senior Advisor to the Associate Deputy Administrator for Government Contracting and Business Development. Effective February 25, 2002.

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR 1954–1958 Comp., P. 218.

Office of Personnel Management.

Kay Coles James,

Director.

[FR Doc. 02–7021 Filed 3–22–02; 8:45 am]

BILLING CODE 6325–38–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Representative Payee Parental Custody Monitoring

(2) *Form(s) submitted:* G–99d

(3) *OMB Number:* 3220–0176

(4) *Expiration date of current OMB clearance:* 5/31/2002

(5) *Type of request:* Extension of a currently approved collection

(6) *Respondents:* Individuals or households

(7) *Estimated annual number of respondents:* 1,850

(8) *Total annual responses:* 1,850

(9) *Total annual reporting hours:* 154

(10) *Collection description:* Under Section 12(e) of the Railroad Retirement Act, the RRB is authorized to select, make payments to, and conduct transactions with an annuitant's relative or some other person willing to act on behalf of the annuitant as a representative payee. The collection

obtains information needed to verify the parent-for-child payee still retains custody of the child.

Additional Information or Comments: Copies of the forms and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312) 751–3363. Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, 60611–2092 and to the OMB Desk Officer for the RRB, at the Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 02–7067 Filed 3–22–02; 8:45 am]

BILLING CODE 7905–01–M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Certification of Relinquishment of Rights.

(2) *Form(s) submitted:* G–88.

(3) *OMB Number:* 3220–0016.

(4) *Expiration date of current OMB clearance:* 5/31/2002.

(5) *Type of request:* Extension of a currently approved collection.

(6) *Respondents:* Individuals or households.

(7) *Estimated annual number of respondents:* 3,600.

(8) *Total annual responses:* 3,600.

(9) *Total annual reporting hours:* 360.

(10) *Collection description:* Under Section 2(e)(2) of the Railroad Retirement Act, the Railroad Retirement Board must have evidence that an annuitant for an age and service, spouse, or divorced spouse annuity has relinquished their rights to return to the service of a railroad employer. The collection provides the means for obtaining this evidence.

FOR FURTHER INFORMATION CONTACT: Copies of the forms and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312–751–3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 and to the OMB Desk Officer for the RRB, at the Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 02–7068 Filed 3–22–02; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 25465; 812–12420]

Delaware Investments Dividend and Income Fund, Inc. and Delaware Investments Global Dividend and Income Fund, Inc.; Notice of Application

March 18, 2002.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 19(b) of the Act and rule 19b–1 under the Act.

SUMMARY OF APPLICATION: Delaware Investments Dividend and Income Fund, Inc. (''DDF'') and Delaware Investments Global Dividend and Income Fund, Inc. (''DGF'') (DDF and DGF each, a ''Fund'' and collectively, the ''Funds'') request an order to permit them to make up to twelve distributions of long-term capital gains in any one taxable year, so long as they maintain in effect their distribution policies with respect to their common stock calling for fixed monthly distributions.

FILING DATES: The application was filed on January 24, 2001 and amended on March 14, 2002.

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 April 12, 2002, and should be accompanied by proof of service on the 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, c/o Bruce G. Leto, Stradley Ronon Stevens & Young, LLP., 2600 One Commerce Square, Philadelphia, PA 19103–7098.

FOR FURTHER INFORMATION CONTACT: Keith A. Gregory, Senior Counsel, at (202) 942–0611, 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. The Funds are registered under the Act as closed-end, diversified management investment companies and organized as Maryland corporations. Each Fund's primary investment objective is high current income; capital appreciation is a secondary objective. The Funds seek to achieve their goals by investing in a wide variety of income-generating equity securities, including dividend-paying common stocks, convertible securities, preferred stocks and other equity related securities. The Funds' shares are listed on the New York Stock Exchange and have historically traded at a discount to net asset value (''NAV''). Delaware Management Company, an investment adviser registered under the Investment Advisers Act of 1940 (''Advisers Act''), serves as the Funds'' investment adviser. Delaware International Advisers, Ltd., an investment adviser registered under the Advisers Act, serves as the sub-adviser for the foreign component of DGF's investment portfolio.

2. On July 20, 1995 and November 16, 1995, respectively, the boards of directors of DGF and DDF (the ''Boards''), including a majority of the directors who are not ''interested persons'' of each Fund, as defined in section 2(a)(19) of the Act, adopted a distribution policy (each, a ''Distribution Policy'' and collectively, the ''Distribution Policies'') with respect to each Fund's shares of common stock. The Boards considered that the Distribution Policies would provide a consistent income stream to the Funds' shareholders and might help support the market price of the Funds' common stock. The Boards review and approve the level of the distribution for each respective Fund at each quarterly Board

meeting. Pursuant to the Distribution Policies, the shareholders of each Fund currently receive a fixed distribution of 12.5 cents per share on a monthly basis. If for any taxable year, the total distributions required by the Distribution Policies exceed the sum of each Fund's net investment income and net realized capital gains, the excess generally will be treated as a return of capital (up to the amount of the shareholder's adjusted tax basis in his shares). Applicants state that the Distribution Policies provide a steady cash flow to the Funds' shareholders and are a method to reduce the trading discount from NAV.

3. Applicants request relief to permit the Funds, so long as they maintain in effect the Distribution Policies, to make up to twelve long-term capital gains distributions in any one taxable year.

Applicants' Legal Analysis

1. Section 19(b) of the Act provides that a registered investment company may not, in contravention of such rules, regulations, or orders as the Commission may prescribe, distribute long-term capital gains more often than once every twelve months. Rule 19b–1(a) under the Act permits a registered investment company, with respect to any one taxable year, to make one capital gains distribution, as defined in section 852(b)(3)(C) of the Internal Revenue Code of 1986, as amended (the ''Code''). Rule 19b–1(a) also permits a supplemental distribution to be made pursuant to section 855 of the Code not exceeding 10% of the total amount distributed for the year. Rule 19b–1(f) permits one additional long-term capital gains distribution to be made to avoid the excise tax under section 4982 of the Code.

2. The Funds assert that rule 19b–1, by limiting the number of net long-term capital gains distributions the Funds may make with respect to any one year, would prohibit the Funds from including available net long-term capital gains in certain of their fixed monthly distributions. As a result, the Funds state that they could be required to fund these monthly distributions with returns of capital (to the extent net investment income and net realized short-term capital gains are insufficient to cover a monthly distribution). The Funds further assert that, to distribute all of their long-term capital gains within the limits in rule 19b–1, the Funds may be required to make total distributions in excess of the annual amount called for by the Distribution Policies or retain and pay taxes on the excess amount. The Funds assert that the application of rule 19b–1 to their Distribution Policies may create pressure to limit the realization of long-term capital gains based on considerations unrelated to investment goals.

3. The Funds submit that the concerns underlying section 19(b) and rule 19b–1 are not present in their situation. One of the concerns leading to the adoption of section 19(b) and rule 19b–1 was that shareholders might be unable to distinguish between frequent distributions of capital gains and dividends from investment income. The Funds state that the Distribution Policies have been described in the Funds' periodic communications to their shareholders. The Funds further state that, as required by rule 19a–1 under the Act, a separate statement showing the source of the distribution will accompany any distribution. The Funds also state that a statement showing the amount and source of each monthly distribution during the year will be included with each Fund's IRS Form 1099–DIV report sent to each shareholder who received distributions during the year (including shareholders who sold shares during the year).

4. The Funds submit that another concern underlying section 19(b) and rule 19b–1 is that frequent capital gains distributions could facilitate improper fund distribution practices, including, in particular, the practice of urging an investor to purchase shares of a fund on the basis of an upcoming dividend (''selling the dividend''), when the dividend results in an immediate corresponding reduction in NAV and is, in effect, a return of the investor's capital. The Funds state that this concern does not apply to closed-end investment companies, such as the Funds, that do not continuously distribute their shares.

5. The Funds state that increased administrative costs also are a concern underlying section 19(b) and rule 19b–1. The Funds assert that this concern is not present because the Funds will continue to make monthly distributions regardless of whether capital gains are included in any particular distribution.

6. Section 6(c) of the Act provides that the Commission may exempt any person or transaction from any provision of the Act or any rule under the Act to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. For the reasons stated above, the Funds believe that the requested relief satisfies this standard.

Applicants' Condition

The Funds agree that the order granting the requested relief will terminate upon the effective date of a registration statement under the Securities Act of 1933, as amended, for any future public offering by the Funds of their common shares other than:

(i) A non-transferable rights offering to shareholders of the Funds, provided that such offering does not include solicitation by brokers or the payment of any commissions or underwriting fee; and

(ii) An offering in connection with a merger, consolidation, acquisition, spin-off or reorganization; unless the Funds have received from the staff of the Commission written assurance that the order will remain in effect.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–7039 Filed 3–22–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: [67 FR 10778, March 8, 2002].

STATUS: Closed Meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE AND TIME OF PREVIOUSLY ANNOUNCED MEETING: Tuesday, March 12, 2002 at 10:00 a.m.

CHANGE IN THE MEETING: Additional Item.

The following item was added to the closed meeting held on Tuesday, March 12, 2002: regulatory matter concerning financial markets.

Commissioner Hunt, as duty officer, determined that Commission business required the above change and that no earlier notice thereof was possible.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries attended the closed meeting. Certain staff members who had an interest in the matter were also present.

The General Counsel of the Commission, or his designee, certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(5), (7), (9)(A), (9)(B), and (10) and 17 CFR 200.402(a)(5), (7), 9(i), 9(ii) and (10), permitted consideration of the scheduled matter at the closed meeting.

At times, changes in Commission priorities require alterations in the

scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942–7070.

Dated: March 19, 2002.

Jonathan G. Katz,

Secretary.

[FR Doc. 02–7166 Filed 3–20–02; 5:02 pm]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45574; File No. SR–CBOE–2001–63]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Amendment No. 1 Thereto and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 2 Thereto by the Chicago Board Options Exchange, Inc. Relating to the Exchange's AutoQuote System

March 15, 2002.

I. Introduction

On December 17, 2001, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') submitted to the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change relating to the Exchange's Auto-Quote System. The Exchange filed Amendment No. 1 to the proposed rule change on February 7, 2002.[3] The **Federal Register** published the proposed rule change and Amendment No. 1 for comment on February 13, 2002.[4] The Exchange filed Amendment No. 2 to the proposed rule change on March 7, 2002.[5] The Commission received no comments on the proposed rule change. This order approves the proposed rule change, as amended by Amendment No. 1, and issues notice of, and grants accelerated approval to, Amendment No. 2.

II. Description of Proposal

CBOE Rule 8.15 currently provides that the appropriate MPC may appoint Lead Market-Makers (''LMMs'') and Supplemental Market-Makers (''SMMs'') for a specified period of time to participate in opening rotations in S&P 100 options (''OEX'') and options on the Dow Jones Industrial Average (''DJX''). The proposed rule change amends CBOE Rule 8.15 to make explicit in the rule that the appropriate Market Performance Committee (''MPC'') may appoint LMMs and SMMs to determine a formula for generating automatically updated market quotations and to use the Exchange's AutoQuote system or to provide a proprietary automated quotation updating system to monitor and automatically update market quotations during the trading day in any options class for which a Designated Primary Market-Maker (''DPM'') has not been appointed.

Proposed new paragraph (d) of CBOE Rule 8.15 provides that LMMs and SMMs appointed pursuant to the CBOE Rule 8.15 to determine a formula for generating automatically updated market quotations must, for the period in which its acts as LMM or SMM, use the Exchange's AutoQuote system or a proprietary automated quotation updating system to update market quotations during the trading day. Proposed paragraph (d) also requires LMMs to disclose to the trading crowd the variables of the formula for generating automatically updated market quotations unless exempted by the appropriate MPC. Proposed paragraph (d) further provides a cross-reference to the requirements of Interpretation .07 to CBOE Rule 8.7, which sets forth the AutoQuote obligations of market makers.[6] The Exchange also proposes to eliminate the references to S&P 100 options and options on the DJX from CBOE Rule 8.15 so that the appropriate MPC may appoint LMMs and SMMs in other options classes without having to file a proposed rule change with the Commission.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[7] Specifically, the Commission believes that the proposed rule change is consistent with the Section 6(b)(8) [8] requirement that the rules of an exchange not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

The Commission believes that the proposed rule change should deter collective action, except as authorized by the Exchange's rules, by clearly establishing in the Exchange's rules the responsibilities of, and conduct permitted by, Exchange members in setting AutoQuote parameters. For instance, the proposal amends CBOE Rule 8.15 to make explicit in the rule that in options for which a DPM has not been appointed, the Exchange's MPC may appoint LMMs and SMMs to determine a formula for generating automatically updated market quotations and to use the Exchange's AutoQuote system or to provide a proprietary automated quotation updating system. The Commission believes this provision should clarify the obligations of LMMs and SMMs with respect to the Exchange's AutoQuote system. In addition, the proposal would permit the LMM or SMM to receive input from members of the crowd in setting the parameters of the formula used to automatically update options quotations. At this time, the Commission believes it is reasonable for the Exchange's rules to permit members of the crowd to be given a voice in setting AutoQuote parameters because, pursuant to the Exchange's rules, they will be obligated to execute orders at the resultant quote.[9]

Finally, the Commission finds that the proposed rule change is designed to effectively limit the circumstances in which collective action is permissible.

The Commission finds good cause for accelerating approval of Amendment No. 2 because it clarifies the obligations of LMMs and SMMs regarding AutoQuote. Accordingly, the Commission finds that good cause exists, consistent with sections 6(b)(5) of the Act,[10] and section 19(b)(2) of the Act[11] to accelerate approval of Amendment No. 2 to the proposed rule

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Patrick Sexton, Assistant General Counsel, CBOE, to Deborah Flynn, Assistant Director, Division of Market Regulation (''Division''), Commission (''Amendment No. 1''). Amendment No. 1 requests the Commission to designate the proposed rule change as having been filed pursuant to section 19(b)(2) of the Act. 15 U.S.C. 78s(b)(2).

[4] Securities Exchange Act Release No. 45419 (February 7, 2002), 67 FR 6772.

[5] *See* letter from Patrick Sexton, Assistant General Counsel, CBOE, to Deborah Flynn, Assistant Director, Division, Commission, dated March 5, 2002 (''Amendment No. 2'').

[6] *See* Amendment No. 2, *supra* note 5.

[7] In approving the proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[8] 15 U.S.C. 78f(b)(8).

[9] The Commission expects the Exchange to monitor the collective actions that are undertaken pursuant to the rule change approved herein for any undesirable or inappropriate anticompetitive effects. The Commission's examination staff will monitor the Exchange's efforts in this regard.

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78s(b)(2).

change prior to the thirtieth day after publication in the **Federal Register**.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 2, including whether the Amendment No. 2 is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–CBOE–2001–63 and should be submitted by April 15, 2002.

V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[12] that the proposed rule change (SR–CBOE–2001–63), as amended, is approved, and Amendment No. 2 is approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–7040 Filed 3–22–02; 8:45 am]

BILLING CODE 8010–01–P

[12] 15 U.S.C. 78s(b)(2).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45591; File No. SR–MSRB–2002–01]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Order Granting Approval of Proposed Rule Change Relating to Rule G–17 on Disclosure of Material Facts

March 18, 2002.

On January 25, 2002, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'')[1] and Rule 19b–4 thereunder,[2] the Municipal Securities Rulemaking Board (''MSRB'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change relating to Rule G–17, on disclosure of material facts.

The Commission published the proposed rule change for comment in the **Federal Register** on February 12, 2002.[3] The Commission received no comment letters relating to the forgoing proposed rule change. This order approves the proposal.

I. Description of the Proposed Rule Change

The proposed rule change provides an interpretation of the duty to deal fairly set forth in Rule G–17. The MSRB's proposed this interpretation to set forth an expanded explanation of what Rule G–17's obligation to ''disclose all material facts'' means in today's innovative market. The MSRB believes that technological changes necessitate interpretive guidance for the application of certain rules. Alternative trading systems present the most graphic example of changing dealer/customer relationships and the consequent need for regulatory change, but these relationship obligations are not necessarily limited to electronic trading venues.

As part of a dealer's obligation to deal fairly, the MSRB has consistently interpreted that Rule G–17 creates affirmative disclosure obligations for brokers, dealers and municipal securities dealers (collectively, ''dealers''). The MSRB has stated that a dealer's affirmative disclosure obligations require that a dealer disclose, at or before the sale of municipal securities to a customer, all material facts concerning the transaction, including a complete description of the security.[4] These obligations apply even when a dealer is acting as an order taker and effecting non-recommended secondary market transactions.

Rule G–17 requires that dealers disclose to a customer at the time of trade all material facts about a transaction known by the dealer. In addition, a dealer is required to disclose material facts about a security when such facts are reasonably accessible to the market. Thus, a dealer would be responsible for disclosing to a customer any material fact concerning a municipal securities transaction made publicly available through sources such as the NRMSIR system, the MSIL® system, TRS, rating agency reports and other sources of information relating to the municipal securities transaction generally used by dealers that effect transactions in the type of municipal securities at issue (collectively, ''established industry sources'').[5]

In addition to the basic disclosure obligations, the duty to ''deal fairly'' is intended to ''refer to the customs and practices of the municipal securities markets, which may, in many instances differ from the corporate securities markets.'' [6] The customs and practices of the industry suggest that the sources of information generally used by a dealer that effects transactions in municipal securities may vary with the type of municipal security. For example, a dealer might have to draw on fewer industry sources to disclose all material facts about an insured ''triple-A'' rated general obligation bond than for a non-rated conduit issue. In addition, to the extent that a security is more complex, for example, because of complex structure or where credit quality is changing rapidly, a dealer might need to take into account a broader range of information sources prior to executing a transaction.

II. Discussion

The MSRB believes that the proposed rule change is consistent with section 15B(b)(2)(C) of the Exchange Act.[7] The

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Release No. 34–45361 (January 30, 2002), 67 FR 6562.

[4] *See e.g.,* Rule G–17 Interpretation—Educational Notice on Bonds Subject to ''Detachable'' Call Features, May 13, 1993, *MSRB Rule Book* (July 2001) at 129–130. The Commission described material facts as those ''facts which a prudent investor should know in order to evaluate the offering before reaching an investment decision.'' *Municipal Securities Disclosure,* Exchange Act Release No. 26100 (Sept. 22, 1988) 53 FR 37778 at note 76, quoting In re *Walston & Co. Inc., and Harrington*, Exchange Act Release No. 8165 (Sept. 22, 1967) 43 SEC 508, 1967 SEC LEXIS 553. Furthermore, the United States Supreme Court has stated that a fact is material if there is a substantial likelihood that its disclosure would have been considered significant by a reasonable investor. *TSC Industries, Inc.* v. *Northway, Inc.,* 426 U.S. 438 (1976).

[5] Dealers operating electronic trading platforms have inquired whether providing electronic access to material information is consistent with the obligation to disclose information under Rule G–17. The MSRB believes that the provision of electronic access to material information to customers who elect to transact in municipal securities on an electronic platform is generally consistent with a dealer's obligation to disclose such information, but that whether such access is effective disclosure ultimately depends upon the particular facts and circumstances present.

[6] *See* Exchange Act Release No. 13987 (Sept. 22, 1977).

[7] MSRB rules shall, ''be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade * * * to remove impediments to and perfect the

Continued

MSRB believes that this rule satisfies this standard because it is intended to clarify that a dealer's general obligation to provide disclosure is viewed within the context of reasonably available information about the municipal security and the dealer's actual knowledge of the municipal security. Additionally, the MSRB believes that the proposed rule change will not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act, since it applies equally to all brokers, dealers and municipal securities dealers.

The Commission must approve a proposed MSRB rule change if the Commission finds that the MSRB's proposal is consistent with the requirements of the Exchange Act and the rules and regulations thereunder that govern the MSRB.[8] The language of section 15B(b)(2)(C) of the Exchange Act requires that the MSRB's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principals of trade, to foster cooperation and coordination with persons engaged in regulating, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national system, and, in general, to protect investors and the public interest.[9]

After careful review, the Commission finds that the MSRB's proposed rule change consisting of an interpretation of Rule G–17, on disclosure of material facts, meets this standard. The Commission believes that this proposed rule change is consistent with the requirements of the Exchange Act, and the rules and regulations thereunder. In particular, the Commission finds that the proposed rule is consistent with the requirements of section 15B(b)(2)(C) of the Act, set forth above.

III. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Exchange Act, [10] that the proposed rule change (File No. SR–MSRB–2002–01) be and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–7042 Filed 3–22–02; 8:45 am]

BILLING CODE 8010–01–U

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45573; File No. SR–Phlx–2001–33]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Amendment Nos. 1 and 2 Thereto by the Philadelphia Stock Exchange, Inc. Relating to Solicitation of Trading Interest on the Exchange Floor

March 15, 2002.

I. Introduction

On March 8, 2001, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt Phlx Rule 1033(a)(ii) and Options Floor Procedure Advice (''OFPA'') F–32 pertaining to the solicitation of quotations.[3] On May 11, 2001, the Exchange filed Amendment No. 1 to the proposed rule change with the Commission.[4] On November 21, 2001, the Exchange filed Amendment No. 2 to the proposed rule change with the Commission.[5] The proposed rule change and Amendment Nos. 1 and 2 were published in the **Federal Register** on February 12, 2002.[6] No comments were received regarding the proposal. This order approves the proposed rule change, as amended.

II. Description of the Proposal

The Exchange proposes to adopt Phlx Rule 1033(a)(ii) and OFPA F–32, which would permit the members of a trading crowd (including the specialist and Registered Options Traders (''ROTs'')) to discuss, negotiate, and agree upon the price or prices at which an order of a size greater than the AUTO–X guarantee can be executed at that time, or the number of contracts that can be executed at a given price or prices in response to a floor broker's request for a single bid or offer. The proposal would expressly permit a collective response from trading crowd members. However, members would not be required to participate in a collective response and may voice a bid or offer independently from, and differently from, the trading crowd members. In fact, an individual ROT with the necessary liquidity, willing to execute a trade at a price better than the prevailing market, could bid against the crowd and take the entire trade, or part of the trade, pursuant to the Phlx allocation rules.[7]

III. Discussion

After careful consideration the Commission has determined to approve the proposed rule change. For the reasons discussed below, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange,[8] and, in particular, with section 6(b)(8) of the Act,[9] which requires that the rules of an exchange do not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

This proposed rule change will clearly establish in the Phlx's rules the parameters under which Phlx specialists and ROTs may coordinate to respond efficiently to the needs of investors, while fulfilling their duty to make fair and orderly markets. In particular, the proposed rule change will allow the trading crowd, in response to a floor broker's request for a single bid or offer for a large size order, to collectively discuss, negotiate and agree upon the price or prices at which an order of a size greater than the AUTO–X guarantee

mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.

[8] Additionally, in approving this rule, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[9] 15 U.S.C. 78o–4(b)(2)(c).

[10] 15 U.S.C. 78s(b)(2).

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4

[3] The Exchange filed this proposed rule change pursuant to the provisions of Section IV.B.j. of the Commission's September 11, 2000 Order Instituting Public Administrative Proceedings Pursuant to Section 19(h)(1) of the Act, which required the Exchange, among other things, to adopt new, or amend existing, rules to include any practice or procedure whereby market makers trading any particular option class determine by agreement the spreads or option prices at which they will trade any option class.

[4] See Letter from Richard S. Rudolph, Counsel, Phlx, to Nancy J. Sanow, Assistant Director, Division of Market Regulation (''Division''), Commission, dated May 10, 2001 (''Amendment No. 1'').

[5] *See* Letter from Richard S. Rudolph, Counsel, Phlx, to Nancy J. Sanow, Assistant Director, Division, Commission, dated November 21, 2001 (''Amendment No. 2'').

[6] *See* Securities Exhange Act Release No. 45391 (February 4, 2002), 67 FR 6570.

[7] *See* Phlx Rule 1014. *See also* File No. SR–Phlx-2001–39 (proposing to amend Phlx Rule 1014).

[8] In approving this proposed rule change, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[9] 15 U.S.C. 78f(b)(8).

can be executed at that time, or the number of contracts that can be executed at a given price or prices.

The Commission believes that this proposed rule change recognizes the desire of the marketplace to provide a single price to a request to fill a large order that a single member might not be able to fill. The Commission believes that any anticompetitive effect of this proposal is limited by requiring that there be a request for a single price and that the order be sufficiently large.[10] In addition, the Commission notes that under the proposed rule change, a single crowd participant may voice a bid or offer independently from, and differently from, the specialist and other members of a trading crowd in order to execute the entire order or part of the order.[11]

Finally, the Commission finds that the proposed rule change is designed to effectively limit the circumstances in which collective action is permissible.

IV. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[12] that the proposed rule change (SR–Phlx–2001–33) is approved, as amended.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Scretary.

[FR Doc. 02–7041 Filed 3–22–02; 8:45 am]

BILLING CODE 8010–01–U

SMALL BUSINESS ADMINISTRATION

Connecticut District Advisory Council; Public Meeting

The U.S. Small Business Administration Connecticut District Advisory Council, located in the geographical area of Hartford, Connecticut will hold a public meeting at 8:30 a.m., on Monday, April 8, 2002, Connecticut District Office, 330 Main Street, Hartford, Connecticut 06106, to discuss such matters as may be presented. For further information, write or call Marie Record, District Director, U.S. Small Business Administration, 330 Main Street, Hartford, Connecticut—(860) 240–4700.

Anyone wishing to attend and make an oral presentation to the Board must contact Marie A. Record, no later than April 4, 2002 via e-mail or fax. Marie A. Record, District Director, U.S. Small Business Administration, Connecticut District Office 330 Main Street, Hartford, CT 06106 (860) 240–4670 phone or (860) 240–4714 fax or e-mail *marie.record@sba.gov.*

Steve Tupper,

Committee Management Officer.

[FR Doc. 02–7119 Filed 3–22–02; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that TD Lighthouse Capital Fund, L.P. (''TD Lighthouse''), 303 Detroit Street, Suite 301, Ann Arbor, Michigan 48104, and TD Origin Capital Fund, L.P. (''TD Origin''), 150 Washington Avenue, Santa Fe, New Mexico, Federal Licensees under the Small Business Investment Act of 1958, as amended (''the Act''), in connection with the financing of a small concern, has sought an exemption under section 312 of the Act and section 107.730, Financings which Constitute Conflicts of Interest, of the Small Business Administration (''SBA'') rules and regulations (13 CFR 107.730 (2002)). TD Lighthouse and TD Origin propose to provide equity financing to LivHome, Inc. (''LivHome''), 5900 Wilshire Boulevard, Suite 705, Los Angeles, California 90036. The financing is contemplated for market expansion and working capital.

The financing is brought within the purview of Section 107.730(a)(1) of the Regulations because Tullis Dickerson Capital Focus II, L.P. and TD Javelin Capital Fund II, L.P., Associates of both TD Lighthouse and TD Origin, currently and collectively own greater than 10 percent of LivHome, and therefore LivHome is considered an Associate of TD Lighthouse and TD Origin as defined in Section 107.50 of the Regulations.

Notice is hereby given that any interested person may submit written comments on the transaction to the Associate Administrator for Investment, U.S. Small Business Administration, 409 Third Street, SW, Washington, DC 20416.

Dated: March 19, 2002.

Harry Haskins,

Acting Associate Administrator for Investment.

[FR Doc. 02–7118 Filed 3–22–02; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Public Notice 3917]

Secretary of State's Advisory Committee on Private International Law (ACPIL), Study Group on International Carriage of Goods by Sea; Meeting Notice

There will be a public meeting of a Study Group of the Secretary of State's Advisory Committee on Private International Law on Friday April 5, 2002, to consider the draft instrument on the International Carriage of Goods by Sea, as prepared by the Comité Maritime International (CMI) for the United Nations Commission on International Trade Law (UNCITRAL). The meeting will be held from 2 p.m. to 5 p.m. in the offices of Haight Gardner Holland & Knight, Suite 100, 2099 Pennsylvania Avenue, NW., Washington, DC.

The purpose of the Study Group meeting is to assist the Departments of State and Transportation in determining the U.S. negotiating position for the first session of the UNCITRAL Working Group on this draft instrument, to be held in New York from April 15 to 26, 2002.

A copy of the preliminary draft convention is available on UNCITRAL's website, *www.uncitral.org.* The Study Group meeting is open to the public up to the capacity of the meeting room. Persons wishing to attend should contact Miss Rosie Gonzales by fax at 202–776–8482, by telephone at 202–776–8420 or by e-mail at *gonzaler@ms.state.gov,* providing their name, affiliation, telephone and fact number, and e-mail address. Persons who wish to have their views considered are encouraged to submit written comments in advance of the meeting. Comments should refer to Docket number MARAD–2001–11135. Written comments may be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20490–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/*

[10] The Commission expects the Exchange to monitor the collective actions that are undertaken pursuant to the rule change approved herein for any undesirable or inappropriate anticompetitive effects. The Commission's examination staff will monitor the Exchange's efforts in this regard.

[11] *See supra* note 7. *See also* Phlx Rules 1015(a) and 1082(e).

[12] 15 U.S.C. 78s(b)(2).

[13] 17 CFR 200.30–3(a)(12).

submit/. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., e.s.t., Monday through Friday, except federal holidays. An electronic version of this document, along with all documents entered into this docket is available on the World Wide Web at *http//dms.dot.gov.*

Mary Helen Carlson,

Attorney-Adviser, Office of Legal Adviser for Private International Law, Department of State.

Edmund T. Sommer, Jr.,

Chief, Division of General and International Law, Office of the Chief Counsel, Maritime Administration, Department of Transportation.

[FR Doc. 02–7120 Filed 3–22–02; 8:45 am]

BILLING CODE 4710–08–P

TENNESSEE VALLEY AUTHORITY

Sunshine Act; Meeting

Agency Holding the Meeting: Tennessee Valley Authority (Meeting No. 1538).

Time and Date: 9 a.m. (CST), March 26, 2002.

Place: Trousdale County Courthouse, 200 East Main Street, Hartsville, Tennessee.

Status: Open.

Agenda

Approval of minutes of meeting held on January 22, 2002.

New Business

C—Energy

C1. Sale at public auction of two coal leases on the TVA Illinois Coal Reserves and delegation of authority to the Executive Vice President, Fossil Power Group, to administer and amend the leases to maximize royalty income to TVA.

C2. Contract with Martin Marietta Aggregates for limestone supply for Cumberland Fossil Plant.

C3. Contract with Vulcan Materials Company for limestone supply for Widows Creek Fossil Plant Units 7 and 8.

C4. Contract with KenAmerican Resources, Inc., for coal supply for Paradise Fossil Plant Units 1 and 2.

C5. Contract with Liberty Coal Company, LLC, for coal supply for Shawnee Fossil Plant Unit 10.

C6. Extension of Contract No. CO0107–01 with Hopkins County Coal, LLC for coal supply for Widows Creek Fossil Plant Units 7 and 8 and award of a contract to Synfuel Solutions Operating, LLC for synthetic fuel to be manufactured from coal produced by Hopkins County Coal.

C7. Delegation of authority to enter into a coal transloading and blending services contract with Calvert City Terminal LLC for delivery to various TVA fossil plants.

C8. Contract with Cameco, Inc., for the supply of uranium trioxide to be used as blend stock to convert highly enriched uranium transferred to TVA from DOE into low enriched uranium suitable for use in nuclear fuel at TVA's Browns Ferry Nuclear Plant.

C9. Supplements to contracts with Adecco, Midpoint International, Inc., and Westaff to continue staff augmentation engineering and technical support services for all TVA organizations.

E—Real Property Transactions

E1. Public auction sale of approximately 554 acres of TVA land on the Hartsville Nuclear Plant Site Reservation for industrial/commercial development purposes only in Trousdale and Smith Counties, Tennessee (Tract No. XOHNP–2).

E2. Sale of noncommercial, nonexclusive permanent easements to Johnny and Lynn Solomon (Tract No. XTELR–224RE) and Michael and Nancy Huddleston (Tract No. XTELR–225RE) for construction, operation, and maintenance of private water-use facilities affecting approximately .08 acre of land on Tellico Reservoir in Monroe and Loudon Counties, Tennessee.

E3. Grant of permanent and temporary construction easements, without charge, except for payment of administrative costs, to the city of Jefferson City, Tennessee, affecting approximately 2.2 acres of land on Cherokee Reservoir in Jefferson County, Tennessee (Tract No. XTCK–66S), for a sewer line and pump station.

E4. Grant of a permanent easement for a substation, without charge, except for payment of administrative costs, to Appalachian Electric Cooperative affecting approximately 8.8 acres of land on Cherokee Dam Reservation in Grainger County, Tennessee (Tract No. XTCK–65SS).

E5. Modification of deed restrictions affecting approximately 11.9 acres of former TVA land on Chickamauga Reservoir (a portion of Tract No. XCR–188) in Rhea County, Tennessee.

E6. Grant of a permanent easement, without charge, except for administrative costs, to the city of Dayton, Tennessee, for recreation purposes affecting approximately 91.5 acres of land on Chickamauga Reservoir in Rhea County, Tennessee (Tract No. XTCR–199RE).

E7. Grant of a 5-year term easement, without charge, except for administrative costs, to the Watts Bar Utility District for a well, water storage tank, and waterlines affecting approximately 3.2 acres of land on Watts Bar Reservoir in Rhea County, Tennessee (Tract No. XTWBR–142E).

E8. Sale of a permanent easement to Jeff Pearcy for a road and utilities easement affecting approximately 0.53 acre of land on Kentucky Reservoir in Decatur County, Tennessee (Tract No. XGIR–938H).

E9. Grant of a permanent easement, without charge, except for payment of administrative costs, to the State of Tennessee for highway improvement purposes affecting approximately 1.1 acres of land on Melton Hill Reservoir in Anderson County, Tennessee (Tract No. XTMHR–20H).

E10. Grant of a permanent easement, without charge, except for payment of administrative costs, to the Bond Cemetery Perpetual Care Fund, Inc., for a cemetery expansion affecting approximately 1.6 acres of land on Cedar Creek Reservoir in Franklin County, Alabama (Tract No. XTBCCER–2CE).

E11. Grant of a permanent easement, without charge, except for payment of administrative costs, to the Alabama Department of Conservation and Natural Resources for general governmental and storage space purposes, affecting approximately 7 acres of land on Wheeler Reservoir in Limestone County, Alabama (Tract No. XTWR–108B).

E12. Public auction sale for commercial development purposes of approximately 4.1 acres of land on the Muscle Shoals Reservation in Colber County, Alabama (Tract No. X2NPT–16).

F—Other

F1. Approval to file condemnation cases to acquire transmission line easements of rights-of-way affecting Tracts Nos. HCVB–1, –2, –43, –45, –47, –49, –51, –54, –68, –71, –55 and –76, Hanceville-Bremen Transmission Line in Cullman County, Alabama, and Tracts Nos. SEM–1, –3, –38, and –29, Sturgis-Eupora Tap to Maben Transmission Line in Choctaw and Webster Counties, Mississippi.

Information Items

1. Approval of the renewal of the Regional Resource Stewardship Council charter for an additional 2 years.

2. Approval of the extension of Contract No. CO0036–01 with AEI

Resources, Inc., for coal supply to Widows Creek Fossil Plant.

3. Approval of an amendment to the Business Practice entitled ''The Acquisition and Disposal of Fossil Fuels and Related Transportation and Storage'' to standardize and streamline TVA's fuel acquisition process and to reflect recent changes in the strategic alignment of the Fossil Power Group.

4. Approval of an amendment to the Business Practice entitled ''The Sale or use of Coal Combustion By-Products and Related Services'' to reflect recent changes in the strategic alignment of the Fossil Power Group.

For more information: Please call TVA Media Relations at (865) 632–6000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 898–2999. People who plan to attend the meeting and have special needs should call (865) 632–6000. Anyone who wishes to comment on any of the agenda in writing may send their comments to: TVA Board of Directors, Board Agenda Comments, 400 West Summit Hill Drive, Knoxville, Tennessee 37902.

Dated: March 19, 2002.

Maureen H. Dunn,

General Counsel and Secretary.

[FR Doc. 02–7153 Filed 3–20–02; 4:25 am]

BILLING CODE 8120–08–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Flammability Test Method for Aircraft Blankets

AGENCY: Federal Aviation Administration.

ACTION: Notice of availability for public comment.

SUMMARY: This notice announces the availability of and requests comments on a proposed Technical Standard Order (TSO) pertaining to a flammability test method for aircraft blankets. The proposed TSO prescribes the minimum performance standards that aircraft blankets must meet to be identified with the marking ''TSO–C152.''

DATES: Comments must identify the TSO file number and be received on or before June 7, 2002.

ADDRESSES: Send all comments on the proposed technical standard order to: Technical Programs and Continued Airworthiness Branch, AIR–120, Aircraft Engineering Division, Aircraft Certification Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591. Or deliver comments to: Federal Aviation Administration, Room 815, 800 Independence Avenue, SW., Washington, DC 20591. Comments must identify the TSO file number.

FOR FURTHER INFORMATION CONTACT: Mr. Hal Jensen, Technical Programs and Continued Airworthiness Branch, AIR–120, Aircraft Engineering Division, Aircraft Certification Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, FAX No. (202) 267–5340.

Comments Invited

Interested persons are invited to comment on the proposed TSO listed in this notice by submitting such written data, views, or arguments as they desire to the above specified address. Comments received on the proposed technical standard order may be examined, before and after the comment closing date, in Room 815, FAA Headquarters Building (FOB–10A), 800 Independence Avenue, SW., Washington, DC 20591, weekdays except Federal holidays, between 8:30 a.m. and 4:30 p.m. All communications received on or before the closing date for comments specified above will be considered by the Director of the Aircraft Certification Service before issuing the final TSO.

Background

This TSO is proposed to provide minimum performance standards for the flammability characteristics of blankets to be used for passenger comfort in aircraft cabins.

On November 28, 1993, the pilot of a Northwest Airlines B727–200 aircraft declared an emergency after a fire was reported in an overhead stowage bin. The fire was noticed just as the aircraft was being pushed back from the loading gate at Dorval International Airport. The fire was extinguished by crew members and all passengers were safely evacuated.

The stowage bin involved in the fire contained a personal carry-on bag and five 100 percent polyester airline blankets in two separate piles. The blankets were supplied by two different manufacturers. Upon completion of their investigation, the Transportation Safety Board (TSB) of Canada determined that the original source of fuel for the fire was the 100 percent polyester airline blankets. This conclusion was based on TSB testing of a section of unburned blanket. In their first test, a lit match was placed at the edge of the blanket. In their second test, a lit match was placed on top of the blanket. In both cases, the blanket ignited and rapid propagation of flame was observed.

The Federal Aviation Administration (FAA) does not require flammability testing of airline blankets. Therefore in light of the above incident, the U.S. National Transportation Safety Board asked the FAA to develop a fire performance test method and performance criteria for blankets suppled to commercial airline operators. At that time, many airlines used blankets that met only the FAA vertical Bunsen burner test criteria specified in Title 14 Code of Federal Regulations § 25.853. However, this test may be inappropriate as a measurement of ignitability for certain types of blankets since the polyester blankets involved in the Northwest Airlines B727–200 fire met the test criteria.

In March 1996, the FAA's Technical Center completed the development of a flammability test for blankets. The Technical Center published its report and included it in the FAA's Aircraft Materials Fire Test Handbook. In August 1996, the FAA issued Flight Standards Information Bulletin for Air Transportation (FSAT) 96–11 that recommended that air carriers replace old blankets at the end of their service life with blankets that met these new FAA-developed standards.

FSAT 96–11 expired in August 1997, and industry no longer had an FAA-approved flammability standard for aircraft blankets to reference. Therefore, the FAA is issuing Technical Standard Order (TSO) C152, Flammability Test Method for Aircraft Blankets.

How To Obtain Copies

A copy of the proposed TSO–C152 may be obtained via the Internet, http://www.faa.gov/avr/air/100home.htm, or on request from the office listed under ''For Further Information Contact.'' Copies of Advisory Circular (AC) 20–115, Radio Technical Commission for Aeronautics, Inc., Document RTCA/DO–178, AC 25–17, Transportation Airplane Cabin Interiors Crashworthiness Handbook, and DOT/FAA/CT–89/15, ''Aircraft Materials Fire Test Handbook,'' may be obtained from the U.S. Department of Transportation, Subsequent Distribution Office, SVC–121.23, 3341 Q 75th Avenue, Landover, MD 20785. Department of Transportation (DOT) Specifications may be purchased from the U.S. Department of Transportation Records Center, 400 7th Street SW, Washington, DC 20590.

Issued in Washington, DC, on March 7, 2002.

John McGraw,

Acting Manager, Aircraft Engineering Division, Aircraft Certification Service.

[FR Doc. 02–6129 Filed 3–22–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Burleigh and Morton Counties, ND

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Burleigh and Morton Counties, North Dakota.

FOR FURTHER INFORMATION CONTACT: Calvin Larson, Environment and Design Engineer, Federal Highway Administration, 1471 Interstate Loop, Bismarck, North Dakota 58503–0567, Telephone: (701) 250–4204; Terrence Udland, Bridge Engineer, North Dakota Department of Transportation, 608 East Boulevard Avenue, Bismarck, North Dakota 58505–0700, Telephone: (701) 328–1969.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the North Dakota Department of Transportation, will prepare an environmental impact statement (EIS) to determine the best long-term solution for the Liberty Memorial Bridge crossing of the Missouri River. The proposed improvement would involve the rehabilitation or reconstruction of the bridge and approach roadways.

The existing bridge is 80 years old and has developed extensive deterioration and damage due to weathering, ice control chemicals, and traffic conditions. In addition, the bridge approach geometry and lane widths do not conform to current highway standards and therefore constitute a safety hazard. Emergency repairs to the pier caps were completed in 2001. These repairs were limited and are projected to last for only five years.

The bridge is listed on the National Register of Historic Places. It was christened the Liberty Memorial Bridge in honor of North Dakota World War I soldiers. It was the first vehicular bridge over the Missouri River in North Dakota. At the time it was completed, it was the only vehicular bridge between Great Falls, Montana and Sioux City, Iowa. It was also the final link in the coast-to-coast National Parks Highway, later designated U.S. Highway 10.

The alternatives that will likely be evaluated include (1) taking no action; (2) rehabilitating the existing bridge; (3) rehabilitating the existing bridge and constructing a new bridge adjacent to the existing; and (4) constructing a new bridge in the vicinity of the existing bridge and demolishing the existing bridge.

Letters describing the proposed action and soliciting views and comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed or are known to have an interest in this proposal. Public scoping meetings for identifying significant issues to be addressed in the environmental impact statement will be held on April 8, 2002 in the Bismarck, North Dakota, City Council Chamber and on April 9, 2002 in the Mandan, North Dakota, City Council Chamber.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the North Dakota Department of Transportation or FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation of Federal programs and activities apply to this program)

Issued on: March 8, 2002.

J. Michael Bowen,

Division Administrator, Federal Highway Administration, Bismarck, North Dakota.

[FR Doc. 02–7015 Filed 3–22–02; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Ex Parte No. 290 (Sub No. 5) (2002–2)]

Quarterly Rail Cost Adjustment Factor

AGENCY: Surface Transportation Board, DOT.

ACTION: Approval of rail cost adjustment factor.

SUMMARY: The Board has approved the second quarter 2002 rail cost adjustment factor (RCAF) and cost index filed by the Association of American Railroads. The second quarter 2002 RCAF (Unadjusted) is 1.062. The second quarter 2002 RCAF (Adjusted) is 0.563. The second quarter 2002 RCAF–5 is 0.541.

EFFECTIVE DATE: April 1, 2002.

FOR FURTHER INFORMATION CONTACT: H. Jeff Warren, (202) 565–1533. Federal Information Relay Service (FIRS) for the hearing impaired: 1–800–877–8339.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dā-To-Dā Legal, Suite 405, 1925 K Street, NW, Washington, D.C. 20006, phone (202) 293–7776. [Assistance for the hearing impaired is available through FIRS: 1–800–877–8339.]

This action will not significantly affect either the quality of the human environment or energy conservation.

Pursuant to 5 U.S.C. 605(b), we conclude that our action will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Decided: March 19, 2002.

By the Board, Chairman Morgan and Vice Chairman Burkes.

Vernon A. Williams,

Secretary.

[FR Doc. 02–7121 Filed 3–22–02; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–565 (Sub–No. 6X); STB Docket No. AB–55 (Sub–No. 604X)]

New York Central Lines, LLC—Abandonment Exemption—in Shelby County, OH; CSX Transportation, Inc.—Discontinuance of Service Exemption—in Shelby County, OH

New York Central Lines, LLC (NYC) and CSX Transportation, Inc. (CSXT) have filed a notice of exemption under 49 CFR 1152 subpart F—*Exempt Abandonments and Discontinuances of Service* for NYC to abandon and CSXT to discontinue service over approximately .90 miles of railroad between milepost QIO 163.98 and milepost QIO 163.08 in Sidney, Shelby County, OH.[1] The line traverses United States Postal Service Zip Code 45365.

[1] Pursuant to Board authorization in 1998, CSX Corporation, CSXT's parent company, and Norfolk Southern Corporation jointly acquired control of Conrail Inc., and its wholly owned subsidiary, Consolidated Rail Corporation (Conrail). As a result of that acquisition, certain assets of Conrail have been assigned to NYC, a wholly owned subsidiary

NYC and CSXT have certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to these exemptions, any employee adversely affected by the abandonment or discontinuance shall be protected under *Oregon Short Line R. Co.—Abandonment-Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, these exemptions will be effective on April 24, 2002, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by April 4, 2002. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by April 15, 2002, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicants' representative: Natalie S. Rosenberg, Counsel, CSX Transportation, Inc., 500 Water Street J150, Jacksonville, FL 32202.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

NYC and CSXT have filed an environmental report which addresses the effects, if any, of the abandonment and discontinuance on the environment and historic resources. SEA will issue an environmental assessment (EA) by March 29, 2002. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1552. [TDD for the hearing impaired is available at 1–800–877–8339.] Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), NYC shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by NYC's filing of a notice of consummation by March 25, 2003, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at www.stb.dot.gov.

Decided: March 15, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02–6869 Filed 3–22–02; 8:45 am]

BILLING CODE 4915–00–P

of Conrail, to be exclusively operated by CSXT pursuant to an operating agreement. The line to be abandoned is included among the property being operated by CSXT pursuant to the NYC operating agreement.

[2] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[3] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. *See* 49 CFR 1002.2(f)(25). This fee is scheduled to increase to $1,100, effective April 8, 2002.

Notices

Federal Register
Vol. 67, No. 57
Monday, March 25, 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

Agricultural Marketing Service

[Docket No. FV02–376]

Fruit and Vegetable Industry Advisory Committee; Meeting

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of public meeting.

SUMMARY: The purpose of this notice is to notify all interested parties that the Agricultural Marketing Service (AMS) will hold a Fruit and Vegetable Industry Advisory Committee (Committee) meeting that is open to the public to attend. The U.S. Department of Agriculture (USDA) established the Committee to examine the full spectrum of issues faced by the fruit and vegetable industry and provide suggestions and ideas to the Secretary of Agriculture on how USDA can tailor its programs to meet the fruit and vegetable industry's needs. This notice sets forth the schedule and location for the meeting.

DATES: The Committee meeting which is open to the public will be held on Tuesday, April 16, 2002, from 8 a.m. to 5 p.m. and Wednesday, April 17, 2002, from 8 a.m. to 1 p.m.

ADDRESSES: The Committee meeting will be held at the South Building, Room 3501, United States Department of Agriculture, 1400 Independence Avenue SW., Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Robert C. Keeney, Deputy Administrator, Fruit and Vegetable Programs, AMS, USDA, Room 2077 South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 720–4722, e-mail—*robert.keeney@usda.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act (FACA) (5 U.S.C. App.), the Secretary of Agriculture established the Fruit and Vegetable Industry Advisory Committee to examine the full spectrum of issues faced by the fruit and vegetable industry and to provide suggestions and ideas to the USDA on tailoring its programs to meet the fruit and vegetable industry's needs.

At the April 16–17, 2002, meeting announced in this document, the members of the Committee will elect the Chairperson and Vice-Chairperson of the Committee who will serve for a 2-year term. The committee will seek input from parties particularly interested in fruit and vegetable programs regarding the full spectrum of issues faced by the fruit and vegetable industry including: improvement of service to the fruit and vegetable industry; improvement of fruit and vegetable programs delivery; and other input regarding the tailoring of USDA programs to meet industry needs. Therefore, AMS, is giving notice of the committee meeting to the public to attend.

Those parties that wish to attend the meeting should register on or before April 9, 2002, since space is limited. To register please e-mail *Robert.Keeney@usda.gov* or send a fax to 202–720–0016. Registrants should include their name, address, and daytime telephone number.

Upon entering the South Building, visitors should inform security personnel that they are attending the FVIAC Committee Meeting. Identification will be required to be admitted to the building. Security personnel will direct visitors to a registration log that will need to be signed on entrance into the building. All visitors must be registered with AMS in advance of the meeting.

If you require special accommodations, such as a sign language interpreter, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**. The meeting will be recorded, and information about obtaining a transcript will be provided at the meeting.

Dated: March 19, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–7108 Filed 3–22–02; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket No. FV–02–330]

United States Standards for Grades of Canned Mushrooms

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice; withdrawal.

SUMMARY: The Agricultural Marketing Service (AMS) of the Department of Agriculture (USDA) published a notice soliciting comments on its proposed revision to change the United States Standards for Grades of Canned Mushrooms. Specifically, AMS proposed to lower the Recommended Minimum Drained Weight Averages (RMDWA's) and lower limits for mushrooms packed in the 8 ounce, jumbo, and No. 10 can sizes. After reviewing and considering the comments received, the Agency has decided to withdraw the proposal and terminate the action.

EFFECTIVE DATE: March 25, 2002.

FOR FURTHER INFORMATION CONTACT: Chere L. Shorter, Processed Products Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, U.S. Department of Agriculture, Room 0709, South Building; STOP 0247, Washington, DC 20250; faxed to (202) 690–1527; or e-mailed to *Chere.Shorter@usda.gov.*

The current United States Standards for Grades of Canned Mushrooms, along with the proposed changes, are available either through the address cited above or by accessing the Internet at *http://www.ams.usda.gov/fv/ppb.html.* Any comments received, regarding this notice will also be posted on that site.

SUPPLEMENTARY INFORMATION:

Background

In August 1990, USDA, through one of its field offices, received a letter from a food importer in New York alerting AMS to the disparity in the United States Standards for Grades of Canned Mushrooms. The company proposed that the RMDWA's in the U.S. Standards for Grades of Canned Mushrooms be lowered to 56 percent of the water capacity of the container, the FDA minimum fill requirement appearing in 21 CFR 155.201.

In consideration of this proposal, AMS gathered information from government and industry sources.

Drained weight, although not a factor of quality in canned mushrooms, is very important in connection with the marketing of processed fruit and vegetable products. Drained weight indicates the amount of fruit and vegetable ingredient in relation to packing media and to some extent the degree to which a product may have disintegrated during processing and handling. Most U.S. standards for canned fruits and vegetables contain a recommended drained weight. Drained weight, when applicable, is a requirement in federal specifications and other purchase specifications or contracts. The USDA reports the range of drained weights on their certificates when there is a mandatory FDA requirement, such as for canned mushrooms. Although drained weight is an FDA mandatory requirement in canned mushrooms, buyers and sellers can establish their own specification of minimum drained weights that exceed the FDA.

Presently, the U.S. standard for canned mushrooms includes a recommended minimum drained weight of 62 percent of the water capacity, or for example, 68.0 ounces for the No. 10 can, while the FDA minimum is 61.3 ounces (56 percent) for this can size. The water capacity is determined according to the FDA method outlined in 21 CFR 130.12. The FDA established its current 56 percent minimum in rulemaking based upon a petition from the National Food Processors Association (NFPA) requesting that the drained weight required for mushrooms packed in larger cans be reduced because of the high incidence of bacterial spoilage in such containers. The FDA initiated rulemaking in a proposed rule (47 FR 26843; June 22, 1982). The NFPA attributed the problem to overfilling to meet the drained weight requirement. Therefore, the NFPA proposed to reduce the drained weight requirement for larger cans so that the ratio of mushrooms to water capacity of the container was not less than 56 percent. A final rule was published in the **Federal Register** on March 15, 1983 (48 FR 10812) and a **Federal Register** Notice confirming the effective dates was published on September 14, 1983 (48 FR 41155.)

The USDA published a notice in the **Federal Register**, on December 4, 1998 (63 FR 67040), proposing to revise the U.S. Standards for Grades of Canned Mushrooms by lowering the recommended drained weight from 62 percent to 56 percent of the can capacity.

A 60 day comment period was provided for interested persons to send in comments on this recommended change to the Standards.

AMS received one comment that was opposed to the change in drained weight. The commenter stated that the change would result in a lack of uniformity in that there would be a larger number of pack sizes within the narrow range of 56 to 62 percent of the water capacity. They also stated that the change would require expensive changes in the manufacturing process, through new heat penetration studies, new labels, and new in-plant procedures resulting in a restructuring of the manufacturing process. And finally, the commenter felt that the marketing environment would become more confused as a result. AMS believes that the comments have merit and therefore has decided to withdrawal the proposal and terminate the action.

In another matter, the commenter wanted a review of the current color standards for canned mushrooms. They stated that due to the extreme difficulty in achieving Grade A color in glass, that the minimum color classifications be reviewed.

Because this response is beyond the scope of the intended notice, USDA will review this discussion in another forum when more data is available. Interested parties are however encouraged to submit data to justify reviewing the minimum color requirements for canned mushrooms.

After reviewing and considering the comments received, the Agency has decided not to proceed with the action. Therefore, the notice published December 4, 1998 (64 FR 67040) is withdrawn.

Dated: March 18, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–7109 Filed 3–22–02; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Forest Service

Withdrawal of the Pacific Southwest Regional Guide

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: The intended effect of this action is to comply with 36 CFR part 219 section 219.35(e) which directs that within 1 year of November 9, 2000, the Regional Forester must withdraw the Regional Guide. When a Regional Guide is withdrawn, the Regional Forester must identify the decisions in the Regional Guide that are to be transferred to a regional supplement of the Forest Service directive system (36 CFR 200.4) or to one or more plans and give notice in the **Federal Register** of these actions.

DATES: This action will be effective April 1, 2002.

FOR FURTHER INFORMATION CONTACT: Bradley J. Burmark, Forest Planner, Pacific Southwest Region, 1323 Club Drive, Vallejo, CA 94592, 707–562–8950

SUPPLEMENTARY INFORMATION: This action withdraws the Pacific Southwest Regional Guide. None of the direction in the Pacific Southwest Regional Guide will be transferred to a regional supplement of the Forest Service directive system or to forest plans. The direction in the Regional Guide is already in the forest plans, is obsolete, has been replaced by more recent direction, or is already present in other existing policies.

Dated: March 19, 2002.

Gilbert J. Espinosa,

Acting Regional Forester.

[FR Doc. 02–7062 Filed 3–22–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

[01–04–S1]

Designation for the Central Iowa (IA) Area

AGENCY: Grain Inspection, Packers and Stockyards Administration (GIPSA), USDA.

ACTION: Notice.

SUMMARY: GIPSA announces designation of Central Iowa Grain Inspection Corporation to provide official services under the United States Grain Standards Act, as amended (Act).

EFFECTIVE DATE: April 1, 2002.

ADDRESSES: USDA, GIPSA, Janet M. Hart, Chief, Review Branch, Compliance Division, STOP 3604, Room 1647–S, 1400 Independence Avenue, SW, Washington, DC 20250–3604.

FOR FURTHER INFORMATION CONTACT: Janet M. Hart at 202–720–8525, e-mail janhart@gipsadc.usda.gov.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512–1;

therefore, the Executive Order and Departmental Regulation do not apply to this action.

In the December 4, 2001, **Federal Register** (66 FR 63015), GIPSA asked persons interested in providing official services in the geographic area assigned to Central Iowa Grain Inspection Service, Inc., to submit an application for designation. Applications were due by January 2, 2002.

There were two applicants for the Central Iowa area: Central Iowa Grain Inspection Service, Inc., and Kevin D. Bredthauer and Sandra M. Bredthauer, of Des Moines, Iowa, proposing to do business as Central Iowa Grain Inspection Corporation. Both applied for the entire geographic area currently assigned to Central Iowa Grain Inspection Service, Inc. Central Iowa Grain Inspection Service, Inc., is a designated official agency. GIPSA asked for comments on the applicants for providing service in the Central Iowa area in the January 28, 2002, **Federal Register** (67 FR 3875). Comments were due by February 28, 2002. GIPSA received no comments by the due date. Central Iowa Grain Inspection Service, Inc., subsequently withdrew their application and asked for voluntary cancellation of their designation, effective March 31, 2002.

GIPSA evaluated all available information regarding the designation criteria in Section 7(f)(1)(A) of the Act and, according to Section 7(f)(1)(B), determined that, effective April 1, 2002, and ending March 31, 2005, Central Iowa Grain Inspection Corporation is able to provide official services in the geographic areas specified in the December 4, 2001, **Federal Register**, for which they applied. Interested persons may obtain official services by calling Central Iowa Grain Inspection Corporation at 515–266–1101.

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 et seq.).

Dated: March 8, 2002.

David R. Shipman,

Acting Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 02–7024 Filed 3–22–02; 8:45 am]

BILLING CODE 3410–EN–P

DEPARTMENT OF COMMERCE

International Trade Administration

19 CFR Part 351

Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties; Additional Comment Period

AGENCY: Import Administration, International Trade Administration, Department of Commerce

ACTION: Notice of additional comment period on proposed policy.

SUMMARY: The Department of Commerce is announcing a one-week final comment period for parties interested in submitting comments on the October 15, 1998, proposed clarification on the automatic-liquidation regulation where a reseller has been involved in the chain of commerce.

DATES: Submit comments by April 1, 2002.

ADDRESSES: Submit written comments to Faryar Shirzad, Assistant Secretary for Import Administration, Docket Center, Room 1870, Pennsylvania Avenue and 14th Street, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Laurie Parkhill, Office 3, Import Administration at 202–482–4733, or Patrick Gallagher, Office of Chief Counsel for Import Administration, at 202–482–5053.

SUPPLEMENTARY INFORMATION:

Background

On October 15, 1998, the Department of Commerce (the Department) published a proposed clarification of the Department's position on the automatic-liquidation procedures for a reseller and invited public comment on that clarification. See *Notice and Request for Comment on Policy Concerning Assessment of Antidumping Duties,* 63 FR 55361 (*Proposed Clarification*). On November 12, 1998, we published a notice of *Rebuttal Period for Comments on Policy Concerning Assessment of Antidumping Duties* (63 FR 63288) which extended the period for initial comments to November 13, 1998, established a rebuttal period until December 4, 1998, and provided for the submission of comments and rebuttal in an electronic format for posting to the Import Administration internet home page.

In the *Proposed Clarification* the Department explained the need for a clear articulation of its policy concerning the assessment of antidumping duties where intermediate companies are involved in exporting merchandise subject to antidumping duty orders to the United States. See 63 FR 55361. The Department also proposed in that notice that its clarified policy would apply to all entries for which the anniversary date for requesting an administrative review is on or after the date of publication of a final decision on this issue.

The Department received several written comments and rebuttals regarding the proposed assessment clarification and is preparing its final decision on the issue. Specifically, the Government of Canada, Micron, Volvo, the Steel Service Center Institute, the American Bearing Manufacturers Association, and The Timken Company provided comments. See the Import Administration Web site at *www.ia.ita.doc.gov.* The Department has reviewed these comments and is prepared to announce a final decision shortly.

Given the passage of time since the publication of the *Proposed Clarification,* however, the Department has decided to alert the public to the pending clarification and to provide one more opportunity for the public to submit comments on the proposed clarification. The Department will consider all comments it has already received: re-submisison of earlier comments is not necessary. Parties which have not yet commented on the proposal may submit comments within seven (7) calendar days of the publication of this notice for the Department's consideration.

To help simplify the processing and distribution of comments, the Department requests that a submission in electronic form accompany the required paper copies. Comments filed in electronic form should be on a DOS formatted 3.5″ diskette in either WordPerfect format or a format that the WordPerfect program can convert into WordPerfect. Please make each comment a separate file on the diskette and name each separate file using the name of the proposed document, *e.g.,* ''Reseller Liquidation.''

Comments received on diskette will be made available to the public on the Web at ia.ita.doc.gov. In addition, upon request, the Department will make comments filed in electronic form available to the public on 3.5″ diskettes (at cost) with specific instructions for accessing compressed data (if necessary). Any questions concerning file formatting, document conversion, access on the Web, or other electronic filing issues should be addressed to Andrew Lee Beller, IA Webmaster, at

202–482–0866 or via e-mail at *Andrew Lee Beller@ita.doc.gov.*

Address written comments to Faryar Shirzad, Assistant Secretary for Import Administration, Docket Center, Room 1870, Pennsylvania Avenue and 14th Street., NW, Washington, DC 20230, Attention: Laurie Parkhill, Comment on Automatic Liquidation.

Dated: March 15, 2002.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 02–6870 Filed 3–22–02; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

United States-Egypt Presidents' Council: Membership

AGENCY: International Trade Administration, Commerce.

ACTION: Amendment to Notice of Membership Opportunity: Extension to deadline for applications.

SUMMARY: The International Trade Administration of the U.S. Department of Commerce established and monitors the activities of the U.S.-Egypt Presidents' Council. The purpose of the Council is to provide a forum through which American and Egyptian private sector representatives can provide advice and counsel to both governments. The **Federal Register** published a notice of membership opportunities for American business representatives on the U.S. side of the Council on November 19, 2001. The deadline was December 28, 2001, and extended to January 25, 2002. This notice hereby extends the deadline by which applications must be received.

DATES: In order to receive full consideration, requests must be received no later than: Friday, April 19, 2002.

ADDRESSES: Please send your requests for consideration to Maram R. Talaat, Egypt Desk Officer, Office of the Middle East, U.S. Department of Commerce by fax at 202–482–0878 or courier to Room H–2029B, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION, CONTACT: Maram R. Talaat, Office of the Middle East, Room H–2029B, U.S. Department of Commerce, Washington, DC 20230, phone: 202–482–3752.

SUPPLEMENTARY INFORMATION: This amends the notice of membership opportunities on the U.S.-Egypt Presidents' Council published in the **Federal Register** on November 19, 2001 (66 FR 57937–57938).

Dated: March 20, 2002.

Cherie A. Loustaunau,

Director, Office of the Middle East.

[FR Doc. 02–7117 Filed 3–22–02; 8:45 am]

BILLING CODE 3510–DA–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 031902F]

Proposed Information Collection; Comment Request; 2002 Coastal Resource Management Customer Survey

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, 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, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before May 24, 2002.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue NW, Washington DC 20230 (or via Internet at MClayton@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Tom Fish at NOAA Coastal Services Center, (843) 740–1271 or Tom.Fish@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

This survey will be used by the NOAA Coastal Services Center to obtain information from our customers about their natural resource management issues, their information needs, and their technological capabilities. The respondents will be from the coastal natural resource management community. The information will be used to make quality improvements to the Center's products and services.

II. Method of Collection

A paper survey will be used, but a password-protected Web version of the survey will also be available.

III. Data

OMB Number: None.

Form Number: None.

Type of Review: Regular submission.

Affected Public: State, Local, or Tribal government (state natural resource management agencies); not-for-profit institutions (Sea Grant programs).

Estimated Number of Respondents: 700.

Estimated Time Per Response: 30 minutes.

Estimated Total Annual Burden Hours: 350 hours.

Estimated Total Annual Cost to Public: $0.

IV. Request for Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: March 18, 2002.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 02–7130 Filed 3–22–02; 8:45 am]

BILLING CODE 3510–08–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 031902G]

Proposed Information Collection; Comment Request; Gulf of Mexico Reef Fish and Coastal Pelagics Economic Data Collection

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, 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, Pub. L. 104–13 (44 U.S.C. 3506 (c)(2)(A)).

DATES: Written comments must be submitted on or before May 24, 2002.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue NW, Washington DC 20230 (or via Internet at MClayton@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Jim Waters, Department of Commerce, NOAA, National Marine Fisheries Service, 101 Pivers Island Road, Beaufort, NC 28516–9722, (252–728–8710).

SUPPLEMENTARY INFORMATION:

I. Abstract

The National Marine Fisheries Service (NMFS) proposes to collect information about vessel expenses and earnings in the Gulf of Mexico reef fish and coastal pelagics (mackerels) fisheries with which to conduct economic analyses that will improve fishery management in those fisheries; satisfy NMFS' legal mandates under Executive Order 12866, the Magnuson-Steven Fishery Conservation and Management Act (U.S.C. 1801 et seq.), the Regulatory Flexibility Act, the Endangered Species Act, and the National Environmental Policy Act; and quantify achievement of the performances measures in the NMFS Strategic Operating Plans. These data will be collected in conjunction with catch and effort data already being collected in this fishery as part of its logbook program, and will be used to assess how fishermen will be impacted by and respond to regulations likely to be considered by fishery managers.

II. Method of Collection

Owners of selected vessels with Federal commercial permits in the Gulf of Mexico reef fish and coastal pelagics fisheries will be required to report information about trip costs, input usage, input prices, and dockside prices as part of the logbook reporting requirements in this fishery. In addition, these vessel owners will be required to complete and submit by mail a separate form about annual fixed cost information such as expenditures for repair and maintenance, gear purchase and repair, fishing licenses and permits, insurance, dock fees, repayment on boat and business loans, office expenses and so forth.

III. Data

OMB Number: 0648–0016.
Form Number: None.
Type of Review: Regular submission.
Affected Public: Business or other for-profit organizations.
Estimated Number of Respondents: 350.
Estimated Time Per Response: 10 minutes per trip report; 30 minutes for the annual fixed-cost survey.
Estimated Total Annual Burden Hours: 1,400.
Estimated Total Annual Cost to Public: $0.

IV. Request for Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: March 18, 2002.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 02–7131 Filed 3–22–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 031902H]

Proposed Information Collection; Comment Request; NOAA Coastal Ocean Program Grants Proposal Application Package

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, 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, Pub. L. 104–13 (44 U.S.C. 3506 (c)(2)(A)).

DATES: Written comments must be submitted on or before May 24, 2002.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue NW, Washington DC 20230 (or via Internet at MClayton@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Leslie McDonald, 301–713–3338, ext. 155, or Leslie.McDonald@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

The National Oceanic and Atmospheric Administration's Coastal Ocean Program (COP) provides direct financial assistance through grants and cooperative agreements for research supporting the management of coastal ecosystems. In addition to standard government application requirements, applicants for financial assistance are required to submit a summary proposal budget form and a project summary form. Applicants are also requested to submit 20 copies of applications to expedite the review process. Recipients are required to file annual progress reports and a project final report using COP formats. All of these requirements are needed for better evaluation of proposals and monitoring of awards.

II. Method of Collection

Paper forms and documents are submitted to the COP. The option of electronic submission is being explored.

III. Data

OMB Number: 0648–0384.
Form Number: None.
Type of Review: Regular submission.
Affected Public: Not-for-profit institutions (universities, colleges, junior colleges, technical schools, laboratories); State, Local, or Tribal Government.
Estimated Number of Respondents: 300.
Estimated Time Per Response: 30 minutes for a budget form; 30 minutes for a project summary; 5 hours for an

annual report; 10 hours for a final report; and 10 minutes to provide the extra copies required.

Estimated Total Annual Burden Hours: 1,100.

Estimated Total Annual Cost to Public: $0.

IV. Request for Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: March 18, 2002.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 02–7132 Filed 3–22–02; 8:45 am]

BILLING CODE 3510–JS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 011102267–2064–02; I.D. No. 102301B]

Financial Assistance for Marine Mammal Stranding Networks Through the John H. Prescott Marine Mammal Rescue Assistance Grant Program

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

ACTION: Notice of solicitation for applications, re-opening receipt of application date.

SUMMARY: The National Marine Fisheries Service (NMFS) published a document in the **Federal Register** of January 14, 2002, concerning the solicitation of competitive applications under the John H. Prescott Marine Mammal Rescue Assistance Grant Program (Prescott Stranding Grant Program). This document re-opens the receipt of application date for no later than 5 p.m., (local time) on April 8, 2002.

DATES: The closing date for receipt of applications has been re-opened until April 8, 2002. You must submit one signed original and two copies of the completed application (including supporting information). We will not accept facsimile or electronic applications.

ADDRESSES: We must receive your application by 5 p.m. (E.S.T.) April 8, 2002. in one of the offices designated in the **Federal Register** issue of January 14, 2002 (67 FR 1720).

FOR FURTHER INFORMATION CONTACT: Dr. Teri Rowles, Marine Mammal Health and Stranding Response Program 301–713–2322 ext. 178 or via e-mail: *Teri.Rowles@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Electronic Access

This solicitation, the application package, and supplementary documents are available on the NMFS Office of Protected Resources Home Page at: *http://www.nmfs.noaa.gov/prot—res/PR2/ Health—and—Stranding—Response— Program/Prescott.html*.

Title IV of the Marine Mammal Protection Act, the Marine Mammal Health and Stranding Response Program is available at: *www.nmfs.noaa.gov/prot—res/laws/MMPA/MMPA.html*.

Information on MMPA and ESA research and enhancement permits can be found at: *http://www.nmfs.noaa.gov/prot—res/PR1/Permits/pr1permits—types.html*.

Background

In the **Federal Register** notice issue of January 14, 2002, (67 FR 1720) under **DATES** change the date from March 15, 2002 to April 8, 2002. Applications will be accepted until 5 p.m. E.S.T. Any proposals that were received in the period after the original closing date of March 15 and before March 25, 2002. will be considered by the program and do not need to re-apply.

Dated: March 19, 2002.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 02–7104 Filed 3–20–02; 3:04 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 020306047-2047-01; I.D. 020402E]

RIN 0648-ZB14

Mid-Atlantic Fishery Management Council (Council); Request for Research Proposals (RFP)

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

ACTION: Notice of solicitation for applications.

SUMMARY: NMFS announces that for fishing year 2003 up to 3 percent of the total allowable landings (TAL) will be dedicated to research endeavors under a research set-aside program (RSA). This notice describes how the application and selection process for research projects to be funded under the RSA by a set-aside from the TAL of selected species will operate. The RSA provides a mechanism to fund research and compensate vessels through the sale of fish harvested under the research quota. The setting of the actual research set-aside quotas will be the subject of future rulemakings. NMFS is soliciting proposals for research activities concerning the summer flounder, scup, black sea bass, *Loligo* squid, *Illex* squid, Atlantic mackerel, butterfish, bluefish, and tilefish fisheries.

DATES: All research proposals to be considered under this solicitation must be received between March 25, 2002, and 5 p.m., EST, on May 13, 2002, in the Northeast Regional Office (see **ADDRESSES**). Postmarks prior to the end of the receipt period will not be sufficient. Facsimile applications will not be accepted. For further information related to the timeframe for review and selection of proposals to be conducted with research quota set-asides, see Section A, Background, under **SUPPLEMENTARY INFORMATION**.

ADDRESSES: Proposals must be submitted to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. Mark proposals ''Attention--Mid-Atlantic Research Proposals.'' Copies of the Standard Forms for submission of research proposals may be found on the Internet in a PDF (Portable Document Format) version at http://www.ofa.noaa.gov/grants/index.html, under the title ''Grants Management Forms,'' or by contacting the Council

office (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Daniel Furlong, Executive Director, Mid-Atlantic Fishery Management Council, (302) 674-2331, fax (302) 674-5399, e-mail thoff@mafmc.org or Paul H. Jones, Fishery Policy Analyst, NMFS, (978) 281-9273, fax 978-281-9135, e-mail paul.h.jones@noaa.gov.

SUPPLEMENTARY INFORMATION:

A. Background

The award of a set-aside from the TAL of selected species became possible with the approval of Framework Adjustment 1 (Framework 1) to the Council's Atlantic Mackerel, Squid, and Butterfish; Summer Flounder, Scup, and Black Sea Bass; and Bluefish Fishery Management Plans (FMPs); and the RSA provisions of the Tilefish FMP. Framework 1 was approved by the Secretary of Commerce on August 10, 2001. It established a procedure through which research set-aside amounts would be set annually as part of the Council's quota-setting process. The set-asides can range between 0 and 3 percent of each species' TAL. The set-aside allocated for a given species is to be utilized primarily for research involving that species. However, to promote research in those cases where it would otherwise be infeasible, individual research projects could involve allocations from the set-asides for several of the species listed in this notice. Therefore, in addition to applying for part of the set-aside involving a species directly involved in a research project, applicants may also apply for up to 25 percent of the research set-aside quota for species not directly involved in a particular research project.

To be eligible for consideration, a research proposal for work to be conducted using a research set-aside allocation for the 2003 fishing year must be received during the application period identified in the DATES section of this document. Applicants must submit one signed original and two signed copies of the completed application (including supporting information). Prior to selection, NOAA will convene a panel to review proposals submitted in response to this RFP.

The Council, in consultation with the Atlantic States Marine Fisheries Commission (Commission), will incorporate the level of research set-aside (percentages) for each of the set-aside species for the 2003 fishing year into the Council's annual quota specification packages. NMFS will consider the recommended level of set-aside as part of the specification rulemaking process. It is anticipated that most proposals will request that vessels conducting research be exempt from certain regulations for the relevant fishery. The impacts of such an exemption must be analyzed. To ease the burden on researchers, the Council will prepare, as appropriate, an analysis of the impacts associated with the anticipated exemptions during the annual quota specification process. This process is intended to satisfy the analytical and public notice provisions of the Exempted Fishing Permit (EFP) regulations at 50 CFR 600.745. However, certain conditions may require the applicant to provide additional analysis associated with such an exemptions (see section N of this notice).

The actual level of research set-aside quota available to researchers for the 2003 fishing year will depend on the TAL level specified by the Council at its quota-setting meetings in June and August, 2002, and on the percentage (0 to 3 percent) of the TAL established by the Council as the level of research set-aide. To help researchers develop proposals for the 2003 fishing year, the table below provides some guidance on the general magnitude of research set-asides and estimated values that a researcher might expect to be available for fishing year 2003. The table is based on TAL levels for these fisheries for the 2002 fishing year and assumes that NMFS will approve the maximum set-aside level of 3 percent of the TAL. The table is intended only as a guide to be used when developing research proposals for the 2003 fishing year. It does not necessarily reflect the actual research set-aside quota that will be allocated for fishing year 2003. Based on Council recommendation, NMFS could choose to adopt less than 3 percent of TAL as a set-aside, or could decide not to adopt any set-aside for a given fishery. The estimated values of the set-aside allocations will vary depending on market considerations prevailing at the time the research trips are conducted.

EXAMPLE OF 3-PERCENT RESEARCH SET-ASIDES

Allocation Species	Pounds	Kilograms	Estimated Value($)
Summer Flounder	537,300	243,719	902,664
Scup	186,600	84,642	236,982
Black Sea Bass	185,100	83,961	318,372
Loligo Squid	1,124,339	510,000	865,741
Illex Squid	1,587,302	720,000	365,079
Atlantic Mackerel	5,621,693	2,550,000	730,820
Butterfish	390,013	176,910	222,307
Bluefish	1,135,200	514,927	431,376
Tilefish	59,850	27,148	148,428

B. Authority

Issuing grants is consistent with §§ 303(b)(11), 304(e), and 404(c) of the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.*

C. Catalog of Federal Domestic Assistance (CFDA)

11.454, Unallied Management Projects

D. Funding Instrument and Project Period

In consultation with NMFS, the NOAA Grants Office will award a grant to successful applicants through the NOAA grant award process. The project period for all research is January 1, 2003, through December 31, 2003. Proposals to fund research that was started prior to the project period, or that would be completed after the project period will not be considered.

E. Funding Availability

No Federal funds are provided for research under this notification. The Federal Government's contribution to the project will be an EFP or Letter of Authorization, as applicable, which will provide special fishing privileges in response to research proposals selected

under this program. The Federal Government shall not be liable for any costs incurred in the conduct of the project. Any funds generated from the landings authorized under a research set-aside grant shall be used to cover the cost of the research, including vessel costs, and to compensate vessel owners for expenses incurred. Therefore, the owner of each fishing vessel selected to land a species in excess of a trip limit or seasonal quota must use the proceeds of the sale of the excess catch to compensate the researcher for costs associated with the research activities and use of the vessel.

Any additional funds above the cost of the research activities (or excess program income) shall be retained by the vessel owner as compensation for the use of his/her vessel.

F. Scope of Research

Projects funded under the research quota set-aside program should enhance understanding of the fishery resource or contribute to the body of information on which management decisions are made. Research, as well as additional voyages to obtain fish for compensation, may be conducted, as specified in the EFP or Letter of Authorization, as applicable, in or outside of a closed area, within the timeframe of a commercial quota closure, and onboard a fishing or other type of vessel, including recreational and/or commercial vessels.

Funds generated from the research quota set-aside landings shall be used to cover the cost of the research activities, including vessel costs, and to compensate boats for expenses incurred during the collection of the set-aside species. For example, the funds could be used to pay for gear modifications, monitoring equipment, additional provisions (e.g., fuel, ice, food for scientists), or the salaries of research personnel. The Federal Government is not liable for any costs incurred by the researcher or vessel owner, should the sale of the excess catch not fully reimburse the researcher or vessel owner for his/her expenses.

G. Eligibility Criteria

All commercial organizations; non-profit organizations; state, local or tribal governments; institutions of higher education; and individuals are eligible to apply, provided that all proposal requirements are satisfied and the proposal is received by the date specified in this document.

A person is not eligible to submit an application under this program if he/she is an employee of any Federal agency; a Regional Fishery Management Council; or an employee of a Council. However, Council members who are not Federal employees can submit an application.

H. Proposal Preparation and Requirements

NOAA employees (whether full-time, part-time, or intermittent) are not allowed to help in the preparation of an application, except that staff may provide you with information on program goals, funding priorities, application procedures, and completion of application forms. Since this is a competitive program, NMFS and NOAA employees will not provide assistance in conceptualizing, developing, or structuring proposals, or write letters of support for a proposal. However, the Council or NMFS contact person (see **FOR FURTHER INFORMATION CONTACT**) may provide assistance to researchers who are seeking vessels to participate in the collection of set-aside species or directly in research projects.

Proposals must identify the research to be conducted and the total amount of the set-aside species requested for the project, including its approximate cash value. If a waiver of Federal regulations is proposed, a list of the specific regulations to be waived and a brief justification for such a waiver must be included with the proposal.

In addition, each proposal must identify the requirements for the participating vessel(s) that would make a trip to collect the set-aside species. The vessel(s) selected by the applicant must be listed in the proposal, if possible, or specifically identified prior to final approval by NOAA. Proposals may request that the quota set-aside be collected separately from the research trip or other related research trip. The separate compensation trips do not necessarily have to be conducted by the same vessel.

The researcher's proposal must state the amount of funds required to support the research project, as well as the amount required to compensate the vessel owner either for the collection of set-aside species, or for participation in the research project, or both. The proposal must also include the agreement between the vessel owner and researcher that shows exactly how the research activity is to be paid for, if possible, or such agreement must be provided prior to final approval by NOAA.

I. Project Funding Priorities

The Council and NOAA will give priority to funding research proposals in the following areas identified as research priorities by the Council and Commission for the 2003 fishing year (not listed in order of priority):

1. Bycatch and discard reduction concerning: (a) Distinctions between regulatory discards and bycatch attributed to gear, including mesh selectivity and/or overall gear design in the summer flounder fishery; (b) gear modifications in the *Loligo* squid fishery to reduce scup and other species bycatch; (c) discard studies in the *Loligo* and scup fisheries; and (d) better estimates of recreational discards in the summer flounder, scup, black sea bass and bluefish fisheries;

2. Mesh and gear selectivity focusing on: (a) The examination of summer flounder catch composition in small-mesh net fisheries within the summer flounder small-mesh exemption area; (b) summer flounder mesh selectivity studies; (c) scup mesh selectivity; (d) squid mesh selectivity; (e) black sea bass mesh selectivity; (f) the development of threshold triggers based on gear and fishery characteristics; (g) evaluation of various pot vent sizes for black sea bass; (h) estimation of mortality of black sea bass left in pots during the closed season; (i) evaluation of fishery management actions, e.g., do closures have a net positive effect on fishing mortality by postponing such mortality, or do they simply allow for concentration of resources such that when the seasons open the consequent fishing effort offsets the mortality reductions that occurred during the closure; and (j) mesh retention studies of 2-1/2 (6.35 cm), 2-3/4 (6.985 cm), and 3-inch (7.63 cm) mesh for butterfish;

3. Fishing impacts on habitat pertaining to: (a) Mobile gear impacts on tilefish burrows; (b) scup spawning areas and scup larvae settlement areas in coastal/estuarine waters; (c) benthic habitat of juvenile and adult black sea bass, and scup offshore wintering areas; and (d) mapping of spawning areas and egg mop areas for *Loligo*;

4. Cooperative stock assessment surveys focusing on: (a) The use of alternative industry assessment methods to determine abundance of Atlantic mackerel; (b) the summer flounder fishery; (c) surveys for summer flounder in areas not traditionally sampled by the North East Fisheries Science Center gear; (d) side-by-side comparisons for summer flounder and scup of commercial and NEFSC survey gear; (e) better survey information for bluefish; (f) tagging studies of bluefish movements; and (g) DNA analysis for stock descriptions of Atlantic bluefish and Atlantic mackerel;

5. Improved recreational fishery data focusing on: (a) Research to enhance the overall knowledge of the recreational

fishery; (b) statistical models to evaluate the effectiveness of recreational management measures and/or data collection process; (c) studies of bluefish hooking mortality by size of fish; and (d) tagging studies with break-away hooks for movement of tilefish.

6. Other: (a) Evaluation of redirection of fishing effort with area closures for black sea bass; (b) evaluation of whether artificial reefs increase the productivity of black sea bass or simply concentrate the resource; and (c) evaluation of the mixing of Illex and *Loligo* in September and October.

J. Evaluation Criteria

The review panel convened by NOAA to evaluate proposals submitted in response to this RFP (see section L of this notice), will evaluate proposals by assigning scores up to the maximum indicated for each of the following criteria:

1. A clear definition of the problem, need, issue or hypothesis to be addressed. The proposal should describe its relevance to RSA program priorities. If not directly related to priorities listed in this solicitation, provide justification why the proposed project should be considered (25 points);

2. Cost-effectiveness of the project. The request and value of the anticipated revenue from RSA should be commensurate with estimated project costs. Economic and budget projections must be quantified, to the extent possible. Where appropriate, use of existing equipment versus acquisition of new equipment (fishing gear) is preferred (25 points);

3. A clear definition of the approach to be used, including description of field work, theoretical studies, and laboratory analysis to support that proposed research, and the ability of the researchers to physically complete work during the 2003 calendar year can be completed in the area and time proposed. Activities that take place over a wider versus narrower geographical range, where appropriate, are preferred (25 points);

4. Demonstration of support, cooperation and/or collaboration with the fishing industry, and qualifications/experience of project participants. Where appropriate, unified versus separate stand-alone proposals on related projects involving multiple principal investigators are preferred (15 points);

5. Identification of anticipated benefits, potential users, likelihood of success, and methods of disseminating results. Where appropriate, data format generated from the research must be consistent with NMFS' and Atlantic Coastal Cooperative Statistical Program's (ACCSP) databases (10 points). A copy of this format is available from NMFS (see **FOR FURTHER INFORMATION CONTACT**).

K. Selection Procedures

NOAA will solicit written technical evaluations from the Council members who make up the Ecosystem Planning Committee (Committee) and from three or more appropriate private and public sector experts to score proposals using the criteria specified in section J of this notification to determine the technical merit of the proposal. Following completion of the technical evaluation, NOAA will convene a review panel, including the Committee and technical experts, to review and individually critique the scored proposals to enhance NOAA's understanding of the proposals. No consensus recommendations will be made. Based on the results of the technical review, rank order based on average scores, comments provided by the review panel, and the following program policy factors, NOAA will select the successful proposals and inform the Council of its recommendations. The program policy factors are: (1) The time of year the research activities are to be conducted; (2) the ability of the proposal to meet the experimental fishery requirements discussed under Section N of this notice; and (3) redundancy of research projects. Therefore, the highest scoring projects may not necessarily be selected for an award. The selecting official will provide final approval of the projects to allow NMFS to exempt selected vessel(s) from specific regulations implementing the respective FMPs through written notification to the applicant.

For proposals that request exemptions from existing regulations (e.g., possession limits, closed seasons, etc.), the impacts of the proposed exemptions must be analyzed. The Council will analyze these impacts as part of the impacts of the proposed specifications for the upcoming fishing year in the annual quota specification packages it submits to NMFS. However, those individuals with proposals that include vessel activities that extend beyond the scope of the analysis provided by the Council may be required to provide additional analysis before issuance of an EFP will be considered (see section N). Any researchers who request regulatory exemptions that are beyond the scope of the Council analysis may be required to adhere to the regulations that govern the issuance of an EFP by NMFS (see section N). If necessary, and as appropriate, NMFS will consult with the Council and successful applicants to secure the information required for granting an exemption if issuance of an EFP is necessary for the research to be conducted. The final decision on the applicant's proposal for research quota will not be made by NOAA until NMFS advises that the applicant's EFP request is approved.

L. Proposal Format

Proposals should be limited to seven pages, excluding item 6 below. The format may vary but must include:

1. A project summary;

2. A narrative project description to include: (a) Project goals and objectives; (b) the relationship of the proposed project to management needs or priorities identified by the Council; (c) a statement of work (project design and management including who is responsible, expected products, and participants other than applicant); and (d) a summary of the existing state of knowledge related to the project and contribution and relevance of the proposed work;

3. A description of all funding sources (including revenues derived from the sale of the species harvested under the research quota set-aside) and funding needs. This element of the proposal must include the amount of research quota set-aside requested for each species and the expected funds to be generated by the sale of those species, as well as the expected percentage of funds to be allocated to the researcher and any involved fishing vessel;

4. A budget that includes a breakdown of costs, including permit costs, equipment, supplies, and overhead. Applicants must submit a Standard Form 424 (Application for Federal Assistance) including a detailed budget using Standard Form 424A, (Budget Information-- Non-Construction Programs), Standard Form 424B (Assurances - Non-Construction Programs), and Commerce Department Form CD-511, (Certifications Regarding Debarment, Suspension and Other Responsibility Matters: Drug-Free Workplace Requirements and Lobbying). Copies of these Standard Forms may be found on the Internet in a PDF version at http://www.ofa.noaa.gov/grants/index.html (Grants Management Forms;

5. A list of any Federal or state regulations that the applicant needs to have waived and a brief justification for such a waiver. Note that requests for waivers of any state regulations will be forwarded to the appropriate state agency(s). NOAA cannot guarantee that

state agencies will accede to any particular request; and

6. Supporting documents including resumes, cooperative research agreements, and contracts.

M. Final Reports and Data Submission

NOAA will require project researchers to submit to NOAA, with a copy for the Council, an interim and/or final report describing their research project results, or other acceptable deliverable(s), in a timeframe that is specific to the type of research conducted. The format of the report may vary, but must contain:

1. A brief summary of the report;

2. A description of the issue/problem that was addressed;

3. A detailed description of methods of data collection and analyses;

4. A discussion of results and any relevant conclusions presented in a format that is understandable to a non-technical audience; this should include benefits and/or contributions to management decision-making;

5. A list of entities, firms, or organizations that actually performed the work and a description of how the work was accomplished; and

6. A detailed final accounting of all funds used to conduct research, including generation of project income resulting from sale of research set-aside quota. The financial information must be submitted on Office of Management and Budget Standard Form-269. Copies of this Standard Form may be found on the Internet in a PDF version at http://www.ofa.noaa.gov/grants/index.html (Grants Management Forms). Projects designed to collect new data for inclusion in NMFS' or ACCSP's databases must submit the data in electronic format with appropriate documentation. Certain databases will have highly specific requirements as to required fields and content. Researchers must agree to provide newly collected data in a format acceptable to the administrators of the receiving databases.

N. Other Requirements

The Council staff will bear the primary responsibility for the evaluations of impacts associated with the research, including analysis of any requested regulatory waivers. However, researchers proposing research and/or compensation fishing that goes beyond the scope of analysis provided by the Council staff in the Council's annual specification packages shall be required to submit a Supplemental Environmental Assessment to obtain an EFP from NMFS. Should a researcher be required to submit a request for an EFP to NMFS such submission should be received by NMFS at least 60 days before the requested start date of the proposed research to allow for additional review and analysis. A final decision on the applicant's grant request for research quota will not be made until NMFS has approved the applicant's EFP request.

O. Other Requirements of Recipients

The Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements contained in the **Federal Register** notice of October 1, 2001 (66 FR 49917), are applicable to this solicitation. However, please note that the Department of Commerce will not implement the requirements of Executive Order 13202 (66 FR 49921), pursuant to guidance issued by the Office of Management and Budget in light of a court opinion which found that the Executive Order was not legally authorized. See *Building and Construction Trades Department* v. *Allbaugh*, 172 F. Supp. 2d 138 (D.D.C. 2001). This decision is currently on appeal. When the case is resolved, the Department will provide further information on implementation of Executive Order 13202.

P. Disposition of unsuccessful applications.

If an application is not selected, NOAA will return the proposal and related documents to the applicant.

Q. Other

Pursuant to Executive Orders 12876, 12900, and 13021, the Department of Commerce, NOAA (DOC/NOAA) is strongly committed to broadening the participation of Historically Black Colleges and Universities, Hispanic Serving Institutions, and Tribal Colleges and Universities in its educational and research programs. The DOC/NOAA vision, mission and goals are to achieve full participation by Minority Serving Institutions (MSIs) in order to advance the development of human potential, to strengthen the Nation's capacity to provide high-quality education, and to increase opportunities for MSIs to participate in, and benefit from, Federal financial assistance programs. DOC/NOAA encourages all applicants to include meaningful participation of MSIs.

DOC/NOAA supports cultural and gender diversity in our programs and encourages women and minority individuals and groups to submit applications.

DOC/NOAA encourages applications from members of the fishing community, and applications that involve fishing community cooperation and participation.

Classification

Prior notice and opportunity for public comments are not required by the Administrative Procedure Act or any other law for this notice concerning grants, benefits, and contracts (5 U.S.C. 553(a)(2)).

Because a general notice of proposed rulemaking as specified in 5 U.S.C. 533, or any other law, was not required for this action, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., are not applicable.

Applications under this program are not subject to the provisions of Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

This notice contains collection-of-information requirements subject to the Paperwork Reduction Act. The use of Standard Forms 269, 424, 424A, 424B, and SF-LLL have been approved by OMB under the respective control numbers 0348-0039, 0348-0043, 0348-0044, 0348-0040, and 0348-0046.

Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the Paperwork Reduction Act, unless that collection displays a currently valid OMB control number.

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

Dated: March 19, 2002.

Rebecca Lent,

Deputy Assistant Administrator for Regulations National Marine Fisheries Service.

[FR Doc. 02–7134 Filed 3–22–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

National Sea Grant Review Panel

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of public meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Sea Grant Review Panel. The meeting will have several purposes. Panel members will discuss and provide advice on the National Sea Grant College Program in the areas of program evaluation,

education and extension, science and technology programs, and other matters as described below:

DATES: The announced meeting is scheduled during two days: Thursday, April 4, 2002, 9 a.m. to 5 p.m.; Friday, April 5, 2002 9 a.m. to 12:30 p.m.

ADDRESSES: National Oceanic and Atmospheric Administration, Silver Spring Metro Center III, 1315 East-West Highway, Room 4527, Silver Spring, Maryland 20910.

FOR FURTHER INFORMATION CONTACT: Dr. Ronald C. Baird, Director, National Sea Grant College Program, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Room 11716, Silver Spring, Maryland 20910, (301) 713–2448.

SUPPLEMENTARY INFORMATION: The Panel, which consists of a balanced representation from academia, industry, state government and citizens groups, was established in 1976 by Section 209 of the Sea Grant Improvement Act (Public Law 94–461, 33 U.S.C. 1128). The Panel advises the Secretary of Commerce and the Director of the National Sea Grant College Program with respect to operations under the Act, and such other matters as the Secretary refers to them for review and advice. The agenda for the meeting is as follows:

Thursday, April 4, 2002

9:00 a.m.—Welcoming and Opening Formalities, Change of Panel Chairs, Election of Sea Grant Review Panel Officers, Approval of Last Meeting Minutes and Agenda, Introductory Remarks.
9:20 a.m.—Executive Committee Report.
9:45 a.m.—NSGO Director's Update.
10:15 a.m.—Sea Grant Association Report.
10:45 a.m.—Break.
11:00 a.m.—Allocation Committee Report.
12:00 noon—Working Lunch (Wisconsin Sea Grant Information Management System Demonstration).
1:45 p.m.—Allocation Committee Report (continued).
2:45 p.m.—Duce Committee Report Consideration.
3:45 p.m.—Break.
4:00 p.m.—Program Evaluation Implementation Report.
4:15 p.m.—Best Management Practices.
4:30 p.m.—Coastal States Organization Presentation.

Friday, April 5, 2002

9:00 a.m.—NOAA Update.
9:30 a.m.—Congressional Update.
10:30 a.m.—Break.
10:45 a.m.—NSGO Update, Sea Grant Fisheries Extension, Communications Update, Education Update, NOAA MSI/Environmental Entrepreneurship Program, Aquatic Nuisance Species, Maine and New Hampshire Sea Grant College, Status.
12:00 noon—Wrap-up.
12:30 p.m.—Adjourn.

This meeting will be open to the public.

Louisa Koch,

Deputy Assistant Administrator, Office of Oceanic and Atmospheric Research.

[FR Doc. 02–7058 Filed 3–22–02; 8:45 am]

BILLING CODE 3510–KA–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 031902A]

Endangered Species; Permits

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

ACTION: Receipt of an application for a research permit (1374).

SUMMARY: Notice is hereby given of the following actions regarding permits for takes of endangered and threatened species for the purposes of scientific research and/or enhancement under the Endangered Species Act (ESA): NMFS has received an application for a scientific research permit from Dr. Andrew J. Read of Duke University Marine Laboratory.

DATES: Comments or requests for a public hearing on any of the new applications or modification requests must be received at the appropriate address or fax number no later than 5 p.m. eastern standard time on April 24, 2002.

ADDRESSES: Written comments on the new application should be sent to the appropriate office as indicated below. Comments may also be sent via fax to the number indicated for the application. Comments will not be accepted if submitted via e-mail or the Internet. The application and related documents are available for review in the indicated office, by appointment:

Permits, Conservation and Education Division, F/PR1, 1315 East West Highway, Silver Spring, MD 20910 (phone:301–713–2289, fax: 301–713–0376).

FOR FURTHER INFORMATION CONTACT: Lillian Becker, Silver Spring, MD (phone: 301–713–2319, fax: 301–713–0376, e-mail: Lillian.Becker@noaa.gov).

SUPPLEMENTARY INFORMATION:

Authority

Issuance of permits and permit modifications, as required by the Endangered Species Act of 1973 (16 U.S.C. 1531-1543) (ESA), is based on a finding that such permits/modifications: (1) are applied for in good faith; (2) would not operate to the disadvantage of the listed species which are the subject of the permits; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA. Scientific research and/or enhancement permits are issued under section 10(a)(1)(A) of the ESA. Authority to take listed species is subject to conditions set forth in the permits. Permits and modifications are issued in accordance with and are subject to the ESA and NMFS regulations governing listed fish and wildlife permits (50 CFR parts 222–226).

Those individuals requesting a hearing on an application listed in this notice should set out the specific reasons why a hearing on that application would be appropriate (see ADDRESSES). The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in the permit action summaries are those of the applicant and do not necessarily reflect the views of NMFS.

Species Covered in This Notice

The following species are covered in this notice:

Sea turtles

Threatened and endangered Green turtle (*Chelonia mydas*)

Endangered Kemp's ridley turtle (*Lepidochelys kempii*)

Threatened Loggerhead turtle (*Caretta caretta*)

Application 1374

The purpose of this research is to describe relationships between the movements of sea turtles and the fall gillnet flounder fishery as well as habitat use of loggerhead, green and Kemp's ridley sea turtles. Turtles will be collected in collaboration with the NMFS Beaufort Laboratory Turtle Research Team as part of their ''Coastal North Carolina Demographic and Life History Studies'' program under endangered species permit #1260. The turtles will be monitored via satellite telemetry. The applicant will monitor up to 30 loggerhead, 10 green and 10 Kemp's ridley sea turtles.

Dated: March 20, 2002.

Ann Terbush,

Chief, Permits, Conservation, and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 02–7135 Filed 3–22–02; 8:45 am]

BILLING CODE 3510–22–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Wool Textile Products Produced or Manufactured in the Republic of Korea

March 19, 2002.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: March 25, 2002.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended. The current limits for certain categories are being reduced for carryforward used.

The current limits for certain categories are being reduced for carryforward used.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 66 FR 65178, published on December 18, 2001). Also see 66 FR 59578, published on November 29, 2001.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 19, 2002.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 23, 2001, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products in the following categories, produced or manufactured in the Republic of Korea and exported during the twelve-month period which began on January 1, 2002 and extends through December 31, 2002.

Effective on March 25, 2002, you are directed to reduce the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
Sublevels within Group II	
338/339	1,427,770 dozen.
435	37,396 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2001.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 02–7070 Filed 3–22–02; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Request for Public Comment on a Petition to Amend a Rule of Origin under the North American Free Trade Agreement (NAFTA)

March 19, 2002.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Request for Public Comments concerning a petition filed under Section 7.2 of Annex 300-B of NAFTA to amend the NAFTA rules of origin for certain men's and boy's woven shirts.

SUMMARY: On February 26, 2002 the Chairman of CITA received a petition from the American Textile Manufacturers Institute (ATMI) requesting CITA to commence consultations with the governments of Canada and Mexico for the purpose of amending the rules of origin set forth in Annex 401 of the NAFTA for Harmonized Tariff Schedule (HTS) subheadings 6205.20 - 6205.30. In particular, ATMI requests that paragraph (c) of the subheading rule applicable to HTS subheadings 6205.20 - 6205.30 be deleted.

ATMI claims that the fabrics described in paragraph (c) of the subheading note are currently being produced in commercial quantities in the United States and are available in a timely manner. Specifically, ATMI claims that Dan River, Inc., an ATMI member, currently has in its line a fabric that conforms to the following specifications:

Fiber content	60% cotton / 40% polyester
Weight	108.5 grams per square meter
Construction	Plain weave, not of square construction
Thread count	74 per square centimeter
Average yarn size	71.07 metric
Finish	Available bleached and dyed

A modification of the NAFTA rules of origin may only be made after reaching agreement with the other NAFTA parties. CITA hereby solicits public comments on this petition, in particular with regard to whether the fabric described above can be supplied by the domestic industry in commercial quantities in a timely manner. Comments must be submitted by **April 24, 2002**.

FOR FURTHER INFORMATION CONTACT: Martin Walsh, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-3400.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 USC 1854); Section 202(q) of the North American Free Trade Agreement Implementation Act (19 USC 3332(q)); Executive Order 11651 of March 3, 1972, as amended

BACKGROUND:

Under the North American Free Trade Agreement (NAFTA), NAFTA countries are required to eliminate customs duties on textile and apparel goods that qualify as originating goods under the NAFTA rules of origin, which are set out in Annex 401 to the NAFTA. The NAFTA provides that the rules of origin for textile and apparel products may be amended through a subsequent agreement by the NAFTA countries. In consultations regarding such a change, the NAFTA countries are to consider issues of availability of supply of fibers, yarns, or fabrics in the free trade area and whether domestic producers are

capable of supplying commercial quantities of the good in a timely manner. The Statement of Administrative Action (SAA) that accompanied the NAFTA Implementation Act stated that any interested person may submit to CITA a request for a modification to a particular rule of origin based on a change in the availability in North America of a particular fiber, yarn or fabric and that the requesting party would bear the burden of demonstrating that a change is warranted. The SAA provides that CITA may make a recommendation to the President regarding a change to a rule of origin for a textile or apparel good. The NAFTA Implementation Act provides the President with the authority to proclaim modifications to the NAFTA rules of origin as are necessary to implement an agreement with one or more NAFTA country on such a modification.

On February 26, 2002 the Chairman of CITA received a petition from the American Textile Manufacturers Institute (ATMI) requesting CITA to commence consultations with the governments of Canada and Mexico for the purpose of amending the rules of origin set forth in Annex 401 of the NAFTA for Harmonized Tariff Schedule (HTS) subheadings 6205.20 - 6205.30. In particular, ATMI requests that paragraph (c) of the subheading rule applicable to HTS subheadings 6205.20 - 6205.30 be deleted.

ATMI claims that the fabrics described in paragraph (c) of the subheading note are currently being produced in commercial quantities in the United States and are available in a timely manner. Specifically, ATMI claims that Dan River, Inc., an ATMI member, currently has in its line a fabric that conforms to the following specifications:

Fiber content	60% cotton / 40% polyester
Weight	108.5 grams per square meter
Construction	Plain weave, not of square construction
Thread count	74 per square centimeter
Average yarn size	71.07 metric
Finish	Available bleached and dyed

CITA is soliciting public comments regarding this request, particularly with respect to whether the fabric described above can be supplied by the domestic industry in commercial quantities in a timely manner. Comments must be received no later than April 24, 2002. Interested persons are invited to submit six copies of such comments or information to the Chairman, Committee for the Implementation of Textile Agreements, room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, DC 20230.

If a comment alleges that the fabric described above cannot be supplied by the domestic industry in commercial quantities in a timely manner, CITA will closely review any supporting documentation, such as a signed statement by a manufacturer of men's shirts stating that it attempted to purchase U.S. made fabric of the kind described above, including quantities requested and the required time frame for delivery, and found no U.S. producers able to fill the order.

CITA will protect any business confidential information that is marked business confidential from disclosure to the full extent permitted by law. CITA will make available to the public non-confidential versions of the request and non-confidential versions of any public comments received with respect to a request in room 3100 in the Herbert Hoover Building, 14th and Constitution Avenue, N.W., Washington, DC 20230. Persons submitting comments on a request are encouraged to include a non-confidential version and a non-confidential summary.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.02–7071 Filed 3–22–02; 8:45 am]

BILLING CODE 3510–DR–S

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Homeland Security NOFA Discussion Forum

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service will host a series of five teleconference calls to discuss, and answer questions regarding, the recent Notice of Availability of Funds to Strengthen Communities and Organizations in Using Service and Volunteers to Support Homeland Security, published in the **Federal Register** on March 8, 2002 (67 FR 10684). Please send discussion questions via e-mail to *homelandnofa@cns.gov* prior to the calls. We will consider all discussion questions, although we cannot guarantee that every item will be discussed due to the high number of expected participants. Teleconference participation is limited to the first 100 callers. The toll-free number for all five calls is 1–877–921–2789. The pass code is verbal: ''GARY.'' Callers will also be required to provide the conference leader's name (Gary Kowalczyk, Coordinator of National Service Programs).

DATES: Teleconference calls will take place on the following dates and times:

Tuesday, March 26, 2002, 3:30–5:00 p.m. EST.

Wednesday, March 27, 2002, 2:00–3:30 p.m. EST.

Friday, March 29, 2002, 3:00–4:30 p.m. EST.

Tuesday, April 2, 2002, 3:30–5:00 p.m. EST.

Friday, April 5, 2002, 2:30–4:00 p.m. EST.

ADDRESSES: Our address is The Corporation for National and Community Service, 1201 New York Avenue, NW, Washington, DC 20525.

FOR FURTHER INFORMATION CONTACT: For further information, contact Deena Johnson (202–606–5000, ext. 562) or Femi Estrada-Petersen (202–606–5000, ext. 192), or e-mail *homelandnofa@cns.gov*.

Dated: March 20, 2002.

Gary Kowalczyk,

Coordinator, National Service Programs.

[FR Doc. 02–7113 Filed 3–22–02; 8:45 am]

BILLING CODE 6050–$$–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Availability of Funds for Grants to Support New Senior Companion and Foster Grandparent Projects

AGENCY: Corporation for National and Community Service.

ACTION: Notice of availability of funds.

SUMMARY: The Corporation for National and Community Service (hereinafter, the ''Corporation'') announces the availability of funding for grants to support three new Senior Companion projects in geographic areas that do not fall within approved service areas of current Corporation-funded Senior Companion projects and three new Foster Grandparent projects in geographic areas that do not fall within approved service areas of current Corporation-funded Foster Grandparent projects. The purpose of the Senior Companion Program (SCP) is to provide opportunities for income eligible

individuals 60 years of age and over to serve adults with special needs. The purpose of the Foster Grandparent Program (FGP) is to provide opportunities for income eligible individuals 60 years of age and over to serve children and youth with special or exceptional needs on a person to person basis.

On November 8, 2001, President Bush announced that the Corporation will support homeland security in the coming year, and the Corporation encourages applicants for these grants to include appropriate activities for Foster Grandparents and Senior Companions that help support homeland security. The Corporation defines homeland security to include activities that support public safety, public health, and disaster preparedness and relief.

Individual Senior Companion grant awards will be approximately $211,825 to cover the costs of 48 Senior Companion service years for twelve months. Individual Foster Grandparent grant awards will be approximately $192,265 to cover the costs of 44 Foster Grandparent service years for twelve months.

DATES: Applications must arrive at the Corporation for National and Community Service by 5:00 p.m. (Eastern Daylight Time), May 31, 2002. The Corporation will not accept applications that are submitted via facsimile. Due to delays in delivery of regular U.S.P.S. mail to government offices, there is no guarantee that your application will arrive in time to be considered. We suggest that you use U.S.P.S. priority mail or a commercial overnight delivery service. We anticipate announcing selections under this Notice no later than June 28, 2002.

ADDRESSES: One unbound, single-sided original and two copies of the application must be submitted to the following address: Corporation for National and Community Service, National Senior Service Corps, 1201 New York Avenue, NW, Washington, DC 20525, Attn: Mr. John Keller. All applicants are encouraged voluntarily to submit two additional copies of the application to expedite the review process. Applications must arrive at the Corporation for National and Community Service by 5:00 p.m. (Eastern Daylight Time), May 31, 2002. The Corporation will not accept applications that are submitted via facsimile. Due to delays in delivery of regular U.S.P.S. mail to government offices, there is no guarantee that your application will arrive in time to be considered. We suggest that you use U.S.P.S. priority mail or a commercial overnight delivery service.

Applications: Application guidelines and instructions can be obtained by contacting the appropriate Corporation State Office. Information on how to contact state offices is located on our Web site: *www.nationalservice.org*. Click on ''Contact Us'' at the bottom of the page. Applicants are urged to pay close attention to these application materials. They contain a wide variety of relevant requirements, including non-federal contributions, the amounts of stipends volunteers may receive, and the requirements for organizations proposing to operate a project.

FOR FURTHER INFORMATION CONTACT: Contact John Keller at 202–606–5000 ext. 285. TDD (202) 565–2799. This Notice is available in an alternative format for people with visual impairments.

SUPPLEMENTARY INFORMATION:

Background

The Corporation is a federal government corporation that encourages Americans of all ages and backgrounds to engage in community-based service to meet the nation's educational, public safety, environmental and other human needs. In doing so, the Corporation fosters civic responsibility, strengthens the ties that bind us together as a people, and provides educational opportunity for those who make a substantial commitment to service. This year, the Corporation will help support more than 1.5 million Americans who perform substantial service in communities across the country.

In the State of the Union address, the President announced that the USA Freedom Corps will build on the great American ethic of service. The USA Freedom Corps will promote a culture of responsibility, service, and citizenship. It will work with key service agencies in government and the nonprofit sector to provide incentives and new opportunities to serve at home and abroad. The USA Freedom Corps will draw from Americans of all ages and of every background. The Corporation for National and Community Service and its programs—National Senior Service Corps, AmeriCorps, and Learn and Serve America—are part of the efforts under the USA Freedom Corps. The programs of the National Senior Service Corps include the Senior Companion and Foster Grandparent Programs as well as the Retired and Senior Volunteer Program (RSVP).

Program Period of Performance

The program period for all grants is twelve months. Future funding is contingent on performance and the availability of appropriations.

Application Instructions

To be considered for funding, applications must meet all of the criteria and requirements contained in this Notice. The Grant Application, CNCS Form 424–NSSC, and supplemental guidelines and instructions, can be obtained by contacting the appropriate Corporation State Office. The Corporation State Office can also advise applicants concerning the service areas covered by existing projects. Information on how to contact state offices is located on our Web site: *www.nationalservice.org*. Click on ''Contact Us'' at the bottom of the page. Applicants are urged to pay close attention to these application materials. They contain a wide variety of relevant requirements, including non-federal contributions, the amounts of stipends volunteers may receive, and the requirements for organizations proposing to operate a project. Applicants must submit all forms and attachments specified in the Grant Application and supplemental guidelines and instructions.

Selection Criteria

The Corporation will initially determine: (1) Whether the organization is eligible; (2) whether the application contains all the required information, and (3) whether the geographic location of the proposed project is an approved geographic service area that does not currently have a project funded by the Corporation under the respective program (FGP or SCP) for which they are applying.

After this initial screening, the Corporation will select and evaluate applications based on the following criteria: Program Design (60%) Organizational Capacity (25%), and Budget/Cost-Effectiveness (15%). Details on the application criteria will be available in the application package available from Corporation state offices. The Corporation will take into consideration the following factors after the proposals are assessed:

- *Geographic location:* The Corporation will assure a mix of urban and rural sites.
- *Diversity:* The Corporation will select organizations whose local projects have the capacity to recruit ethnic and racial minorities, males, and persons with disabilities.

Program Authority

Corporation Authority to make these grants is codified in 42 U.S.C. 4950 *et seq.*

Additional Information Concerning the Specific Funding Available

Senior Companion Projects

The Senior Companion Program

The Senior Companion Program (SCP) is authorized by the Domestic Volunteer Service Act of 1973, as amended (Public Law 93–113, Title II, Part C, 42 U.S.C. 5013) and provides opportunities for income eligible individuals 60 years of age and over to serve adults with special needs. The SCP was launched in 1974 with its first 11 projects. Today there are over 17,000 Senior Companions serving 55,000 frail adults annually in 218 local SCP projects. These Senior Companions provide high quality and reliable personal support to adults, primarily the frail elderly, experiencing difficulties with activities of daily living, allowing them to live independently in their own homes for as long as possible. The SCP focuses on those with moderate physical, mental, or emotional impairments who are without adequate family support and who in the absence of non-medical support services would be at risk of institutionalization. Senior Companions also assist clients in patient discharge programs at acute care, mental health, and long-term care facilities to make the transition to living in less restrictive community settings. Some Senior Companions provide short-term respite for primary caregivers of frail adults in times of special need. Senior Companions have also helped their clients participate in emergency response drills, supplied information about crime prevention, and accompanied them to meetings where safety, health, and disaster response concerns are addressed.

Purpose

The purpose of this funding is to start new Senior Companion projects in geographic locations currently unserved by this program.

In addition, the Corporation encourages applicants for these grants to include, where appropriate, activities for Senior Companions that help support homeland security. The Corporation defines homeland security to include activities that support public safety, public health, and disaster preparedness and relief. For example, applicants for a Senior Companion project may propose activities that engage Senior Companions in:

- Providing clients with information and education related to the community's public safety, public health, and disaster preparedness and disaster mitigation plans and activities.
- Assisting their clients to participate in emergency response drills.
- Supplying clients with information on crime avoidance.
- Identifying potential safety, health, or emergency preparedness problems in their clients' homes, institutional environments, or neighborhoods and bringing these to the attention of professional case workers or other appropriate agencies.
- Providing transportation and/or escorting clients for medical appointments, immunizations, errands, etc.
- Providing respite to families of caregivers by caring for an adult with special needs and permitting the primary caregiver to attend meetings, volunteer, or simply become informed about local homeland security measures.
- Participating as a link between clients and community activities to prevent bias-related disorder or violence.
- Assisting crime victims who are frail or suffer from physical, mental, or emotional disabilities, where Senior Companions give support and assistance, including special referrals, as victims recover from trauma of crime and related losses.
- Assisting adults who are discharged from residential health care facilities, especially acute care facilities, who can be helped to resume a greater degree of independent living.

The above are examples only. Local communities will determine the best strategies for integrating Senior Companions into homeland security efforts, consistent with the purpose of the program. Applicants are encouraged to be creative about how Senior Companions can be part of a community or statewide effort to support homeland security. For example, SCP projects can establish relationships with local Citizens Corps Councils being supported at the state level by Governors and coordinated at the federal level by the Federal Emergency Management Agency (FEMA). For further information on these councils, visit *www.citizenscorps.gov.* Where Citizen Corps Councils have not yet been created, projects might be able to collaborate with local organizations that will make up the Citizen's Corps Council, such as Neighborhood Watches, emergency response programs, police volunteer programs, etc.

Eligible Applicants

Public agencies (including state and local agencies and other units of government), non-profit organizations, institutions of higher education and Indian Tribes are eligible to apply. Sponsors of Senior Companion projects that receive no funds from the Corporation, other than funding for Programs of National Significance (PNS), are eligible to apply. Current sponsors of Senior Companion projects funded by the Corporation are not eligible to apply for funding of a new Senior Companion project.

An organization described in section 501(c)(4) of the Internal Revenue Code of 1986, (26 U.S.C. 501(c)(4)) that engages in lobbying activities is not eligible to apply, serve as a host site for volunteers, or act in any type of supervisory role in the program.

Number and Amount of Awards

The Corporation intends to fund three Senior Companion projects in approved service areas that do not currently have a local project of the Senior Companion Program. The average amount of awards will be approximately $211,825.

Applicable Regulations

Regulations governing the SCP are located in 45 CFR part 2551. These will be provided as part of the application materials.

Foster Grandparent Projects

The Foster Grandparent Program

The Foster Grandparent Program (FGP) is authorized by the Domestic Volunteer Service Act of 1973, as amended (P.L. 93–113, Title II, Part B, 42 U.S.C. 5011 and provides opportunities for income eligible individuals 60 years of age and over to serve children and youth with special or exceptional needs on a person to person basis. The Foster Grandparent Program provides communities with valuable service by empowering older adults to contribute to their communities through volunteer service, enhance the lives of the volunteers and those whom they serve. The program began in 1965 as a national demonstration designed to show how low-income persons age 60 and over have the maturity and experience to establish a personal relationship with children having either special or exceptional needs. Today there are 34,000 Foster Grandparents providing care and attention every day to more than 220,000 qualified children and youth annually in 339 local FGP projects. Foster Grandparents volunteer in schools, hospitals, drug treatment centers, correctional institutions, and

Head Start and day care centers. They offer emotional support to children who have been abused and neglected, mentor troubled teeagers and young mothers, care for premature infants and children with physical disabilities or servere illnesses, including AIDS. In the aftermath of the September 11 tragedy, many Foster Grandparents were important sources of reassurance to the children in their care. The special relationship and high level of personal care provided by Foster Grandparents helps young people grow, gain confidence, and become more productive members of society.

Purpose

The purpose of this funding is to start new Foster Grandparent projects in geographic locations currently unserved by this program.

In addition, the Corporation encourages applicants for these grants to include, where appropriate, activities for Foster Grandparents that help support homeland security. The Corporation defines homeland security to include activities that support public safety, public health, and disaster preparedness and relief. For example, applicants for a Foster Grandparent project may propose activities that engage Foster Grandparents in:

- Providing children with age-appropriate information and education related to the community's public safety, public health, and disaster preparedness and disaster mitigation plans and activities.
- Assisting children to participate in emergency response drills.
- Supplying children with information on crime avoidance.
- Identifying potential safety, health, or emergency preparedness problems in institutional environments, or neighborhoods and bringing these to the attention of professional caseworkers or other appropriate agencies.
- Providing temporary respite to families of caregivers by caring for disabled or chronically ill children living at home, thereby permitting the primary caregiver to attend meetings, volunteer, or simply become informed about local homeland security measures.
- Participating as a link between children and community activities to prevent bias-related disorder or violence.
- Assisting children who are discharged from residential health care facilities, especially acute care facilities, who can be helped to resume a greater degree of independent living.

The above are examples only. Local communities will determine the best strategies for integrating Foster Grandparents into homeland security efforts, consistent with the purpose of the program. Applicants are encouraged to be creative about how Foster Grandparents can be part of a community or statewide effort to support homeland security. For example, FGP projects can establish relationships with local Citizens Corps Councils being supported at the state level by Governors and coordinated at the federal level by the Federal Emergency Management Agency (FEMA). For further information on these councils, visit *www.citizenscorps.gov.* Where Citizen Corps Councils have not yet been created, projects might be able to collaborate with local organizations that will make up the Citizen's Corps Council, such as Neighborhood Watches, emergency response programs, police volunteer programs, *etc.*

Eligible Applicants

Public agencies (including state and local agencies and other units of government), non-profit organizations, institutions of higher education and Indian Tribes are eligible to apply. Sponsors of Foster Grandparent projects that receive no funds from the Corporation, other than funding for Programs of National Significance (PNS), are eligible to apply. Current sponsors of Foster Grandparent projects funded by the Corporation are not eligible to apply for funding of a new Foster Grandparent project.

An organization described in section 501(c)(4) of the Internal Revenue Code of 1986, (26 U.S.C. 501(c)(4)) that engages in lobbying activities is not eligible to apply, serve as a host site for volunteers, or act in any type of supervisory role in the program.

Number and Amount of Awards

The Corporation intends to fund three Foster Grandparent projects in approved service areas that do not currently have a local project of the Foster Grandparent Program. The average amount of awards will be approximately $192,265.

Applicable Regulations

Regulations governing the FGP are located in 45 CFR part 2553. These will be provided as part of the application materials.

Dated: March 20, 2002.

Teresa Scannell,

Director, National Senior Service Corps.

[FR Doc. 02–7112 Filed 3–22–02; 8:45 am]

BILLING CODE 6050–$$–P

DELAWARE RIVER BASIN COMMISSION

Notice of Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold an informal conference followed by a public hearing on Wednesday, April 3, 2002. The hearing will be part of the Commission's regular business meeting. The conference session and business meeting both are open to the public and will be held at the Commission offices at 25 State Police Drive, West Trenton, New Jersey.

The conference among the Commissioners and staff will begin at 9:30 a.m. Topics of discussion will include: updates on the Comprehensive Plan, a set of Water Quality Standards revisions under development by the Water Quality Advisory Committee, and proposed resolutions to protect existing water quality in the Lower Delaware River; a report of the Flow Management Technical Advisory Committee concerning extending or replacing the Experimental Augmented Conservation Release Program for the New York City Delaware Basin Reservoirs; a report on the PCB Expert Panel meeting of February 12, 2002; and a proposed resolution regarding additional point source discharge monitoring required to support development of a TMDL for PCBs in the Delaware Estuary.

The subjects of the public hearing to be held during the 1:00 p.m. business meeting include, in addition to the dockets listed below, a resolution revising and extending Docket No. D–77–20 CP (Revision 4) to continue the Augmented Conservation Release Program for the New York City Delaware Basin Reservoirs, and a resolution to issue Guidelines for Developing an Integrated Resource Plan under the Delaware River Basin Commission Ground Water Protected Area Regulations.

The dockets scheduled for public hearing are as follows:

1. *Holdover Project: Philadelphia Suburban Water Company D–98–11 CP.* A project to withdraw up to 4.0 million gallons per day (mgd) from the East Branch Brandywine Creek for public water supply when streamflow exceeds 25 percent of the average daily flow and is also greater than 90 mgd for the Brandywine River at Chadds Ford. The applicant proposes to serve portions of Wallace, East Brandywine and West Brandywine Townships, all in Chester County, Pennsylvania. The intake will be situated on the east bank of the East Branch Brandywine Creek just south of

Marshall Road in Wallace Township. On a yearly use basis, withdrawal is expected to average approximately 0.76 mgd. When available, the raw water will be conveyed for storage in a nearby abandoned quarry (known as Cornog Quarry) with an estimated storage capacity of approximately 100 mg. Withdrawals ranging from 0.5 mgd to 1.0 mgd will then be made from the quarry, treated by a proposed new filter plant, and distributed to the project service area.

2. *Boeing Defense and Space Group D–94–30 (Revision).* A project to revise the NPDES Permit limits for effluent metals parameters listed in Docket No. D–94–30 to reflect modifications which are consistent with current water quality regulations. No increase in the industrial waste treatment plant (IWTP) capacity of 0.234 mgd is proposed. The IWTP will continue to serve the applicant's military aircraft manufacturing operation in Ridley Creek Township, Delaware County, Pennsylvania. No modifications of the treatment process are proposed, as the applicant continues to utilize the Best Available Treatment (BAT) for the industrial classification. IWTP effluent will continue to discharge to the tidal reach of Crum Creek in Water Quality Zone 4, about a half-mile upstream of its confluence with the Delaware River.

3. *Perkasie Borough Authority D–97–12 CP (Revision).* A ground water withdrawal project to increase the existing withdrawal from the applicant's existing Wells Nos. 5, 6, 9, 10, 11 and 12 to 40.2 mg/30 days. The project is located in the Three Mile Run and Perkiomen Creek watersheds in Perkasie Borough, Bucks County, in the Southeastern Pennsylvania Ground Water Protected Area.

4. *Mercer County Improvement Authority D–99–28 CP.* A surface water withdrawal project via a new intake on Assunpink Creek at Mercer Lake to withdraw up to 1.3 mgd of water. The new intake, in addition to an existing intake, which can also provide up to 1.3 mgd, will irrigate the applicant's Mercer Oaks II Golf Course with a total limit of 15 mg/mo. The project is located off Quakerbridge Road in West Windsor Township, Mercer County, New Jersey.

5. *Artesian Water Company D–2000–46 CP.* An application for approval of a ground water withdrawal project to supply up to 63.94 mg/30 days of water to the Delaware Correctional Center from existing Wells Nos. 1 and 2 in the Rancocas Formation; and new Wells Nos. 3 and 4 in the Mount Laurel Formation, and to limit the withdrawal from all wells to 63.94 mg/30 days. The project is located near the Town of Smyrna, New Castle County, Delaware.

6. *United Water Delaware D–2001–37 CP.* A ground water withdrawal project to supply up to 8.7 mg/30 days of water to the applicant's public water supply system for new Well No. 1 in the Potomac Formation. The project is located in the Christina River watershed in New Castle County, Delaware.

7. *Camelback Ski Corporation D–2001–40.* A project for a tiered increase of the surface water withdrawal from the applicant's intake on Pocono Creek in the Brodhead Creek Watershed from a maximum seasonal use of 84.6 mg/30 days to 130 mg/30 days during the period between December and January. Up to 50 mg is proposed in the months of November and February, and 15 mg in March. The water supplies the applicant's snowmaking operation at the Camelback Ski Resort in Pocono Township, Monroe County, Pennsylvania. During the months of April through October, the applicant will use water for minor maintenance purposes averaging less than 100,000 gpd.

8. *Philadelphia Suburban Water Company D–2001–50 CP.* A ground water withdrawal project to supply up to 7.68 mg/30 days of water to the applicant's public water supply system from new Well ''B'' in the Brunswick Formation. The project is located in the Perkiomen Creek watershed in Perkiomen Township, Montgomery County, in the Southeastern Pennsylvania Ground Water Protected Area.

9. *Aronimink Golf Club D–2001–62.* A ground water withdrawal project to supply up to 6.48 mg/30 days of water to the applicant's irrigation system from new Wells Nos. 2 and 3 in the crystalline rock of the Piedmont Province and to limit the existing withdrawal from all wells to 10.8 mg/30 days. The project is located in the Darby Creek watershed in Newtown Township, Delaware County, Pennsylvania.

10. *Hanah Country Inn D–2002–7.* A project to expand a 9,000 gpd secondary septic treatment system to treat 13,830 gpd and provide a new subsurface discharge leach field at the applicant's 900 acre lodging facility located in the Town of Middletown, Delaware County, New York. The project is in the drainage area to the Delaware River Basin Commission's Special Protection Waters. The site is located on both sides of State Route 30, between County Route 38 (Arkville Road) and East Hubbell Road. The project is in the East Branch Delaware River Watershed, upstream from Pepacton Reservoir.

In addition to the public hearing items, the Commission will address the following at its 1:00 p.m. business meeting: Minutes of the February 6, 2002 business meeting; announcements; a report on Basin hydrologic conditions; reports by the Executive Director and General Counsel; a resolution regarding additional point source discharge monitoring required to support development of a TMDL for PCBs in the Delaware Estuary; a resolution authorizing the Executive Director to enter into a grant agreement with the State of New Jersey in the amount of $100,000 for the Lower Delaware Watershed Region Program Grant: Delaware River Estuary Air, Water and Sediment Field Study; and public dialogue.

Documents relating to the dockets and other items may be examined at the Commission's offices. Preliminary dockets are available in single copies upon request. Please contact Thomas L. Brand at 609–883–9500 ext. 221 with any docket-related questions. Persons wishing to testify at this hearing are requested to register in advance with the Commission Secretary at 609–883–9500 ext. 203.

Individuals in need of an accommodation as provided for in the Americans With Disabilities Act who wish to attend the hearing should contact the Commission Secretary, Pamela M. Bush, directly at 609–883–9500 ext. 203 or through the New Jersey Relay Service at 1–800–852–7899 (TTY), to discuss how the Commission may accommodate your needs.

Dated: March 19, 2002.

Pamela M. Bush,

Commission Secretary.

[FR Doc. 02–7060 Filed 3–22–02; 8:45 am]

BILLING CODE 6360–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before May 24, 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: March 20, 2002.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information, Officer.

Office of Special Education and Rehabilitative Services

Type of Review: Revision of a currently approved collection.

Title: Report of Randolph-Sheppard Vending Facility Program.

Frequency: Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs (primary), Individuals or household, Federal Government.

Reporting and Recordkeeping Hour Burden:

Responses: 52.

Burden Hours: 702.

Abstract: The information is needed to evaluate the effectiveness of the program and to promote growth. The information is transmitted to State agencies to assist in the conduct and expansion of the program at the State level. Respondents are the designated voc. Rehab. Agencies.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting ''Browse Pending Collections'' and clicking on link number 1982. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651 or to the e-mail address *vivian.reese@ed.gov.* Requests may also be electronically mailed to the Internet address *OCIO_RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Sheila Carey at 202–708–6287. 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. 02–7091 Filed 3–22–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Proposed Agency Information Collection

AGENCY: Department of Energy (DOE).

ACTION: Notice and request for comments.

SUMMARY: The Department of Energy (DOE) invites public comment on a proposed collection of information that DOE is developing for submission to the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The proposed collection of information would implement a statutory requirement that Technology Transfer Ombudsmen report quarterly on complaints they receive.

DATES: Consideration will be given to comments submitted by May 24, 2002.

ADDRESSES: Written comments may be submitted to: Susan L. Frey, Director, Records Management Division (IM–11), Office of Records and Business Management, Office of the Chief Information Officer, U.S. Department of Energy, Germantown, Maryland 20874–1290, and Michael P. Hoffman, Office of General Counsel (GC–62), U.S. Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585.

SUPPLEMENTARY INFORMATION: This package contains:

(1) *OMB No.:* New.

(2) *Collection Title:* Technology Partnerships Ombudsmen Reporting Requirements.

(3) *Type of review:* New collection.

(4) *Purpose:* This collection of information would implement a provision in the Technology Transfer Commercialization Act of 2000 (Pub. L. 106–404) that requires Technology Transfer Ombudsmen appointed by DOE national laboratories to report quarterly on the number and nature of complaints and disputes received and the Ombudsman's assessment of their resolution.

(5) *Estimated Number of Respondents:* 24 Technology Transfer Ombudsmen.

(6) *Estimated Number of Burden Hours:* 100 (Quarterly times 24 respondents).

Request for Comments: Pursuant to 44 U.S.C. 3506(c)(2)(A), DOE invites comment on: (1) Whether the proposed collection of information is necessary; (2) the accuracy of DOE's estimate of the burden of the proposed information collection; (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 choose to respond. Additional information about DOE's proposed information collection may be obtained from the contact person named in this notice.

Statutory Authority: 44 U.S.C. 3506(c)(2)(A).

Issued in Washington, DC, on March 13, 2002.

Susan L. Frey,

Director, Records Management Division, Office of Records and Business Management, Office of the Chief Information Officer, U.S. Department of Energy.

[FR Doc. 02–7074 Filed 3–22–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Enzymatic Hydrolysis Demonstration Plant To Convert Biomass to Transportation Fuels and/or Chemicals

AGENCY: Golden Field Office, Department of Energy.

ACTION: Notice of request for expressions of interest.

SUMMARY: The Department of Energy (DOE), Golden Field Office (GO), on behalf of the Office of Fuels Development (OFD), intends to issue solicitations in support of the DOE

Biofuels Program in the FY 2003—FY 2005 timeframe. The DOE/GO anticipates issuing the initial solicitation in early FY 2003 for the research and development of a demonstration plant conceptual design, process research, and detailed design of an enzymatic hydrolysis demonstration plant to convert lignocellulosic biomass to transportation fuels (biofuels) and/or chemicals. The purpose of the demonstration plant is to provide engineering data to reduce risk, enable process guarantees, and assure commercial development of the technology. For the initial FY 2003 solicitation, DOE anticipates awarding cost-shared cooperative agreements to one or two industry-led teams. Subject to the availability of funds, DOE intends to issue a subsequent solicitation in FY 2004 for the construction and initial operation of the demonstration plant. Expressions of interest in these solicitations is requested at this time.

DATES: Please provide expressions of interest and comments by May 1, 2002, to the DOE Golden Field Office.

ADDRESSES: Submit the expressions of interest to the U.S. Department of Energy, Golden Field Office, Andrew R. Trenka, 1617 Cole Boulevard, Golden, CO 80401–3393.

FOR FURTHER INFORMATION CONTACT: Andrew R. Trenka, DOE Golden Field Office, 1617 Cole Boulevard, Golden, CO 80401–3393, via facsimile at (303) 275–4753, or electronically at *andy_trenka@nrel.gov.*

SUPPLEMENTARY INFORMATION: DOE is sponsoring the demonstration of an enzyme sugar platform. This demonstration project is a concentrated effort to use a conversion process based on the low-cost enzymes being developed under major DOE cost-shared projects by Genencor International and Novozymes Biotech Inc., to convert a large volume of biomass into cost-effective alternative transportation fuels and/or chemicals. The initial commercialization of the platform technologies may use biomass wastes and residues. The demonstration plant will provide engineering data to reduce risk, enable process guarantees and assure commercial development of the technology. Each firm, partnership, or consortia may, at its option, utilize, via a Cooperative Research and Development Agreement (CRADA), the DOE laboratories active in the DOE Biofuels research program, *i.e.* National Renewable Energy Laboratory (NREL), Oak Ridge National Laboratory (ORNL), *etc.* These laboratories could contribute specialized capabilities, facilities, or equipment to the project that would complement the partnership's capabilities. The winning team or teams will be expected to carry out multi-year technology development and demonstration efforts, including the construction and operation of the platform demonstration plant at a scale sufficient to prove the technical and economic feasibility of feedstock handling, biomass fractionation, enzymatic cellulose hydrolysis, and product fermentation(s) to products. Initial discussions suggest this scale may need to be 40–50 tons per day of input biomass feedstock (dry basis), with corn stover identified as the most plentiful agricultural residue feedstock. The scale of the plant, the feedstock, and the slate of end products will be open to the results of the initial conceptual design and technology research. However, the final products must be based on sugar fermentation and whatever feedstock is chosen should have the potential to lead to significant reductions of imported petroleum, *e.g.,* several billion gallons per year.

DOE expects the industrial partners' cost-share contribution to the initial solicitation to be at least 50% of the initial costs; however, if lower, the rational should be fully explained. Higher cost-shares will be encouraged. DOE intends to share the cost of the FY 2004 and FY 2005 demonstration plant construction efforts, with the industrial partners' contribution being at least 50% of the construction and operating costs (statutory requirement). DOE intends that its partners will have demonstrated experience in the design, construction, and operation of transportation fuels, chemicals, and/or biomass processing facilities, in addition to demonstrated access to financial markets to facilitate eventual commercialization of these technologies. Interested parties should include the following in their expressions of interest:

(1) Experience;

(2) Types of partner organizations (private, public, non-profit) with which they contemplate teaming (including anticipated DOE laboratory involvement);

(3) Any plans to co-locate the demonstration plant with an existing facility;

(4) The types of financial resources they would use to fund their cost-share of the design, process research, construction, and operation phases of the project;

(5) How they will integrate the ongoing research being undertaken by Genencor International and/or Novozymes Biotech, Inc., to produce low-cost cellulases;

(6) The approach to be followed for the planned solicitations;

(7) The approximate budget required to design, construct, and initially operate the demonstration plant;

(8) The approximate size and cost of the demonstration plant to prove the commercial viability of the conversion processes; and

(9) Any additional information or comments to assist in drafting the solicitation.

DOE held a preview technology review in Golden, Colorado, on January 30–31, 2002, and is scheduling a second pre-solicitation meeting in Golden, Colorado in May 2002 (specific date to be determined), for all interested parties to discuss the planned solicitation(s), DOE contracting procedures, intellectual property, the use of government-owned facilities, cost-sharing principles, and other issues.

Information about the platform project, DOE's cost-shared enzyme cost reduction activities, current NREL enzymatic hydrolysis research efforts and technology assessment, the DOE Biofuels program, and the pre-solicitation meeting can be found at the following URL: *http://www.ott.doe.gov/biofuels/enzyme_sugar_platform.html.*

Issued in Golden, Colorado, on February 14, 2002.

Matthew A. Barron,

Contracting Officer, Office of Acquisition and Financial Assistance.

[FR Doc. 02–7075 Filed 3–22–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Oak Ridge Reservation

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), Oak Ridge. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Wednesday, April 10, 2002, 6 p.m.–9:30 p.m.

ADDRESSES: Garden Plaza Hotel, 215 South Illinois Avenue, Oak Ridge, TN 37830.

FOR FURTHER INFORMATION CONTACT: Pat Halsey, Federal Coordinator, Department of Energy Oak Ridge

Operations Office, P.O. Box 2001, EM–922, Oak Ridge, TN 37831. Phone (865) 576–4025; Fax (865) 576–5333 or e-mail: *halseypj@oro.doe.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

1. To be determined.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Pat Halsey 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 a maximum of five minutes to present their comments at the end of the meeting.

Minutes: Minutes of this meeting will be available for public review and copying at the Department of Energy's Information Resource Center at 105 Broadway, Oak Ridge, TN between 7:30 a.m. and 5:30 p.m. Monday through Friday, or by writing to Pat Halsey, Department of Energy Oak Ridge Operations Office, P.O. Box 2001, EM–922, Oak Ridge, TN 37831, or by calling her at (865) 576–4025.

Issued at Washington, DC, on March 20, 2002.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 02–7073 Filed 3–22–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02–114–000]

Columbia Gas Transmission Corporation; Notice of Application

March 19, 2002.

Take notice that on March 14, 2001, Columbia Gas Transmission Corporation (Columbia), 12801 Fair Lakes Parkway, Fairfax, Virginia 22030–0146, filed in Docket No. CP02–114–000 an application pursuant to section 7(b) of the Natural Gas Act (NGA) for permission and approval to abandon its Well No. 6764 and associated appurtenances located in Richland County, Ohio, in Columbia's Lucas Storage Field, all as more fully set forth in the application.

Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''Rims'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance).

Columbia states that the physical condition of the facilities proposed for abandonment have deteriorated to the extent that an expensive repair or abandonment is required. Columbia further states that it has determined that repairs would be uneconomic due to the poor performance of the well.

Any questions regarding the application should be directed to Fredric J. George, Senior Attorney, Columbia Gas Transmission Corporation, P.O. Box 1273, Charleston, West Virginia 25315–1273 at (304) 357–2359.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before April 9, 2002, file with the Federal Energy Regulatory Commission, 888 First Street, NE Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-filing'' link.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–7077 Filed 3–22–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–389–045]

Columbia Gulf Transmission Company; Notice of Compliance Filing

March 19, 2002.

Take notice that on March 13, 2002, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing, as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets with an effective date of March 1, 2002:

Sixth Revised Sheet No. 20
Fifth Revised Sheet No. 20A
Fifth Revised Sheet No. 20B

Columbia Gulf states that it is filing the tariff sheets to comply with the Commission's October 24, 2001 orders approving negotiated rate agreements in Docket Nos. RP96–389–031, and –032.

Columbia Gulf states that it has served copies of the filing on all parties identified on the official service list in Docket No. RP96–389.

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.,

Deputy Secretary.

[FR Doc. 02–7080 Filed 3–22–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–984–001]

Duke Energy Enterprise, LLC; Notice of Filing

March 18, 2002.

Take notice that on March 14, 2002, Duke Energy Enterprise, LLC (Duke Enterprise) tendered for filing with the Federal Energy Regulatory Commission (Commission) pursuant to section 205 of the Federal Power Act revisions to its FERC Electric Tariff No. 1.

Duke Enterprise renews its request, pursuant to Section 35.11 of the Commission's regulations, that the Commission waive the 60-day minimum notice requirement under Section 35.3(a) of its regulations and grant an effective date for this application of February 8, 2002.

Any person desiring to intervene or to protest this filing should file 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). 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. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may 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). 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*: March 28, 2002.

Magalie R. Salas,

Secretary.

[FR Doc. 02–7035 Filed 3–22–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–1024–001]

Duke Energy Sandersville, LLC; Notice of Filing

March 18, 2002.

Take notice that on March 14, 2002, Duke Energy Sandersville, LLC (Duke Sandersville) tendered for filing pursuant to section 205 of the Federal Power Act a proposed revision to its FERC Electric Tariff No. 1.

Duke Sandersville seeks authority to sell energy and capacity, as well as ancillary services, at market-based rates, together with certain waivers and preapprovals. Duke Sandersville also seeks authority to sell, assign, or transfer transmission rights that it may acquire in the course of its marketing activities. Duke Sandersville requests an effective date of April 15, 2002, which is 60 days from the original filing date of its proposed rate schedules.

Any person desiring to intervene or to protest this filing should file 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). 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. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may 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). 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: March 28, 2002.

Magalie R. Salas,

Secretary.

[FR Doc. 02–7036 Filed 3–22–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–200–000]

El Paso Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

March 19, 2002.

Take notice that on March 14, 2002, El Paso Natural Gas Company (EPNG) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1–A, the following tariff sheets, to become effective April 14, 2002:

Original Sheet No. 271A
First Revised Original Sheet No. 290A

EPNG states that the proposed tariff provision indicates EPNG's agreement to binding arbitration of a dispute under certain circumstances if a shipper is a foreign government, an agency of a foreign government, or an entity created by them to conduct business.

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.,

Deputy Secretary.

[FR Doc. 02–7084 Filed 3–22–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT02–12–000]

Enbridge Pipelines (KPC); Notice of Proposed Changes in FERC Gas Tariff

March 19, 2002.

Take notice that on March 13, 2002, Enbridge Pipelines (KPC), formerly Kansas Pipeline Company (Enbridge KPC) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Original Sheet No. 121A, to be made effective April 1, 2002.

Enbridge KPC states that the purpose of the filing was to correct an error resulting from Enbridge KPC's filing of First Revised Volume No. 1 of its FERC Gas Tariff on September 12, 2001 in FERC Docket No. GT01–32–000. The omission happened because Original Sheet No. 222 (Original Volume No. 1) was not on the FERC Fastr System, therefore, when Enbridge KPC made the changes noted above and filed it with the Commission, it did not file the General Terms and Conditions language shown on that sheet.

Enbridge KPC states that copies of its transmittal letter has been provided by First Class mail and/or electronic communication, depending on the method that such party elected to receive such copies, 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.,

Deputy Secretary.

[FR Doc. 02–7078 Filed 3–22–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–198–000]

Florida Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

March 19, 2002.

Take notice that on March 13, 2002, Florida Gas Transmission Company (FGT) tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, with an effective date of April 12, 2002:

Fifth Revised Sheet No. 650
Fourth Revised Sheet No. 651
Fourth Revised Sheet No. 652
Fourth Revised Sheet No. 653
Fifth Revised Sheet No. 654

FGT states that on September 1, 1994, it filed a Stipulation and Agreement of Settlement (Settlement) and pro forma tariff sheets setting forth procedures for the interruption of interruptible transportation and the curtailment of firm service during periods of diminished capacity on FGT's system. The Settlement was supported by most of the customers on FGT's system. On January 12, 1995 the Commission issued an order which accepted and clarified the Settlement. (70 FERC ¶ 61,017.) The Commission issued an order on rehearing on June 2, 1995. (71 FERC ¶ 61,274.)

Also, FGT states that the Settlement, as approved and modified by the Commission, establishes procedures in subsections (g) and (h) of section 17.A.4. of the General Terms and Conditions (GT&C) of FGT's Tariff to review the Exempt Use classifications under FGT's curtailment plan. These procedures require that: the DVC [Data Verification Committee] shall meet one year after the date [November 1, 1995] of the implementation of these curtailment provisions to review the Exempt Use classifications. Thereafter, unless otherwise agreed to by the DVC, the DVC shall meet the earlier of: (i) each three years after the plan's implementation date or anniversary thereof or (ii) within sixty (60) days following the second of two firm curtailment events on FGT's system occurring within a 12-month period.

FGT states that pursuant to the terms of FGT's Tariff, the DVC met on October 4, 2001, to review, classify and establish exempt uses as shown on the referenced tariff sheets.

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.,

Deputy Secretary.

[FR Doc. 02–7082 Filed 3–22–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–1166–000]

Frederickson Power L.P.; Notice of Filing

March 18, 2002.

Take notice that on February 28, 2002, Frederickson Power L.P. (Frederickson Power) filed a notice of change of status and a Code of Conduct respecting

Frederickson Power's pending affiliation with Duke Energy Corporation.

Any person desiring to intervene or to protest this filing should file 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). 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. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may 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). 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*: March 28, 2002.

Magalie R. Salas,

Secretary.

[FR Doc. 02–7037 Filed 3–22–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–320–053]

Gulf South Pipeline Company, LP; Notice of Negotiated Rate Filing

March 19, 2002.

Take notice that on March 13, 2002, Gulf South Pipeline Company, LP (Gulf South) tendered for filing a contract between Gulf South and the following company for disclosure of a recently negotiated rate transaction. As shown on the contract, Gulf South requests an effective date of April 1, 2002.

Special Negotiated Rate Between Gulf South Pipeline Company, LP and The City of Fairhope, Contract #14497

Gulf South states that it has served copies of this filing upon all parties on the official service list created by the Secretary in this 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 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.,

Deputy Secretary.

[FR Doc. 02–7079 Filed 3–22–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–199–000]

Mississippi River Transmission Corporation; Notice of Tariff Filing

March 19, 2002.

Take notice that on March 13, 2002, Mississippi River Transmission Corporation (MRT) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following revised tariff sheets to be effective April 12, 2002:

First Revised Sheet No. 37
First Revised Sheet No. 39
Second Revised Sheet No. 40
First Revised Sheet No. 43
First Revised Sheet No. 45
First Revised Sheet No. 50
1st Rev. First Revised Sheet No. 183

MRT states that the revised tariff sheets will modify the Tariff's General Terms and Conditions and the Tariff provisions applicable to No Notice Transportation Service (Rate Schedule NNT) and Firm Storage Service (Rate Schedule FSS), to grant greater flexibility to customers in securing through their service agreements the exact services that best suit their needs, in a manner consistent with Commission policy. Specifically, MRT states that it is proposing the ability to negotiate (1) a contractual right of first refusal (''ROFR'') in certain circumstances where a regulatory ROFR otherwise would not be available to the customer pursuant to Commission regulations, (2) a reduction of a customer's contract entitlements where there has been a bypass of that customer by a third party, and (3) a process for cooperative efforts between MRT and a customer to implement any regulatory or other governmental order whereby a customer is to unbundle the services that it provides to its own customers. MRT states that the revised tariff sheets also provide additional flexibility for a storage customer with regard to the requirements governing injections into and withdrawals from MRT's storage facilities.

MRT states that it has served copies of the filing upon all customers and relevant 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.,

Deputy Secretary.

[FR Doc. 02–7083 Filed 3–22–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–157–001]

Transwestern Pipeline Company; Notice of Compliance Filing

March 19, 2002.

Take notice that on March 13, 2002, Transwestern Pipeline Company (Transwestern), tendered for filing changes in its FERC Gas Tariff, Second Revised Volume No. 1, Substitute 4th Revised Sheet No. 15, Substitute 10th Revised Sheet No. 25, and Substitute 6th Revised Sheet No. 34, proposed to be effective March 4, 2002.

Transwestern states that the above tariff sheets are being filed in compliance with the Commission's February 27, 2002 Order in Docket No. RP02–157–000. Transwestern states that in the Order, the Commission directed Transwestern to file revised tariff sheets that clearly indicate that a shipper on Transwestern's system must have title to the gas it is transporting. Therefore, Transwestern is submitting the substitute tariff sheets to clarify that the shipper must have title prior to nominating gas receipts and deliveries on Transwestern's system.

Transwestern 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.,

Deputy Secretary.

[FR Doc. 02–7081 Filed 3–22–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–1141–000, et al.]

El Paso Electric Company, et al.; Electric Rate and Corporate Regulation Filings

March 18, 2002.

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. El Paso Electric Company

[Docket No. ER02–1141–000]

Take notice that on March 14, 2002, El Paso Electric Company (El Paso) tendered for filing a Service Agreement with Arizona Electric Power Cooperative, Inc. for Firm Transmission Service under El Paso's Open Access Transmission Tariff. The Service Agreement was originally submitted for filing on February 27, 2002 but contained an erroneous service agreement designation. This filing corrects the error.

El Paso requests that the proposed Service Agreement be permitted to become effective on January 24, 2002. A copy has been served on the Texas Public Utility Commission.

Comment Date: April 4, 2002.

2. Appalachian Power Company

[Docket No. ER02–1313–000]

Take notice that on March 13, 2002, Appalachian Power Company tendered for filing an Amendment to Letter Agreement with Allegheny Energy Supply Company, L.L.C.

AEP requests an effective date of February 20, 2002. Copies of Appalachian Power Company's filing have been served upon the Virginia State Corporation Commission.

Comment Date: April 3, 2002.

3. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–1315–000]

Take notice that on March 13, 2002, Midwest Independent Transmission System Operator, Inc. (Midwest ISO) pursuant to Section 205 of the Federal Power Act, submitted for filing a Service Agreements for the transmission service requested by Tenaska Power Services Co.

A copy of this filing was sent to Tenaska Power Services Co.

Comment Date: April 3, 2002.

4. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–1316–000]

Take notice that on March 13, 2002, Midwest Independent Transmission System Operator, Inc. (Midwest ISO) pursuant to Section 205 of the Federal Power Act, submitted for filing a Service Agreements for the transmission service requested by Muscatine Power and Water.

A copy of this filing was sent to Muscatine Power and Water

Comment Date: April 3, 2002.

5. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–1317–000]

Take notice that on March 13, 2002, Midwest Independent Transmission System Operator, Inc. (Midwest ISO) pursuant to Section 205 of the Federal Power Act, submitted for filing a Service Agreements for the transmission service requested by Central Iowa Power Cooperative.

A copy of this filing was sent to Central Iowa Power Cooperative.

Comment Date: April 3, 2002.

6. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–1318–000]

Take notice that on March 13, 2002, Midwest Independent Transmission System Operator, Inc. (Midwest ISO) pursuant to Section 205 of the Federal Power Act, submitted for filing a Service Agreements for the transmission service requested by MidAmerican Energy Company (MECR).

A copy of this filing was sent to MidAmerican Energy Company (MECR).

Comment Date: April 3, 2002.

7. Zion Energy LLC

[Docket No. ER02–1319–000]

Take notice that on March 13, 2002, Zion Energy LLC (the Applicant) tendered for filing, under section 205 of the Federal Power Act (FPA), a request for authorization to make wholesale sales of electric energy, capacity, replacement reserves, and ancillary services at market-based rates, to reassign transmission capacity, and to resell firm transmission rights. Applicant proposes to own and operate a 300 MW gas-fired, simple cycle electric generating facility in the City of Zion in Lake County, Illinois. Applicant also filed a long-term Fuel Conversion Services Agreement between Wisconsin Electric Power Company and Applicant, and a power purchase agreement between Wisconsin Power & Light Company (WP&L) and Applicant for the short-term sale of capacity and energy

by Applicant to WPL. Applicant requests privileged and confidential treatment for both agreements.

Comment Date: April 3, 2002.

8. UtiliCorp United Inc.

[Docket No. ER02–1320–000]

Take notice that on March 13, 2002, UtiliCorp United Inc. (UtiliCorp), filed with the Commission, pursuant to Section 205 of the Federal Power Act, 16 USC 824d, and Part 35 of the Commission's regulations, 18 CFR 35, Amendatory Agreement No. 2 to the Multiple Interconnection & Transmission Contract between UtiliCorp United Inc. d/b/a Missouri Public Service and Kansas City Power & Light Company. (UtiliCorp's Rate Schedule FERC No. 20). This amendment provides for an additional interconnection point at the Liberty South Station in Clay County, Missouri.

Comment Date: April 3, 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.

Magalie R. Salas,

Secretary.

[FR Doc. 02–7033 Filed 3–22–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–4–001; CP01–5–002]

Maritimes & Northeast Pipeline L.L.C., and Algonquin Gas Transmission Company; Notice of Intent To Prepare an Environmental Assessment for the Proposed Maritimes Phase III/Hubline Project Amendments and Request for Comments on Environmental Issues

March 18, 2002.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the amended Maritimes Phase III/HubLine Project involving construction and operation of facilities by Maritimes & Northeast Pipeline, L.L.C. (Maritimes) in Essex County, Massachusetts and Algonquin Gas Transmission Company (Algonquin) in primarily offshore Essex, Suffolk, Plymouth, and Norfolk Counties, Massachusetts.[1] There would be minor onshore facilities in Essex, Suffolk and Norfolk Counties. The amendment would change the diameter of the already approved offshore pipeline facilities from 16 to 24 inches in diameter and from 24 to 30 inches in diameter. This EA will be used by the Commission in its decision-making process to determine whether the amendment is in the public convenience and necessity.

All applicable landowners were informed of the previously approved project and had an opportunity to participate in the process which resulted in its approval.

Summary of the Proposed Amendment

Maritimes wants to increase the diameter of its approved Phase III facilities from the Salem Meter Station to its connection with Algonquin's approved HubLine facilities in Beverly, Massachusetts. Maritimes has approval to construct and operate approximately 23.8 miles of 30-inch-diameter pipeline and 1.0 mile of 24-inch-diameter pipeline; and appurtenant facilities to include three mainline valves, one tap valve, two cathodic protection ground beds, and two meter stations. Algonquin has approval to construct and operate approximately 29.4 miles of 24-inch-diameter offshore mainline pipeline; approximately 5.4 miles of 16-inch-diameter offshore lateral pipeline to the existing Massachusetts Water Resources Authority (MWRA) Waste Water Treatment facility on Deer Island; and one new meter station on Deer Island, and a block valve and receiver and regulator facilities near the interconnect with the existing I–9 pipeline. Maritimes seeks authority to:

- Change the diameter of the approximately 1.0 mile of 24-inch-diameter pipeline to 30 inches; and
- Modify the Salem Meter Station by deleting the launcher/receiver and changing some of the metering and piping to accommodate the larger diameter pipe.

Algonquin seeks authority to:

- Change the diameter of the approximately 29.4 miles of 24-inch-diameter offshore mainline pipeline to 30 inches;
- Change the diameter of the approximately 5.4 miles of 16-inch-diameter offshore lateral pipeline to the existing Massachusetts Water Resources Authority (MWRA) Waste Water Treatment facility on Deer Island to 24 inches; and
- Modify the one new meter station on Deer Island, and a block valve and receiver and regulator facilities near the interconnect with the existing I–9 pipeline to accommodate the larger diameter pipe.

Land Requirements for Construction

The change in the pipeline diameter would result in no additional onshore land requirements from those already approved. Construction of the proposed offshore facilities with the larger pipeline diameter would disturb about 7 more acres of sea floor than currently approved.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us [2] to discover and address concerns the public may have about proposals. We call this ''scoping''. The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are considered during the preparation of the EA. State and local

[1] Maritimes' and Algonquin's applications were filed with the Commission under section 7 of the Natural Gas Act and part 157 of the Commission's regulations.

[2] ''We'', ''us'', and ''our'' refer to the environmental staff of the Office of Energy Projects (OEP).

government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed amendment under these general headings:

- Sediments
- Cultural resources
- Endangered and threatened species
- Water resources, fisheries
- Vegetation

We will also evaluate possible alternatives to the proposed modifications, and, if necessary, make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be in the EA.

To ensure your comments are considered, please carefully follow the instructions in the public participation section in this NOI beginning on page 5.

Currently Identified Environmental Issues

No additional environmental concerns beyond those identified in the final environmental impact statement [3] for the approved project have been identified for this amendment. As a result we do not anticipate revisiting many of the issues already covered by the final environmental impact statement prepared for the approved project. We also do not anticipate the need to issue the EA for public comment.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the amendment. By becoming a commentor, your concerns will be addressed in the EA and considered by the Commission. You should focus on the potential environmental effects of the amendment, alternatives to the amendment, and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send an original and two copies of your letter to:

Magalie R. Salas, Secretary
Federal Energy Regulatory Commission 888 First St., NE, Room 1A
Washington, DC 20426

- Label one copy of the comments for the attention of Gas Branch 2.
- Reference Docket Nos. CP01–4–001 and CP01–5–002.
- Mail your comments so that they will be received in Washington, DC on or before April 17, 2002.

Please note that we are continuing to experience delays in mail deliveries from the U.S. Postal Service. As a result, we will include all comments that we receive within a reasonable time frame in our environmental analysis of this amendment. However, the Commission encourages electronic filing of any comments or interventions or protests to this proceeding. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link and the link to the User's Guide. Before you can file comments you will need to create an account which can be created by clicking on ''Login to File'' and then ''New User Account.''

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding known as an ''intervenor''. Intervenors play a more formal role in the process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide 14 copies of its filings to the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (see appendix 1).[4] Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your environmental comments considered.

Additional information about the proposed amendment is available from the Commission's Office of External Affairs at (202) 208–1088 (direct line) or you can call the FERC operator at 1–800–847–8885 and ask for External Affairs. Information is also available on the FERC Web site, *www.ferc.gov*, using the ''RIMS'' link to information in this docket number. Click on the ''RIMS'' link, select ''Docket #'' from the RIMS Menu, and follow the instructions. For assistance with access to RIMS, the RIMS helpline can be reached at (202) 208–2222.

Similarly, the ''CIPS'' link on the FERC Internet Web site provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings. From the FERC Internet Web site, click on the ''CIPS'' link, select ''Docket #'' from the CIPS menu, and follow the instructions. For assistance with access to CIPS, the CIPS helpline can be reached at (202) 208–2222.

Magalie R. Salas,

Secretary.

[FR Doc. 02–7034 Filed 3–22–02; 8:45 am]

BILLING CODE 6717–01–P

[3] Phase III/HubLine Project Final Environmental Impact Statement, FERC/EIS–0136, November 2001.

[4] Interventions may also be filed electronically via the Internet in lieu of paper. See the previous discussion on filing comments electronically.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filinf and Soliciting Motions To Intervene and Protests

March 18, 2002.

a. *Type of Application*: New Major License.

b. *Project No.*: P–401–027.

c. *Date Filed*: September 14, 2001.

d. *Applicant*: Indiana Michigan Power Company.

e. *Name of Project*: Mottville Hydroelectric Project.

f. *Location*: On the St. Joseph River, in Mottville Township, St. Joseph County, Michigan. The project does not affect federal lands.

g. *Filed Pursuant to*: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact*: J.F. Norris, Jr., American Electric Power Service Corporation, 1 Riverside Plaza, Columbus, OH 43215, (614) 223–1700, or *jfnorris@aep.com*.

i. *FERC Contact*: Lee Emery (202) 219–2779 or *lee.emery@FERC.gov*.

j. *Deadline for filing motions to intervene and protest*: 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Magalie Roman Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's Rules of Practice require all interveners filing documents with the Commission to serve a copy of that document on each person on the official service list for the project.

Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Comments, motions to intervene and protests 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, *http://www.ferc.gov*, under the ''e-Filing'' link.

k. *Status of environmental analysis*: This application is not ready for environmental analysis at this time.

l. *Description of Project*: The existing Mottville Project consists of: (1) Two 17-foot high earth-filled embankments extending towards the center of the river from both riverbanks, including (i) a west embankment that is 140 feet long and has a crest width of 15 feet and extends to the powerhouse, and (ii) an east embankment that is 365 feet long and has a crest width of 8 feet and extends from the east riverbank to the spillway; (2) a 237-foot long, reinforced concrete spillway with 10 steel Taintor gates along the crest of the spillway, which are separated by 2.5-foot-wide piers between Bays 1 and 2, and 3 and 4 and 1.5-foot-wide piers between the remaining Bays with the Taintor gates being 22-feet-wide and 13-feet-high in Bays 1 and 2 and 22-feet-wide and 7.5-feet-high in Bays 3 through 10; (3) a combined powerhouse-intake structure, made of brick and concrete, that is 118 feet long, 28 feet wide, and 25 feet long; (4) 4 vertical shaft, single runner, propeller type generating units with an installed generating capacity of 420 kW each; (5) a 14.5-foot-long, 28-foot-wide, and 25-foot-long switchboard bay attached to the west end of the powerhouse; (6) a 50 horsepower, 460-volt, 3-phase air bubbler system; (7) a 15-ton overhead traveling crane; (8) a 20-foot-wide stilling basin extending across the length of the spillway; (9) a 12-inch-thick, reinforced concrete spillway apron; (10) an inoperable 4-foot-wide by 150-foot-long concrete fishway with a slope of about 25 percent; (11) sets of angled steel intake trashracks that are 3-feet 2-inches wide by 14-feet-high with 3/8-inch steel bars with 4-inch spacing between the bars; (12) a five-mile-long, 378-acre reservoir with a gross storage capacity of 2,900-acre-feet at the normal operating pool surface elevation of 770.4 NGVD; (13) a three phase, 2.4/34.5 kV transformer; and (14) other appurtenant facilities. The applicant estimates that the total average annual generation would be 7,800 MWh. All generated power is sold to Indiana Michigan Power Company's customers.

m. *Location of the Application*: A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Washington, DC 20426, or by calling (202) 208–1371. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link'select ''Docket #'' and follow the instructions (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

n. *Procedural schedule*: The application will be processed according to the following milestones, some of which may be combined to expedite processing:

Notice of NEPA scoping—March 2002

Notice that the application is ready for environmental analysis—April 2002

Notice of availability of the NEPA document—August 2002

Order issuing the Commission's decision on the application December 2002

o. Protests or Motions to Intervene—Anyone may submit a protest or motion to intervene in accordance with the requirements of Rules and Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

All filings must (1) bear in all capital letters the title ''PROTEST'' or ''MOTION TO INTERVENE;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

Magalie R. Salas,

Secretary.

[FR Doc. 02–7038 Filed 3–22–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act Meeting

March 20, 2002.

The following notice of meeting is published pursuant to section 3(A) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C 552B:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: March 27, 2002, 10:00 a.m.

PLACE: Room 2C, 888 First Street, NE, Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note: Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Magalie R. Salas, Secretary, Telephone (202) 208–0400; For a recording listing items stricken from or added to the meeting, call (202) 208–1627.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the reference and information center.

788th—Meeting, March 27, 2002; Regular Meeting, 10:00 a.m.

Administrative Agenda

A–1.
Docket# AD02–1, 000, Agency Administrative Matters

A–2.
Docket# AD02–7, 000, Customer Matters, Reliability, Security and Market Operations

Markets, Tariffs and Rates—Electric

E–1.
Omitted

E–2.
Docket# ER02–913, 000, American Electric Power Company

E–3.
Docket# ER02–854, 000, Florida Power & Light Company

E–4.
Docket# ER02–851, 000, Southern Company Services, Inc.
Other#s EL02–67, 000, Southern Company Services, Inc.

E–5.
Docket# ER02–922, 000, California Independent System Operator Corporation
Other#s EL02–51, 000, California Electricity Oversight Board v. Williams Energy Services Corporation, AES Huntington Beach LLC, AES Alamitos LLC, AES Redondo Beach LLC, Mirant Americas Energy Marketing L.P., Mirant Delta LLC, Reliant Energy Services, Inc.,

Reliant Energy Coolwater LLC, Reliant Energy Etiwanda LLC, Reliant Energy Mandalay LLC, Reliant Energy Ormand Beach LLC, Dynegy Power Marketing, Inc., Encina Power LLC, Calpine Corporation, Geysers Power Company, LLC, Southern California Edison Company, All other Public and Non-Public Utilities who own or control generation in California and who sell through the Markets or use the transmission lines operated by the California Independent System Operator Corporation and all scheduling Coordinators acting on behalf of the above Entities

E–6.
Docket# ER02–935, 000, Florida Power & Light Company

E–7.
Docket# ER02–924, 000, Michigan Electric Transmission Company

E–8.
Docket# ER02–945, 000, Louisville Gas and Electric Company and Kentucky Utilities Company

E–9. Omitted

E–10. Omitted

E–11. Omitted

E–12.
Docket# EL99–14, 003, Southwestern Electric Cooperative, Inc. v. Soyland Power Cooperative, Inc.
Other#s EL99–14, 004, Southwestern Electric Cooperative, Inc. v. Soyland Power Cooperative, Inc.

E–13.
Docket# ER01–3000, 003, International Transmission Company
Other#s RT01–101, 003, International Transmission Company
EC01–146, 003, DTE Energy Company

E–14.
Omitted

E–15.
Docket# EC02–23, 001, Trans-Elect, Inc., Michigan Transco Holdings, LP, Consumers Energy Company and Michigan Electric Transmission Company
Other#s ER02–320, 001, Trans-Elect, Inc., Michigan Transco Holdings, LP, Consumers Energy Company and Michigan Electric Transmission Company
ER02–320, 002, Trans-Elect, Inc., Michigan Transco Holdings, LP, Consumers Energy Company and Michigan Electric Transmission Company

E–16.
Omitted

E–17.
Docket# ER02–139, 002, Florida Power & Light Company
Other#s ER02–139, 001, Florida Power & Light Company

E–18.
Omitted

E–19.
Docket# ER02–485, 001, Midwest Independent Transmission System Operator, Inc.

E–20.
Docket# EC02–5, 001, Vermont Yankee Nuclear Power Corporation and Entergy Nuclear Vermont Yankee, LLC
Other#s EL02–53, 001, Vermont Yankee Nuclear Power Corporation
ER02–211, 001, Vermont Yankee Nuclear Power Corporation and Entergy Nuclear Vermont Yankee, LLC

E–21.
Docket# TX00–1, 001, United States Department of Energy—Western Area Power Administration, Colorado River Storage ProjectManagement Center
Other#s ER00–896, 001, Public Service Company of New Mexico

E–22.
Docket# ER01–770, 003, Arizona Public Service Company
Other#s ER01–917, 003, Arizona Public Service Company

E–23.
Docket# ER01–889, 010, California Independent System Operator Corporation
Other#s EL00–95, 036, San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Services Into Markets Operated by the California Independent System Operator and the California Power Exchange
ER01–889, 003, California Independent System Operator Corporation
ER01–889, 005, California Independent System Operator Corporation
ER01–889, 006, California Independent System Operator Corporation
ER01–3013, 001, California Independent System Operator Corporation
ER01–3013, 002, California Independent System Operator Corporation
ER01–889, 009, California Independent System Operator Corporation

E–24.
Docket# ER01–3141, 001, American Electric Power Service Corporation
Other#s ER01–3141, 002, American Electric Power Service Corporation
ER01–3141 003 American Electric Power Service Corporation

E–25.
Docket# ER02–84, 001, Nevada Power Company

E–26.
Docket# ER02–42, 001, GWF Energy LLC
Other#s ER00–2998, 003, Southern Company Services, Inc.
ER00–2999, 003, Southern Company Services, Inc.
ER00–3000, 003, Southern Company Services, Inc.
ER00–3001, 003, Southern Company Services, Inc.

E–27.
Docket# EL00–95, 057, San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Service Into Markets Operated by the California Independent System Operator Corporation and the California Power Exchange

E–28.
Docket# EL01–93, 004, Mirant Americas Energy Marketing, L.P., Mirant New England, LLC, Mirant Kendall, LLC and Mirant, LLC v. ISO New England, Inc.
Other#s ER00–2998, 004, Southern Company Services, Inc.
ER00–2999, 004, Southern Company Services, Inc.
ER00–3000, 004, Southern Company Services, Inc.
ER00–3001, 004, Southern Company Services, Inc.

E–29.
Docket# ER01–702, 002, American Transmission Company, LLC
Other#s OA01–8, 001, Wisconsin Electric Power Company

E–30.
Docket# EL01–117, 000, Montana Power Company

E–31.
Docket# EL02–54, 000, San Diego Gas & Electric Company

E–32.
Docket# EL02–46, 000, Generator Coalition v. Entergy Services, Inc.
Other#s ER01–2201, 000, Generator Coalition v. Entergy Services, Inc.

E–33.
Docket# EL02–26, 000, Nevada Power Company and Sierra Pacific Power Company v. Duke Energy Trading and Marketing, L.L.C., Enron Power Marketing, Inc., El Paso Merchant Energy and American Electric Power Services Corporation
Other#s EL02–28, 000, Nevada Power Company and Sierra Pacific Power Company v. Duke Energy Trading and Marketing, L.L.C., Enron Power Marketing, Inc., El Paso Merchant Energy and American Electric Power Services Corporation
EL02–29, 000, Nevada Power Company v. Morgan Stanley Capital Group, Calpine Energy Services, Reliant Energy Services, Mirant Americas Energy Marketing, BP Energy Company and Allegheny Energy Supply Company, L.L.C.
EL02–30, 000, Nevada Power Company v. Morgan Stanley Capital Group, Calpine Energy Services, Reliant Energy Services, Mirant Americas Energy Marketing, BP Energy Company and Allegheny Energy Supply Company, L.L.C.
EL02–31, 000, Nevada Power Company v. Morgan Stanley Capital Group, Calpine Energy Services, Reliant Energy Services, Mirant Americas Energy Marketing, BP Energy Company and Allegheny Energy Supply Company, L.L.C.
EL02–32, 000, Nevada Power Company v. Morgan Stanley Capital Group, Calpine Energy Services, Reliant Energy Services, Mirant Americas Energy Marketing, BP Energy Company and Allegheny Energy Supply Company, L.L.C.
EL02–33, 000, Nevada Power Company and Sierra Pacific Power Company v. Duke Energy Trading and Marketing, L.L.C., Enron Power Marketing, Inc., El Paso Merchant Energy and American Electric Power Services Corporation
EL02–34, 000, Nevada Power Company v. Morgan Stanley Capital Group, Calpine Energy Services, Reliant Energy Services, Mirant Americas Energy Marketing, BP Energy Company and Allegheny Energy Supply Company, L.L.C.
EL02–38, 000, Nevada Power Company and Sierra Pacific Power Company v. Duke Energy Trading and Marketing, L.L.C., Enron Power Marketing, Inc., El Paso Merchant Energy and American Electric Power Services Corporation
EL02–39, 000, Nevada Power Company v. Morgan Stanley Capital Group, Calpine

Energy Services, Reliant Energy Services, Mirant Americas Energy Marketing, BP Energy Company and Allegheny Energy Supply Company, L.L.C.
EL02–43, 000, Southern California Water Company v. Mirant Americas Energy Marketing, LP
EL02–56, 000, Public Utility District No. 1 of Snohomish County, Washington v. Morgan Stanley Capital Group, Inc.
E–34.
Docket# EL02–63, 000, Constellation Power Source, Inc.
E–35.
Docket# EL02–44, 000, Indeck Maine Energy, LLC v. ISO New England, Inc.
E–36.
Omitted
E–37.
Docket# ER02–711, 000, American Electric Power Service Corporation
E–38.
Docket# OA96–77, 000, Consumers Energy Company
Other#s ER97–1502, 000, Consumers Energy Company
ER98–1247, 000, Consumers Energy Company
E–39.
Docket# EL00–43, 000, UtiliCorp United, Inc. v. City of Harrisonville, Missouri
Other#s EL00–68, 000, Missouri Joint Municipal Electric Utility Commission
E–40.
Docket# EL99–65, 003, Sithe/Independence Power Partners, L.P. v. Niagara Mohawk Power Corporation
Other#s EL95–38, 003, Sithe/Independence Power Partners, L.P. v. Niagara Mohawk Power Corporation
E–41.
Omitted
E–42.
Docket# TX97–5, 000, Tennessee Power Company
E–43.
Docket# ER99–230, 001, Alliant Services Company
E–44.
Docket# EL01–78, 001, LG&E Energy Marketing, Inc. v. Southern Company Services, Inc. and Georgia Transmission Corporation
E–45.
Docket# EL01–87, 000, South Eastern Energy Corporation and Morgan Stanley Capital Group Inc. v. City of Dalton, Georgia, Georgia Transmission Corporation, Georgia Power Company and the Municipal Electric Authority of Georgia
E–46.
Docket# EL00–95, 045, San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Services Into the Markets Operated by the California Independent System Operator Corporation and the California Power Exchange
Other#s EL00–98, 042, Investigation of Practices of the California Independent System Operator and the California Power Exchange

Miscellaneous Agenda

M–1.
Reserved

Markets, Tariffs, and Rates—Gas

G–1.
Omitted
G–2.
Docket# RP02–164, 000, PG&E Gas Transmission, Northwest Corporation
G–3.
Omitted
G–4.
Docket# RP02–166, 000, Florida Gas Transmission Company
Other#s RP02–167, 000, Florida Gas Transmission Company
G–5.
Docket# RP02–185, 000, Florida Gas Transmission Company
G–6.
Docket# RP96–320, 050, Gulf South Pipeline Company, LP
G–7.
Docket# RP96–320 051 Gulf South Pipeline Company, LP
G–8.
Docket# RP02–190 000 Northern Border Pipeline Company
G–9.
Docket# GT02–11, 000, Northwest Pipeline Corporation
G–10.
Omitted
G–11.
Docket# RP02–179, 000, Williams Gas Pipelines Central, Inc.
G–12.
Docket# RP02–186, 000, Vector Pipeline L.P.
G–13.
Omitted
G–14.
Docket# RP02–174, 000, Columbia Gas Transmission Corporation
G–15.
Docket# RP02–170, 000, Columbia Gas Transmission Corporation
G–16.
Omitted
G–17.
Docket# RP02–163, 000, Florida Gas Transmission Company
G–18.
Omitted
G–19.
Docket# RP02–171, 000, Transcontinental Gas Pipe Line Corporation
G–20.
Docket# RP02–181, 000, Colorado Interstate Gas Company
G–21.
Omitted
G–22.
Omitted
G–23.
Omitted
G–24.
Docket# RP00–477, 000, Tennessee Gas Pipeline Company
Other#s RP98–99, 000, Tennessee Gas Pipeline Company
RP00–477, 001, Tennessee Gas Pipeline Company
RP01–18, 000, Tennessee Gas Pipeline Company
RP01–18, 001, Tennessee Gas Pipeline Company
G–25.
Docket# RP00–478, 000, Honeoye Storage Corporation
Other#s RP00–574, 000, Honeoye Storage Corporation
G–26.
Omitted
G–27.
Docket# RP00–414, 000, PG&E Gas Transmission, Northwest Corporation
Other#s RP01–15, 001, PG&E Gas Transmission, Northwest Corporation
RP01–15, 000, PG&E Gas Transmission, Northwest Corporation
G–28.
Docket# RP00–413, 000, Pine Needle LNG Company, LLC
Other#s RP00–554, 000, Pine Needle LNG Company, LLC
G–29.
Docket# RP00–483, 000, Sabine Pipe Line LLC
Other#s RP00–603, 000, Sabine Pipe Line LLC
G–30.
Docket# RP00–464, 000, Stingray Pipeline Company
Other#s RP00–620, 000, Stingray Pipeline Company
RP00–620, 001, Stingray Pipeline Company
G–31.
Docket# RP02–188, 000, Petal Gas Storage, L.L.C.
Other#s RP00–491, 001, Petal Gas Storage, L.L.C.
CP01–69, 003, Petal Gas Storage, L.L.C.
RP00–491, 000, Petal Gas Storage, L.L.C.
G–32.
Docket# PR02–3, 000, Bay Gas Storage Company, Ltd.
G–33.
Docket# RP01–236, 003, Transcontinental Gas Pipe Line Corporation
Other#s RP00–481, 003, Transcontinental Gas Pipe Line Corporation
RP00–553, 006, Transcontinental Gas Pipe Line Corporation
G–34.
Docket# RP95–197, 041, Transcontinental Gas Pipe Line Corporation
Other#s RP97–71, 029, Transcontinental Gas Pipe Line Corporation
G–35.
Omitted
G–36.
Docket# RP01–262, 003, Columbia Gas Transmission Corporation
G–37.
Docket# RP99–518, 026, PG&E Gas Transmission, Northwest Corporation
G–38.
Docket# RP02–143, 000, Kansas Gas Service v. Enbridge Pipelines KPC
G–39.
Docket# RP00–426, 007, Texas Gas Transmission Corporation
G–40.
Docket# RP02–176, 000, Panhandle Eastern Pipe Line Company
G–41.
Docket# RP00–482, 000, Reliant Energy Gas Transmission Company
Other#s RP00–482, 001, Reliant Energy Gas Transmission Company
RP01–12, 000, Reliant Energy Gas Transmission Company
RP01–317, 000, Reliant Energy Gas Transmission Company
G–42.

Docket# RP02–165, 000, Horizon Pipeline Company, L.L.C.

Energy Projects—Hydro

H–1.
Docket# P–12020, 001, Marseilles Hydro Power, LLC
Other#s P–12150, 000, Marseilles Land and Water Power Company
H–2.
Omitted
H–3.
Docket# P–2622, 009, International Paper Company and Turner Falls Hydro LLC
Other#s P–2622, 010, International Paper Company and Turner Falls Hydro LLC
H–4.
Docket# P–2596, 004, Rochester Gas and Electric Corporation
Other#s P–2596, 002, Rochester Gas and Electric Corporation
H–5.
Docket# P–12055, 000, Dakota Pumped Storage, LLC
Other#s P–12134, 000, South Dakota Conservancy District

Energy Projects—Certificates

C–1.
Docket# CP00–6, 003, Gulfstream Natural Gas System, L.L.C.
C–2.
Docket# CP01–415, 000, East Tennessee Natural Gas Company
C–3.
Docket# CP01–427, 000, Dominion Transmission, Inc.
C–4.
Docket# CP01–438, 000, Northwest Pipeline Corporation
C–5.
Docket# CP02–4, 000, Northwest Pipeline Corporation
C–6.
Docket# CP96–152, 029, Kansas Pipeline Company
C–7.
Docket# CP01–22, 003, North Baja Pipeline LLC
Other#s CP01–23, 002, North Baja Pipeline LLC
CP01–24, 003, North Baja Pipeline LLC
CP01–25, 003, North Baja Pipeline LLC

Magalie R. Salas,

Secretary.

[FR Doc. 02–7197 Filed 3–21–02; 11:31 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[MO 153–1153; FRL–7161–8]

Notice of Deficiency for Clean Air Act Operating Permit Program in Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of deficiency and notice of availability.

SUMMARY: Pursuant to its authority under section 502(i) of the Clean Air Act (Act) and the regulations on Federal oversight and sanctions, EPA is publishing this Notice of Deficiency (NOD) for Missouri's Clean Air Act title V operating permits program. The NOD is based upon EPA's finding that several state requirements do not meet the minimum Federal requirements. Publication of this notice is a prerequisite for withdrawal of Missouri's title V program approval, but EPA is not withdrawing the program through this action. This notice also provides information regarding the availability of additional related information.

EFFECTIVE DATE: March 25, 2002. Because this Notice of Deficiency is an adjudication and not a final rule, the Administrative Procedure Act's 30-day deferral of the effective date of a rule does not apply.

FOR FURTHER INFORMATION CONTACT: Harriett Jones, EPA, Region 7, Air, RCRA, and Toxics Division, Air Permitting and Compliance Branch (ARTD/APCO), 901 North 5th Street, Kansas City, KS 66101, (913) 551–7703, or by e-mail at *jones.harriett@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On May 22, 2000, EPA promulgated a rulemaking that extended the interim approval period of 86 operating permits programs until December 1, 2001 (65 FR 32035). The Sierra Club and the New York Public Interest Research Group challenged the action. In settling the litigation, EPA agreed to publish a notice in the **Federal Register**, so that the public would have the opportunity to identify and bring to EPA's attention alleged deficiencies in title V programs. EPA published that notice on December 11, 2000 (65 FR 77376).

As stated in the **Federal Register** notice, EPA agreed to respond by December 1, 2001, to timely public comments on programs that have obtained interim approval; and EPA agreed to respond by April 1, 2002, to timely comments on fully approved programs. EPA is publishing a NOD because the Agency has determined that deficiencies exist and is notifying all commenters in writing to explain the reasons for not making a finding of deficiency on other issues. EPA received two timely comment letters pertaining to Missouri's title V program, one from the Sierra Club and the other from the National Environmental Development Association/Clean Air Regulatory Project (NEDA/CARP). In reviewing the commenters' concerns, EPA agreed that some of the comments identify deficiencies in Missouri's program. EPA is addressing those deficiencies in this notice. In addition, the commenters raised other issues that EPA has determined are not deficiencies. EPA is responding to the commenters in writing, explaining the basis for EPA's decision.

Under EPA's permitting regulations, citizens may, at any time, petition EPA regarding alleged deficiencies in state title V operating permit programs. In addition, EPA may on its own identify deficiencies. If, in the future, EPA agrees with a new citizen petition or otherwise identifies deficiencies, EPA may issue a new NOD.

II. Description of Action

1. Modifications to Acid Rain Portion of Operating Permit

EPA's regulations at 40 CFR 70.7(e), which pertain to minor and significant modifications of operating permits, specify that permit modifications for purposes of the acid rain portion of the permit shall be governed by regulations promulgated under title IV of the Act. Although Missouri's regulations do include this requirement at 10 CSR 10–6.065(6)(E)4.B. for administrative amendments, the requirement is not included in the minor and significant permit modification procedures at 10 CSR 10–6.065(6)(E)5. Because of the omission of this requirement, the state's program does not comply with the requirements of the Act and 40 CFR part 70. The state has initiated procedures to add this requirement to its regulations.

2. Minor Permit Modifications

EPA's regulations at 40 CFR 70.7(e)(2)(ii)(C) require that an application for a minor permit modification must include certification by a responsible official that the requested modification meets the criteria for use of the minor permit modification procedures and a request that such procedures be used. The state's regulations governing minor permit modifications at 10 CSR 10–6.065(6)(E)5.B. fail to include this requirement. Because of the omission of this requirement, the state's program does not comply with the requirements of the Act and 40 CFR part 70. The state has initiated procedures to add this requirement to its regulations.

3. Contemporaneous Written Notice of Off-Permit Changes

EPA's regulations at 40 CFR 70.4(b)(14)(ii) mandate that if an approved program allows certain ''off-permit'' changes (*i.e.,* changes that are not addressed or prohibited by the permit) to be made without a permit

revision, the state's regulations must require that the source provide ''contemporaneous'' written notice of each change to the permitting authority and to EPA, except for those that are determined to be insignificant. Missouri's regulations at 10 CSR 10–6.065(6)(C)9.A. do allow certain ''off-permit'' changes to be made without a permit revision, and written notice of each change is required at 10 CSR 10–6.065(6)(C)9.B. However, although this regulation is titled ''Contemporaneous notice, except insignificant activities'', the wording of Missouri's regulation (''permittee must provide written notice of the change * * * no later than the next annual emissions report'') effectively results in allowing up to one year for notification of the change to be submitted. Therefore, EPA does not believe that the rule ensures ''contemporaneous'' submission of the written notice, and finds that the state's program does not comply with the requirements of the Act and 40 CFR part 70. The state has initiated procedures to revise this regulation accordingly.

III. Availability of EPA Responses to Citizen Comments

As discussed above, EPA is responding in writing to all timely comments that citizens submitted pursuant to the settlement agreement. For all comments not resulting in a NOD, EPA will explain why it found that a NOD was not warranted. EPA Region 7 will also post its response letters on the Internet at *http://www.epa.gov/oar/oaqps/permits/response/* or you may obtain a copy by contacting Harriett Jones, EPA Region 7, by phone at (913) 551–7730 or by e-mail at *jones.harriett@epa.gov.*

IV. Effect of Notice of Deficiency

Part 70 provides that EPA may withdraw a part 70 program approval, in whole or in part, whenever the approved program no longer complies with the requirements of part 70 and the permitting authority fails to take corrective action. 40 CFR 70.10(c)(1). This section lists a number of potential bases for program withdrawal, including the case where the permitting authority's legal authority no longer meets the requirements of part 70. 40 CFR 70.10(b) sets forth the procedures for program withdrawal, and requires as a prerequisite to withdrawal, that the permitting authority be notified of any finding of deficiency by the Administrator and that the document be published in the **Federal Register.** Today's document satisfies this requirement and constitutes a finding of program deficiency. If the permitting authority has not taken ''significant action to assure adequate administration and enforcement of the program'' within 90 days after publication of a NOD, EPA may withdraw the state program, apply any of the sanctions specified in section 179(b) of the Act, or promulgate, administer, and enforce a Federal title V program. 40 CFR 70.10(b)(2). Section 70.10(b)(3) provides that if a state has not corrected the deficiency within 18 months of the finding of deficiency, EPA will apply the sanctions under section 179(b) of the Act, in accordance with section 179(a) of the Act. In addition, section 70.10(b)(4) provides that, if the state has not corrected the deficiency within 18 months after the date of NOD, EPA must promulgate, administer, and enforce a whole or partial program within 2 years of the date of the finding.

This document is not a proposal to withdraw Missouri's title V program. Consistent with 40 CFR 70.10(b), EPA will wait at least 90 days, at which point it will determine whether Missouri has taken significant action to correct the deficiencies.

V. Administrative Requirements

Under section 307(b)(1) of the Act, petitions for judicial review of today's action may be filed in the United States Court of Appeals for the appropriate circuit by May 24, 2002.

Dated: March 12, 2002.

James B. Gulliford,

Regional Administrator, Region 7.

[FR Doc. 02–6941 Filed 3–22–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–66301; FRL–6827–6]

Notice of Receipt of Requests to Voluntarily Cancel Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of request from the registrant Earth Care, Division of United Industries Corp., (previously Pursell Industries) to cancel its registration for the product Green Up Kerb 50W, EPA Reg. No. 8660–85, which contains the pesticide pronamide. Also under section 6(f)(1) of FIFRA, EPA is issuing a notice of receipt of request from the registrant International Paint Inc., to cancel its registration for the product 673 Black Co-Poly Crab Pot, EPA Reg. No. 23566–17, which contains the pesticide tributyltin methacrylate.

The EPA received these requests for voluntary cancellation as a result of activities related to the tolerance reassessment of pronamide and discussions on potential risks of tributyltin used in antifouling paints, respectively.

DATES: Comments on the requested cancellations must be submitted to the appropriate address provided below April 24, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–66301 in the subject line of the first page of your response.

FOR FURTHER INFORMATION CONTACT: For the pronamide product, Cecelia Watson, (703) 305–4329; e-mail address watson.cecelia@epa.gov Special Review and Reregistration Division (7508C), Office of Pesticides Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. By courier: Room 604W38, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202. For the tributyltin product, Jill Bloom, (703) 308–8019; email address bloom.jill@epa.gov (Same address as above, Room 604W53).

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. You may be potentially affected by this action if you manufacture, sell, distribute, or use pesticides. The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, does not apply because this action is not a rule, for purposes of 5 U.S.C. 804(3). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person or persons listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet homepage at http://www.epa.gov/. To access this document, on the homepage select ''Laws and Regulations'' ''Regulations and Proposed Rules'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings http://www.epa.gov/fedrgstr/.

2. *In person*. Contact Cecelia R Watson at 1921 Jefferson Davis Highway, Crystal Mall #2, Rm. 604W38, Arlington VA, telephone number (703) 305–4329. Available from 6:30 am to 4:00 pm, Monday through Friday, except for federal holidays. Contact Jill Bloom at the same address, Room 604W53, telephone number (703) 308–8019.

C. How and to Whom Do I Submit Comments or request withdrawal?

You may submit comments or, if you are a registrant, request withdrawal, through the mail, in person, or electronically.

1. *By mail*. Registrants who choose to withdraw a request for cancellation of the product pronamide must submit such withdrawal in writing to Cecelia R Watson, at the above address, postmarked April 24, 2002. Registrants who choose to withdraw a request for cancellation of the tributyltin product must submit such withdrawal in writing to Jill Bloom, at the above address, postmarked April 24, 2002.

2. *In person or by courier*. Deliver your withdrawal request to: Document Processing Desk (DPD), Information Services Branch, Office of Pesticides Programs (OPP), Environmental Protection Agency, Rm. 266A, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The DPD is open from 8:00 am to 4:30 pm, Monday through Friday, except for federal holidays. The DPD telephone number is (703) 305–5263.

3. *Electronically*. You may submit your comments electronically by e-mail to: watson.cecelia@epa.gov or bloom.jill@epa.gov. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format.

II. What Action is the Agency Taking?

Section 6(f)(1) of FIFRA provides that a registrant of pesticide products may at any time request that any of its pesticides registrations be cancelled. The Act further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, the Administrator may approve such a request.

This notice announces receipt by the Agency of request from registrants to cancel certain product registrations. These registrations are listed in the following Table 1 by registration number, product name, and active ingredient.

TABLE 1.—REGISTRATIONS REQUESTED TO BE CANCELLED

Registration No.	Product Name	Active Ingredients
8660–85	Green Up Kerb WB 50	Pronamide
23566–17	673 Black Co-Poly Crab Pot Paint	Tributyltin methacrylate

Note: EPA companies number 8660 and 23566 have waived the 180 day comment period for registrations listed.

Users of these products who desire continued use of the products being cancelled should contact the applicable registrant before [insert date 30 days from date of publication in Federal Register] unless indicated otherwise, to discuss withdrawal of the application for amendment. This 30-day period also permits interested members of the public to intercede with the registrant prior to the Agency's approval of the deletion.

The following Table 2 includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA company number.

TABLE 2.—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION

EPA Company No	Company Name and Address
8660	Earth Care, Division of United Corporation, P.O. Box 142642,St. Louis, MO 63114–0642
23566	International Paint Inc.,2270 Morris Ave., Union, NJ 07083

III. Provision for Disposition of Existing Stocks

Earth Care and International Paints Inc. have informed the Agency that they do not need any time to sell or distribute their existing stock of products EPA Reg. No. 8660–85 and EPA Reg No. 23566–17. As a result, the Agency has not authorized further sale or distribution of these products by the registrants.

IV. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for cancellation must submit such withdrawal in writing to the person listed under **FOR FURTHER INFORMATION CONTACT**, postmarked before September 23, 2002. This written withdrawal of the request for cancellation will apply only to the applicable FIFRA section 6(f)(1) request listed in this notice. If the product(s) have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling. The withdrawal request must also include a commitment to pay any reregistration fees due, and to fulfill any applicable unsatisfied data requirements.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: March 15, 2002.

Lois A. Rossi,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 02–7100 Filed 3–22–02; 8:45 a.m.]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[PF–1076; FRL–6827–8]

Notice of Filing a Pesticide Petition to Amend An Existing Tolerance for a Certain Microbial Pesticide Chemical in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the amendment of a pesticide petition proposing the revision of regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by docket control number PF–1076, must be received on or before April 24, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION**. To ensure

proper receipt by EPA, it is imperative that you identify docket control number PF–1076 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Shanaz Bacchus,Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8097; e-mail address: bacchus.shanaz@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

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

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an official record for this action under docket control number PF–1076. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–1076 in the subject line on the first page of your response.

1. *By mail*. Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically*. You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number PF–1076. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that youprovide.

5. Provide specific examples to illustrate your concerns.

6. Make sure to submit your comments by the deadline in this notice.

7. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received an amended pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide microbial in or on various food commodities under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains

data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated:March 14, 2002.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

Summary of Petition

The petitioner summary of the pesticide petition is printed below as required by section 408(d)(3) of the FFDCA. The summary of the petition was prepared by the petitioner and represents the view of the petitioner. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

Interregional Research Project Number 4

PP 5E4575

EPA has received an amended pesticide petition PP 5E4575 from Interregional Research Project Number 4 (IR–4), proposing pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to amend 40 CFR 180.1206 to extend the temporary exemption from tolerance for residues of the non-aflatoxin-producing microbial pesticide *Aspergillus flavus* AF 36 in/on cotton. This amended petition is filed by IR–4, New Jersey Agricultural Experiment Station, Technology Center of New Jersey, Technology Centre of New Jersey, 681 U. S. Highway #1 South, North Brunswick, NJ 08902–3390 on behalf of the USDA/ARS Southern Regional Center, 1100 Robert E. Lee Blvd., New Orleans, LA 70179–0687. The amendment seeks to extend the current temporary exemption from tolerance to include cotton treated with *A. flavus* AF36 in 9 counties in Texas. They propose to continue trials to collect research data, in accordance with Experimental Use Permit 69224–EUP–1, in both Arizona and Texas until December 31, 2005. (See 64 FR 8358, February 19, 1999) (FRL–6057–3)

The EUP currently allows for application of 200,000 pounds (90,179 kg) of the microbial pesticide to a total of 20,000 acres of commercial cotton fields in 5 counties in Arizona including Yuma, LaPaz, Maricopa, Mohave and Pinal counties. In addition to the 20,000 acres in AZ, they propose to apply a total of 20,000 pounds (9,018 kg) of the microbial pesticide on 2,000 acres of commercial cotton fields in 9 counties in Texas (Nueces, San Patricio, Bee, Calhoon, Jackson, Wharton, Hildalgo, Cameron, and Willacy counties).

Pursuant to section 408(d)(2)(A)(i) of the FFDCA, as amended, IR–4 and USDA ARS Southern Regional Center have submitted summaries of information, data, and arguments in support of their pesticide petition, to comply with the Food Quality Protection Act of 1996. The database was evaluated by EPA and a final rule published in the **Federal Register** on May 26, 1999 (Volume 64, Number 101) Page 28371. The temporary exemption from tolerance and the EUP were extended until December 30, 2003, as published in the **Federal Register** on May 23, 2001 (Volume 66, Number 100) Page 28383–28386. *Aspergillus flavus* AF36 is an atoxigenic strain which is proposed to displace the toxic aflatoxin-producing strains of *A. flavus* as discussed in the aforementioned final rule.

[FR Doc. 02–7101 Filed 3–22–02; 8:45 a.m.]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collections Approved by Office of Management and Budget

March 18, 2002.

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.: 3060–1005.

Expiration Date: 07/31/2002.

Title: Numbering Resource Optimization—Phase 3.

Form No.: N/A.

Respondents: Business or other for-profit; State, Local or Tribal Government.

Estimated Annual Burden: 53 respondents; 63.7 hour per response (avg.); 3380 total annual burden hours (for all collections under this control number).

Estimated Annual Reporting and Recordkeeping Cost Burden: $12,000.

Frequency of Response: On occasion; Third Party Disclosure.

Description: In the Communications Act of 1934, as amended by the Telecommunications Act of 1996, the Federal Communications Commission (Commission) was given ''exclusive jurisdiction over those portions of the North American Numbering Plan that pertain to the United States.'' Pursuant to that authority, the Commission conducted a rulemaking that, among other things, addressed regular reporting on numbering use by United States carriers. In the Third Report and Order and Second Order on Reconsideration in CC Docket No. 96–98 and CC Docket No. 99–200 (Third Report and Order), the Commission addresses the federal cost recovery mechanism, including the requirement for price cap carriers to file tariffs reflecting recovery through an exogenous recovery adjustment for a two-year period beginning April 2, 2002.

A. Reporting Requirements for Federal Cost Recovery

Section 251(e)(2) of the Act requires that ''[t]he cost of establishing telecommunications numbering administration arrangements and number portability shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission.'' This statutory provision applies both to the costs of numbering administration and to the costs of Local Number Portability (LNP). In the Third Report and Order, the Commission establishes a federal cost recovery mechanism under which price cap LECs may recover their extraordinary carrier-specific costs directly related to thousands-block number pooling through an exogenous adjustment to access charges. However, because thousands-block number pooling may actually reduce network costs, in order for carriers to qualify for the exogenous adjustment to access charges, the Commission requires them to demonstrate that pooling results in a net cost increase rather than a cost reduction. (*No. of respondents:* 18;

hours per response: 85 hours; *total annual burden:* 1530 hours).

B. Request for Safety Valve Mechanism by State Commission

In the Third Report and Order, the Commission established a safety valve to ensure that carriers experiencing rapid growth in a given market will be able to meet customer demand. States may use the safety valve to grant requests from carriers that demonstrate the following: (1) The carrier will exhaust its numbering resources in a market or rate area within three months (in lieu of 6 months-to-exhaust requirement); and (2) projected growth is based on the carrier's actual growth in the market or rate area, or in the carrier's actual growth in a reasonably comparable market, but only if that projected growth varies no more than 15 percent from historical growth in the relevant market. States may also grant relief if a carrier demonstrates that it has received a customer request for numbering resources in a given rate center that it cannot meet with its current inventory. Carriers may demonstrate such a need by providing the state with documentation of the customer request and current proof of utilization in the rate center. (*No. of respondents:* 15; *hours per response:* 50 hours; *total annual burden:* 750 hours).

C. Request for Delegated Authority To Implement Service-Specific and Technology-Specific Area Code Overlays

The Commission lifted the ban on service-specific and technology-specific overlays (collectively, specialized overlays or SOs) and will allow state commissions seeking to implement SOs to request delegated authority to do so on a case-by-case basis. State commission seeking to implement service-specific and/or technology-specific area code overlays, must request delegated authority to do so. As an initial matter, a state commission seeking to implement a SO should discuss why the numbering resource optimization benefits of the proposed SO would be superior to implementation of an all-services overlay. State commissions should also specifically address the following: (1) The technologies or services to be included in the SO; (2) the geographic area to be covered; (3) whether the SO will be transitional; (4) when the SO will be implemented and, if a transitional SO is proposed, when the SO will become an all-services overlay; (5) whether the SO will include take-backs; (6) whether there will be 10-digit dialing in the SO and the underlying area code(s); (7) whether the SO and underlying area code(s) will be subject to rationing; and (8) whether the SO will cover an area in which pooling is taking place. (*No. of respondents:* 20; *hours per response:* 55 hours; *total annual burden:* 1100 hours). Data from such reporting will be used by the Commission to determine whether carriers properly qualified for the exogenous adjustment to access charges because pooling resulted in a net cost increase. *Obligation to respond:* Required to obtain or retain benefits.

OMB Control No.: 3060–0470.

Expiration Date: 03/31/2005.

Title: 47 CFR Sections 64.901–64.903, Allocation of Cost, Cost Allocation Manual and RAO Letters 19 and 26.

Form No.: N/A.

Respondents: Business or other for-profit.

Estimated Annual Burden: 5 respondents; 400 hour per response (avg.); 2000 total annual burden hours (for all collections under this control number).

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion; Annually.

Description: Section 201(b) of the Communications Act of 1934, as amended, requires that common carriers establish just and reasonable charges, practices and regulation for the services they provide; the Commission is responsible for regulating the telecommunications industry and ensuring that common carriers abide by its mandate. Pursuant to Section 64.901 carriers are required to separate their regulated costs from nonregulated cost using the attributable cost method of cost allocation. Carriers must follow the principles described in Section 64.901. Section 64.903(a) requires local exchange carriers with annual operating revenues equal to or above the indexed revenue threshold as defined in 47 CFR 32.9000 to file a cost allocation manual, except mid-sized incumbent local exchange carriers, containing the information specified in Section 64.903(a)(1)–(6). Section 64.903(b) requires that carriers update their cost allocation manuals at least annually, except that changes to the cost apportionment table and the description of time reporting procedures must be filed at the time of implementation. Proposed changes in the description of time reporting procedures, the statement concerning affiliate transactions, and the cost apportionment table must be accompanied by a statement quantifying the impact of each change on regulated operations. Changes in the description of time reporting procedures and the statement concerning affiliate transactions must be quantified in $100,000 increments at the account level. Changes in the cost apportionment table must be quantified in $100,000 increments at the cost pool level. Moreover, filing of cost allocation manuals and occasional updates are subject to the uniform format and standard procedures specified in RAO Letter 19. RAO Letter 26 provides guidance to carriers in revising their CAMS to reflect changes to the affiliate transactions rules pursuant to the Accounting Safeguards Order. In CC Docket No. 01–199, the Commission eliminated the annual CAM updates and filing of other changes for mid-sized carriers. While mid-sized carriers no longer will be required to annually file a CAM, they, like all other carriers, must be prepared to produce documentation of how they separate regulated from nonregulated costs to the Bureau, upon request. The cost allocation manual is reviewed by the Commission to ensure that all costs are properly classified between regulated and nonregulated activity. Uniformity in the CAMs will help improve the joint cost allocation process. In addition, this uniformity will give the Commission greater reliability in financial data submitted by the carriers through the Automated Reporting Management Information System (ARMIS). Obligation to respond: Mandatory.

OMB Control No.: 3060–0384.

Expiration Date: 03/31/2005.

Title: Auditor's Attestation and Certification—Sections 64.904 and 64.905.

Form No.: N/A.

Respondents: Business or other for-profit.

Estimated Annual Burden: 12 respondents; 107.08 hour per response (avg.); 1285 total annual burden hours (for all collections under this control number).

Estimated Annual Reporting and Recordkeeping Cost Burden: $1,200,000.

Frequency of Response: On occasion; Annually; Biennially.

Description: Section 201(b) of the Communications Act of 1934, as amended, requires that common carriers establish just and reasonable charges, practices, and regulations for the service they provide. The Commission is responsible for regulating the telecommunications industry and ensuring that common carriers abide by its mandate. Since common carriers are allowed to provide non-common carrier services, the Commission must establish mechanisms to control cost shifting,

inhibiting carriers from imposing on ratepayers for regulated interstate services the costs and risks of nonregulated ventures. Pursuant to section 64.904(a), each incumbent local exchange carrier required to file a cost allocation manual shall elect to either (1) have an attest engagement performed by an independent auditor every two years, covering the prior two year period, or (2) have a financial audit performed by an independent auditor every two years, covering the prior two year period. In either case, the initial engagement shall be performed in the calendar year after the carrier is first required to file a cost allocation manual. See 47 CFR 64.904 (a)–(c). In CC Docket 00–199, the Commission eliminated the requirement that CAMs of mid-sized carriers be subject to an attest audit every two years. Instead of requiring mid-sized carriers to incur the expense of a biennial attestation engagement, they will file a certification with the Commission stating that they are complying with section 64.901 of the Commission's rules. The certification must be signed, under oath, by an officer of the incumbent LEC, and filed with the Commission on an annual basis. Such certification of compliance represents a less costly means of enforcing compliance with our cost allocation rules. See 47 CFR Section 64.905. The independent audit requirement is imposed to ensure that the carriers are properly implementing their cost allocation manual. The independent audits serve as an important aid in the Commission's monitoring program. Obligation to respond: Required to obtain or retain benefits.

OMB Control No.: 3060–0734.

Expiration Date: 03/31/2005.

Title: Accounting Safeguards, CC Docket No. 96–150 (47 U.S.C. Sections 260, 271–276 and 47 CFR Sections 53.209, 53.211 and 53.213).

Form No.: N/A.

Respondents: Businesses or other for-profit.

Estimated Annual Burden: 27 respondents; 4587.37 hours per response (avg.); 123,859 total annual burden hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $632,500.

Frequency of Response: On occasion; Biennially; Annually; Recordkeeping; Third Party Disclosure.

Description: In a Report and Order issued in CC Docket No. 96–150, the Commission addressed the accounting safeguards necessary to satisfy the requirements of Sections 260 and 271 through 276 of the Telecommunications Act of 1996. The Report and Order prescribed the way incumbent local exchange carriers (ILECs), including the Bell Operating Companies (BOCs), must account for transactions with affiliates involving, and allocate costs incurred in the provision of, both regulated telecommunications services and nonregulated services, including telemessaging, interLATA telecommunications and information services, telecommunications equipment and CPE manufacturing and others. In CC Docket No. 00–199, the Commission adopted a $500,000 threshold for transactions involving asset transfers. The $500,000 threshold represents a de minimus exception to the affiliate transaction fair market valuation rules. Carriers are still required to follow the affiliate transactions rules in recordkeeping these transactions in their books of accounts, however, they will not have to make the comparison between fair market value and fully distributed costs. The required information enables the Commission to ensure that the subscribers to regulated telecommunications services to not bear the costs of these new nonregulated services and that transactions between affiliates and carriers will be at prices that do not ultimately result in unfair rates being charged to ratepayers. Obligation to respond: Mandatory.

OMB Control No.: 3060–0370.

Expiration Date: 03/31/2005.

Title: Part 32—Uniform System of Accounts for Telecommunications Companies.

Form No.: N/A.

Respondents: Business or other for-profit.

Estimated Annual Burden: 239 respondents; 6,123.41 hour per response (avg.); 1,463,496 total annual burden hours (for all collections under this control number).

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion; Recordkeeping.

Description: Section 220 of the Communications Act of 1934, as amended, 47 U.S.C. 220, allows the Commission, in its discretion, to prescribe the forms of any and all accounts, records, and memoranda to be kept by carriers subject to this Act, including the accounts, records and memoranda of the movement of traffic, as well as of the receipts and expenditures of moneys. Section 219(b) of the Communications Act, as amended, 47 U.S.C. 219(b), authorizes the Commission by general or special orders to require any carrier subject to this Act to file monthly reports of earnings and expenses and to file periodical and/or special reports concerning any matters with respect to which the Commission authorized or required by law to act. The Uniform System of Accounts is a historical financial accounting system which reports the results of operational and financial events in a manner which enables both management and regulators to assess these results within a specified accounting period. Subject respondents are telecommunications companies. Entities having annual revenues from regulatory telecommunications operations of less than $114 million are designated as Class B and are subject to a less detailed accounting system than those designated as Class A companies. See 47 CFR part 32. In CC Docket No. 00–199, the Commission conducted its second comprehensive, biennial review of the accounting rules and the Automated Reporting Management Information System (ARMIS) reporting requirements that apply to incumbent local exchange carriers (LECs). The Commission made four major accounting and reporting reforms. The Commission substantially consolidated and streamlined Class A and reduced Class B accounting requirements; relaxed certain aspects of its affiliate transactions rules; significantly reduced the cost of regulatory compliance with its cost allocation rules for mid-sized carriers; and reduced the ARMIS reporting requirements for both large and mid-sized LECs. Obligation to respond: Mandatory.

Public reporting burden for the collections of information are as noted above. Send comments regarding the burden estimates 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,

Acting Secretary.

[FR Doc. 02–7017 Filed 3–22–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Election Administration Advisory Panel: Reestablishment of Charter

AGENCY: Federal Election Commission.

ACTION: Notice of Election Administration Advisory Panel: Advisory Panel Charter Reestablishment.

SUMMARY: The Federal Election Commission announces the reestablishment of the charter for the Election Administration Advisory Panel. The purpose of the Panel is to provide advice and consultation to the FEC's Office of Election Administration with respect to its research programs on election administration. The FEC adheres to the following criteria in the structuring of the twenty-member group: 1. The Panel should include representation of election officials from the major geographic subdivisions of the country as well as urban and rural areas. 2. The Panel membership should be bipartisan. 3. Every effort should be made to ensure a racially, ethnically and gender balanced Panel. The above criteria provide varied points of view that result in invaluable advice and counsel.

FOR FURTHER INFORMATION CONTACT: Bryan Whitener, Office of Election Administration, Federal Election Commission, 999 E Street, NW., Washington, DC 20463. Telephone: (202) 694–1095; Toll Free (800) 424–9530 (option 4).

Dated: March 19, 2002.

R. Bryan Whitener,

Election Specialist, Office of Election Administration, Federal Election Commission.

[FR Doc. 02–7031 Filed 3–22–02; 8:45 am]

BILLING CODE 6715–01–M

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 April 8, 2002.

A. Federal Reserve Bank of Minneapolis (Julie Stackhouse, Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. Mildred M. Hansen and Mildred M. Hansen Trust, Currie, Minnesota, and Donald Hansen, Slayton, Minnesota; to retain voting shares of Currie Bancorporation, Inc., Currie, Minnesota, and thereby indirectly retain voting shares of Currie State Bank, Currie, Minnesota.

Board of Governors of the Federal Reserve System, March 19, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–7059 Filed 3–22–02; 8:45 am]

BILLING CODE 6210–01–S

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0250]

Proposed Collection for Public Comments; Comment Request Entitled Zero Burden Information Collection Reports

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance (2090–0250), Zero Burden Information Collection Reports.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the General Services Administration (GSA) will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Zero Burden Information Collection Reports.

Public comments are particularly invited on: Whether this collection of information is necessary 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.

DATES: May 24, 2002.

ADDRESSES: Submit comments regarding this information collection to Stephanie Morris, General Services Administration, Acquisition Policy Division, 1800 F Street, NW., Room 4035, Washington, DC 20405 or fax to (202) 501–4067. Please cite OMB Control Number 3090–0250.

FOR FURTHER INFORMATION CONTACT: Linda Nelson, Acquisition Policy Division, GAS (202) 501–1900.

SUPPLEMENTARY INFORMATION:

A. Purpose

The GSA will be requesting the Office of Management and Budget (OMB) to review and approve information collection, 3090–0250, Zero Burden Information Collection Reports.

This information requirement consists of reports that do not impose collection burdens upon the public. These collections require information which is already available to the public at large or that is routinely exchanged by firms during the normal course of business. A general control number for these collections decreases the amount of paperwork generated by the approval process. Since May 10, 1992, GSA has published two rules that fall under Information Collection 3090–0250: ''Implementation of Public Law 99–506'' published at 56 FR 29442, June 27, 1991, and ''Industrial Funding Fee'' published at 62 FR 38475, July 18, 1997.

B. Annual Reporting Burden

None.

Obtaining Copies of Proposal

Requester may obtain a copy of the proposal from the General Services Administration, Acquisition Policy Division (MVP), 1800 F Street, NW., Room 4035, Washington, DC 20405, telephone (202) 501–4744. Please cite OMB Control No. 3090–0250, Zero Burden Information Collection Reports.

Dated: March 19, 2002.

Michael W. Carleton,

Chief Information Officer (I).

[FR Doc. 02–7139 Filed 3–22–02; 8:45 am]

BILLING CODE 6820–61–M

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0112]

Submission for OMB Review; Comment Request Entitled State Agency Monthly Donation Report of Surplus Property

AGENCY: Federal Supply Service, GSA.

ACTION: Notice of request for an extension to an existing OMB clearance (3090–0112).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Office of Acquisition Policy has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning GSA Form 3040, State Agency Monthly Donation Report of Surplus Personnel Property. A request

for public comments was published at 67 FR 331, January 3, 2002. No comments were received.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the GSA, to conduct a report assessing the distribution of surplus property, 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.

DATES: April 24, 2002.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to Ms. Jeanette Thornton, GSA Desk Officer, OMB, Room 10236, NEOB, Washington, DC 20503, and a copy to Ms. Stephanie Morris, General Services Administration (MVP), Room 4035, 1800 F Street, NW., Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Denise Thomas, Federal Supply Services (703) 308–0742.

SUPPLEMENTARY INFORMATION:

A. Purpose

The General Services Administration is requesting the Office of Management and Budget (OMB) to renew information collection, 3090–0112, concerning GSA Form 3040, State Agency Monthly Donation Report of Surplus Personal Property. This report complies with Public Law 94–519, which requires annual reports of donations of personal property to public agencies for use in carrying out such purposes as conservation, economic development, education, parks and recreation, public health, and public safety.

B. Annual Reporting Burden

Respondents: 55.
Annual responses: 220.
Burden hours: 330.

Copy of Proposal

A copy of this proposal may be obtained from the General Services Administration, Acquisition Policy Division (MVP), Room 4035, 1800 F Street NW., Washington, DC 20405, or by telephoning (202) 501–4744, or by faxing your request to (202) 501–4067. Please cite OMB Control No. 3090–0112, State Agency Monthly Donation Report of Surplus Property, in all correspondence.

Dated: March 19, 2002.

Michael W. Carleton,

Chief Information Officer (I).

[FR Doc. 02–7136 Filed 3–22–02; 8:45 am]

BILLING CODE 6820–61–M

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0023]

Submission for OMB Review: Comment Request Entitled Surplus Personal Property Mailing List Application

AGENCY: Property Management Division (FBP), GSA.

ACTION: Notice of request for an extension to an existing approved OMB clearance (3090–0023).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Office of Acquisition Policy has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved collection concerning Surplus Personal Property Mailing List Application. A request for public comments was published at 67 FR 330, January 3, 2002. No comments were received.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the GSA, mainly on the Surplus Mailing List, 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.

DATES: April 24, 2002.

FOR FURTHER INFORMATION CONTACT: Victor Arnold-Bik, Property Management Division, GSA (703) 305–5809.

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 Ms. Jeanette Thornton, GSA Desk Officer, OMB, Room 10236, NEOB, Washington, DC 20503, and a copy to Ms. Stephanie Morris, General Services Administration (MVP), 1800 F Street, NW., Room 4035, Washington, DC 20405.

SUPPLEMENTARY INFORMATION:

A. Purpose

The General Services Administration is requesting the Office of Management and Budget (OMB) to extend a currently approved information collection, 3090–0023, concerning Surplus Personal Property Mailing List Application. This GSA Form 2170 is completed by persons who wish to have their names placed on the Surplus Personal Property Mailing List maintained by GSA Regional Sales Offices. Mailing labels are produced based on the type of property and geographical area indicated by the prospective bidder on the mailing list application.

B. Annual Reporting Burden

Respondents: 12,000.
Annual responses: 12,000.
Burden hours: 996.

Obtaining Copies of Proposals

A copy of this proposal may be obtained from the General Services Administration, Acquisition Policy Division (MVP), Room 4035, 1800 F Street, NW., Washington, DC 20405, or by telephoning (202) 501–4744, or by faxing your request to (202) 501–4067. Please cite OMB Control No. 3090–0023, Surplus Personal Property Mailing List Application, in all correspondence.

Dated: March 19, 2002.

Michael W. Carleton,

Chief Information Officer (I).

[FR Doc. 02–7137 Filed 3–22–02; 8:45 am]

BILLING CODE 6820–61–M

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0006]

Submission for OMB Review: Comment Request Entitled GSAR Clause, 552.237–71, Qualifications of Employees

AGENCY: General Services Administration (GSA).

ACTION: Notice of request for an extension to an existing OMB clearance 3090–0006.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the General Services Administration 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 GSAR Clause, Qualifications of Employees. Information collected under this authority is required by regulation. A request for public comments was published at 67 FR 330, January 3, 2002. No comments were received.

Public comments are particularly invited on: Whether this information collection generated by the GSAR Clause, Qualifications of Employees, is necessary for security reasons, to properly determine if an employee is suitable to work under a GSA service contract for guards, child care, cleaning, and maintenance contract; 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.

DATES: April 24, 2002.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to Ms. Jeanette Thorton, GSA Desk Officer, OMB, Room 10236, NEOB, Washington, DC 20503, and a copy to Ms. Stephanie Morris, General Services Administration (MVP), Room 4035, 1800 F Street, NW., Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Julia Wise, Acquisition Policy Division, GSA (202) 208–1168.

SUPPLEMENTARY INFORMATION:

A. Purpose

The General Services Administration has various mission responsibilities related to the acquisition and provision of service contracts. These mission responsibilities generate requirements that are realized through the solicitation and award of service contracts for guards, childcare, cleaning, and maintenance. Individual solicitations and resulting contracts may impose unique information collection/reporting requirements on contractors, not required by regulation, but necessary to evaluate particular program accomplishments and measure success in meeting program objectives.

B. Annual Reporting Burden

Respondents: 15,496.
Responses Per Respondent: 1.
Total Responses: 15,496.
Hours Per Response: 1.
Total Burden Hours: 15, 496.

Obtaining Copies of Proposals

A copy of this proposal may be obtained from the General Services Administration, Acquisition Policy Division (MVP), Room 4035, 1800 F Street, NW., Washington, DC 20405, or by telephoning (202) 501–4744, or by faxing your request to (202) 501–4067. Please cite OMB Control No. 3090–0006, Qualifications of Employees, in all correspondence.

Dated: March 19, 2002.

Michael W. Carleton,

Chief Information Officer (I).

[FR Doc. 02–7138 Filed 3–22–02; 8:45 am]

BILLING CODE 6820–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Secretary's Advisory Committee on Genetic Testing; Request for Public Comment

AGENCY: Office of the Secretary, DHHS.

ACTION: Request for public comment on a draft information brochure on genetic tests for the general public.

SUMMARY: The Secretary's Advisory Committee on Genetic Testing (SACGT) is seeking public comment on a draft information brochure entitled *Genetic Testing: Some Basic Questions and Answers.* The content of the brochure is reproduced below. The brochure's objective is to provide an overview of genetic tests and to outline some questions to consider about having a genetic test. Its target audience is the general public.

DATES: The public is encouraged to provide written comments on the draft brochure by April 19, 2002. Comments may be sent by mail (SACGT, National Institutes of Health, Office of Biotechnology Activities, 6705 Rockledge Drive, Suite 750, Bethesda, Maryland 20892), facsimile (301–496–9839), or email (*sc112c@nih.gov).* All public comments received will be available for public inspection at the SACGT office between the hours of 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Questions about this request can be directed to Ms. Sarah Carr, SACGT Executive Secretary, by e-mail, *sc112c@nih.gov*, or telephone (301–496–9838). The draft brochure also will be posted on SACGT's website for review and comment.

SUPPLEMENTARY INFORMATION:

Ensuring the appropriate use of genetic tests is an important challenge, requiring dedicated efforts on several fronts, including public education. A well-informed public will have a basic understanding about the benefits, risks, and implications of genetic tests and, should the situation arise, will know what questions to ask to make an informed decision about whether to have a genetic test. SACGT has developed the following draft information brochure, *Genetic Testing: Some Basic Questions and Answers,* to help inform the general public about genetic tests and to suggest the type of questions they should consider asking if they are faced with a decision about whether to have a genetic test.

Using a question and answer format, the brochure explains what genetic tests are, the different purposes for which they are used, how they are similar to and different from other medical tests, and some of their limitations and possible outcomes (potential benefits and risks); addresses insurance policy implications, privacy, confidentiality, and discrimination; provides informational and services resources; and outlines questions to ask oneself and one's healthcare provider when considering a genetic test. The brochure does not provide information about specific genetic tests nor is it intended for patients or consumers who have had experience with genetic testing.

SACGT is seeking comments on the content, readability, and utility of the brochure and strategies for dissemination. In particular, SACGT would appreciate responses to the following specific questions:

1. Is the document useful? How might you use such a brochure?

2. Is the content appropriate and complete? Is it understandable and written at the appropriate reading level? Are there other issues that should be addressed? Are there other questions that should be included?

3. Is the tone of the brochure appropriate? Is it culturally appropriate to a wide range of groups?

4. Should the brochure be produced in other languages and, if so, which languages?

5. To whom and how should this brochure be disseminated?

6. Should the brochure serve as a model for the development of more specific test information brochures? Who should be tasked with developing such brochures? Is this an appropriate role for SACGT? Should SACGT recommend that HHS support the development of test-specific information brochures?

Draft Brochure

Genetic Testing: Some Basic Questions & Answers

Genetic tests have been available for a number of years, but more tests are becoming available and are being offered as part of medical care. At some point in the future, you may face a decision about whether to have a genetic test.

Genetic tests are like other medical tests in many ways, but they have some important differences and issues to consider. This brochure provides some basic information about genetic testing and highlights the kinds of questions you may want to ask.

What is a Genetic test?

(To include diagram of chromosomes, genes, gene products)

Our genetic information is contained in structures called chromosomes that are made up of a chemical called DNA. Chromosomes are made up of smaller units called genes. There are 23 pairs of chromosomes, one set from our father and one from our mother. Genes contain the information about how our bodies are put together and function. It may help to think of the chromosome as a necklace and genes as beads on the necklace.

Genetic tests usually involve having blood drawn to look for changes in DNA, genes, gene products, or chromosomes. Some changes, such as those that cause certain cancers, develop during one's lifetime, possibly through environmental factors like sun exposure. Other changes can be inherited from one or both parents and passed on to children.

What Are the Different Types of Genetic Tests?

- *Diagnostic tests* are used to diagnose a medical condition in people who have symptoms or health problems. Diagnostic tests can also be used to figure out the best course of treatment or how a medical condition might progress over time.
- *Predictive tests* are used to tell whether healthy people are at higher risk of developing a particular medical condition later in life.
- *Pharmacogenetic tests* are used to tell how genetic makeup may affect a person's reaction to specific medicines. This type of test may help healthcare providers prescribe the most effective drugs with the fewest side effects.
- *Newborn screening tests* are done when babies are born to tell whether they have certain genetic diseases. These are diseases that can be treated if they are found early enough. By state law or rules, all babies are screened unless the parents decline testing.
- *Carrier tests* are used to tell whether healthy people have one copy of a genetic change that puts their children (but not them) at higher risk for having a genetic condition.
- *Prenatal tests* diagnose genetic conditions in pregnancy.

Are Genetic Tests Different From Other Medical Tests?

Genetic tests are similar to other medical tests, but there are a couple of important differences to keep in mind. Medical tests generally provide information only about the person being tested. Genetic test results can provide information for the health or life decisions of other family members as well.

Medical tests usually look for a current health condition. Predictive genetic tests, on the other hand, are done when people are healthy to see whether they are at higher risk of developing a particular disease in the future.

Unlike most other medical tests, genetic education and counseling may be provided for some genetic tests to be sure that patients understand the test, the potential results, and issues to consider.

What Are Some Limitations of Genetic Testing?

Like other medical tests, genetic tests have limitations, and they differ depending on the type of genetic test. For example, predictive genetic tests do not give ''yes'' or ''no'' answers about whether you will develop a specific disease. Instead, they tell you what your chances might be of developing a medical condition. They do not establish for sure that you will develop the condition or how the condition will affect you.

A genetic test does not test for all genetic conditions. Rather, a genetic test is done for a specific genetic condition or group of genetic conditions. In addition, for some diseases, a genetic test may not detect all changes that cause a specific condition. If the test does not find a change, you could still have or be at risk for that condition or be at risk for having children with that condition. For some tests, a family member with the condition may need to be tested to identify the genetic change before other family members who may be at risk can be tested.

Your healthcare provider, genetic specialist, or a testing laboratory can provide more information about test limitations. Over time, additional research may reduce some of the current uncertainties with genetic tests.

What Are Some of the Risks and Benefits of Having a Genetic Test?

Each genetic test has different risks and benefits. In general, the risks of genetic tests are not physical, since they mostly involve routine procedures, such as drawing blood or swabbing a cheek. Instead, the benefits and risks have more to do with how prepared you and your family are to learn the results. Learning that you may be at higher risk for a disease, for example, may be difficult to handle emotionally. On the other hand, the knowledge may help you plan preventive measures or make better decisions about the future. Likewise, you may learn that you are healthy, but members of your family have a higher likelihood of disease. For these reasons, it is important to weigh carefully the possible positive and negative outcomes before deciding whether or not to have a genetic test.

Possible Benefits of Genetic Testing

- You may learn information that is important for your healthcare.
  - *You may learn that you have or are at risk for a medical condition.* The results of genetic testing may be useful for diagnosing a medical condition or predicting risks for conditions. The results may help predict the course of the disease or determine a treatment plan, screening options, or prevention strategies. Results of genetic tests could also be important for family members if they are at risk for the same medical condition.
  - *You may learn that you are not at increased risk for a medical condition.* Such information may give peace of mind. However, many conditions are caused by your environment, diet, or behavior, as well as genetics. You may still face the same odds of getting such a condition as the population at large.
  - *You may learn that you are a carrier for a medical condition.* You may have a disease-causing gene but not have the condition yourself. If your partner is a carrier too, you could have children with the genetic condition. If you find out that you are a carrier, your partner may want to be tested prior to having children to see if he or she is also a carrier. If you are a carrier of a genetic condition, your relatives may be carriers too, and they may also want to be tested.
- You may learn information that could be useful for future decision

making.

Finding out whether you have, or are at risk for, a particular genetic condition may be important information for your life decisions. If you decide to have children, you may want to undergo prenatal testing or prepare for a child with special needs. The results of a genetic test may also have an impact on your financial planning, career choices, and lifestyle.

- Test results may provide relief and reduce anxiety and uncertainty about the future.

Finding out that you are not at risk for a particular medical condition can bring a sense of relief and peace of mind. Sometimes, even people who learn that they have, or may develop, a genetic condition feel less anxious after learning their test results. They may experience more anxiety from ''not knowing'' than ''knowing'' their risk. For others, the reverse may be true.

Potential Risks of Genetic Testing

- You may learn information that can be difficult to handle.

Coping with the knowledge from genetic tests may be difficult. It is particularly hard if there is no treatment or cure for the medical condition or if the condition may not develop until later in life. It is not unusual for people to feel sad, angry, confused, or anxious. Talking these feelings over with your healthcare provider or a genetics specialist may help. You may also find support from therapists, religious leaders, your friends and family, and patient/consumer advocacy or support groups (listed under ''Informational Resources'').

- Family dynamics may change.

Genetic conditions may affect family members in different ways. Sharing medical information in a family and addressing feelings can sometimes be difficult and may change how family members relate to each other. It is important to keep in mind that there are supportive resources (some of which are listed below) that can help.

- The result may not be clear or uncertain.

There are limitations to today's testing technology. Sometimes a test may not produce a definite result. At other times, the meaning of a test result may not be known. Even after having a genetic test, you may not learn anything new or may be left with uncertainty about what a result means. Of course, the field of genetic testing is changing, so tests will become more refined over time.

- You may be at risk for insurance or employment discrimination.

People are often concerned that the results of genetic tests could be used by insurers to deny coverage or increase the cost of insurance. They also worry that employers might use the test results in hiring and promotion decisions. The way insurers use test results generally depends on the type of plan you have, such as whether it is individual or group coverage. There are some protections to help prevent such discrimination, and they are discussed in the next section.

Can the Results of Genetic Testing Affect Insurance Coverage or Employment?

Some states prohibit employers from using genetic information in hiring and promotion decisions. Some prohibit health insurers from increasing fees or denying coverage based on genetic information. There are also significant differences among states in the level of protection. In other words, the results of genetic tests could affect your coverage depending on the type of insurance you have, whether or not you have symptoms, and the state in which you live. You can find out about your state's laws by contacting the National Conference of State Legislatures at 303–830–2200 or *www.ncsl.org.* The National Human Genome Research Institute also posts information about current state laws, as well as information about federal efforts, at: *http://www.nhgri.nih.gov/Policy_and_public_affairs/Legislation/*

Will Test Results Be Kept Confidential?

Your medical records, including genetic test results, are confidential. Test results can only be released with your permission or unless specifically required by law. The terms of most health insurance policies give the insurance company access to your medical information, especially if you request insurance coverage of genetic testing. However, many companies have policies stating that your health information will not be shared without your consent. You have the right to see the information in your medical records.

Will Insurance Cover the Cost of Genetic Testing?

Insurance coverage for genetic testing will depend on the type of insurance you have and the indication for testing. Genetic tests can cost more than other tests because they can take longer to perform and the techniques are more complex. If your insurance does not cover the cost of genetic testing, you may have to pay out-of-pocket. Find out about the cost of the test and insurance coverage before having the test done.

Where Can I Find More Information About Genetic Disorders or Genetic Testing?

Patient and consumer advocacy or support groups can help you obtain information about genetics and specific genetic conditions. They can also help you make connections with people facing similar issues. In addition, many government agencies have helpful resources.

Informational Resources

- Genetic Alliance, Toll free number: 800–336–4363. (*www.geneticalliance.org*).
- Genetics Education Center, (*www.kumc.edu/gec/*).
- ''GeneTests'', (*http://www.genetests.org/*).
- March of Dimes, Toll free number: 888–663–4637. (*www.modimes.org*).
- National Human Genome Research Institute, (*http://www.nhgri.nih.gov/Policy_and_public_affairs/Communications/Patients_and_families/*).
- National Newborn Screening and Genetics Resources Center, (*www.genes-r-us.uthscsa.edu*).
- National Organization for Rare Disorders, Toll free number: 800–999–6673. (*www.rarediseases.org*).
- Office of Rare Diseases, National Institutes of Health, (*http://rarediseases.info.nih.gov/ord/*).
- Office of Genetics and Disease Prevention, Centers for Disease Control and Prevention, (*http://www.cdc.gov/genetics/default.htm*).
- U.S. Department of Energy, (*http://www.ornl.gov/hgmis/medicine/genetest.html*).

Genetics clinics provide care, information and support for individuals who have, or are at risk for, a genetic condition.

To locate genetic services, you can:

- Ask your healthcare provider
- Contact your local medical center/hospital and ask if there are genetic services
- Contact your state department of public health and request information on genetic services
- Contact the National Society of Genetic Counselors (610–872–7608) *www.nsgc.org*
- Contact the Genetic Alliance (toll free: 800–336–4363) *www.geneticalliance.org*
- Contact your local March of Dimes chapter (888–663–4637) *www.modimes.org*
- For cancer genetics specialists, contact the National Cancer Institute (toll free: 800–422–6237) *www.nci.nih.gov*

To Be Placed at the End of the Document as a Tear-Out Page

Questions to Ask About Genetic Testing

Below are some questions you can ask yourself and your healthcare provider as you consider genetic testing. Many of these same questions could be asked about any medical test. There may not be answers to all of these questions and some of the answers may change as our knowledge about genetic testing grows.

Questions to Ask Yourself

- ☐ Do I know what type of genetic test is being offered?
- ☐ Will the test results be helpful to me? Do I want to know this information?
- ☐ What might I do differently if I have the results?
  - ☐ Will I make changes in my healthcare based on the results?
  - ☐ Will I make changes in my life decisions (e.g. children, finances, career choice) based on the results?
- ☐ Is this a good time in my life for me to have the genetic test?
- ☐ What will my reactions be when receiving the genetic test results?
- ☐ Do I have the support that I may need or people who I can talk to, if needed?
- ☐ Have I given myself enough time to explore these issues?
- ☐ Do I have all the information I need to make a decision about genetic testing? Have all my questions been answered?

Questions to Ask Your Healthcare Provider

- ☐ *Specific genetic test and purpose:* What genetic test(s) will be done? What is the purpose of doing the genetic test? Why is the genetic test recommended?
- ☐ *Test accuracy & limitations:* How accurate is the genetic test? What are the limitations of the genetic test? How well does the test diagnose or predict the medical condition? Does the laboratory where the test will be performed have the appropriate certification?
- ☐ *Benefits & risks:* What are the benefits and risks of being tested? Of not being tested?
- ☐ *Result interpretation:* What are the possible test outcomes and what will the results mean?
- ☐ *Communication of results:* When can I expect to receive my test results? How will results be communicated to me?
- ☐ *Medical care:* What are the signs and symptoms of this condition? Are there medical treatments or preventive options available for the condition? Would options change depending on the test results? What would my options be if I decide not to be tested?
- ☐ *Insurance issues:* What is the cost of the genetic test(s)? Will my insurance cover the cost? Will the results of genetic testing affect my insurance rates, coverage or my ability to obtain insurance?
- ☐ *Confidentiality of test results:* Who will have access to my test results? Will the results be kept confidential?
- ☐ *Family issues:* What will my test results mean for other family members? Should other family members consider genetic testing? What should I tell my family members?
- ☐ *Sample issues:* Will part of my sample be left over from the test and, if so, what will happen to it?

Genetic Testing—It Should Be Your Decision

This brochure has provided some basic information about genetic testing. We hope it will be helpful if you have to make decisions about genetic testing. Some people may decide to have a genetic test because they feel the information would be important for their healthcare and/or life decisions. Others may decide not to have a genetic test because they feel that the risks outweigh the benefits of having the information, they feel their decisions would be no different, or they prefer not to know. The decision to have a genetic test is yours to make. It's your genetic information, and it's your choice.

Dated: March 18, 2002.

Sarah Carr,

Executive Secretary, SACGT.

[FR Doc. 02–7056 Filed 3–22–02; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; Comment Request; Agricultural Health Study (A Prospective Cohort Study of Cancer and Other Diseases Among Men and Women in Agriculture)—Validation Sub-Study, on Rheumatoid Arthritis

SUMMARY: Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Cancer Institute (NCI), the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on Tuesday, October 23, 2001, pages 53618–53619 and allowed 60 days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Proposed Collection

Title: Agricultural Health Study (A Prospective Cohort Study of Cancer and Other Diseases Among Men and Women in Agriculture)—validation sub-study on Rheumatoid Arthritis.

Type of Information Collection Request: Revision of a currently approved collection (0925–0406, expiration 11/31/03).

Need and Use of Information Collection: The Agricultural Health Study is an ongoing prospective cohort study of 89,189 farmers, their spouses, and commercial applicators of pesticides from Iowa and North Carolina. The proposed collection of additional information is intended to assess the validity of self-reported Rheumatoid Arthritis (RA) in the Agricultural Health Study (AHS) within small subgroups of individuals. The collection is intended to identify confirmed cases of RA to include in etiologic analyses of farming exposures and RA; evaluate the efficacy of certain questions or sets of questions for screening out false-positives for self-reported RA and identify subgroups to target for future etiologic studies of RA, based on a relatively high prevalence of RA and the feasibility of disease confirmation.

Frequency of Response: Single time reporting.

Affected Public: Individuals or households, Farms.

Type of Respondents: Private pesticide applicators and their spouses. The annual reporting burden is as follows:

Estimated Number of Respondents: 11,373..

Estimated Number of Responses per Respondent: 2.2;

Average Burden Hours Per Response: 1.18.

Estimated Total Annual Burden Hours Requested: 13,433.

The annualized cost to respondents is estimated at: $138,045. There are no Capital Costs to report. There are no

Operating or Maintenance Costs to report.

Request for Comments

Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Direct Comments to OMB

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503, Attention: Desk Officer for NIH. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Michael C.R. Alavanja, Dr. P.H., Division of Epidemiology and Genetics, National Cancer Institute, Executive Plaza South, Suite 8000, 6120 Executive Boulevard, Rockville, MD 20852, or call non-toll free (301) 435–4720, or E-mail your request, including your address to: *alavanjam@mail.nih.gov*

Comments Due Date

Comments regarding this information collection are best assured of having their full effect if received within 30 days of the date of this publication.

Dated: March 15, 2002.

Reesa Nichols,

NCI Project Clearance Liaison.

[FR Doc. 02–7055 Filed 3–22–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Director's Council of Public Representatives.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Director's Council of Public Representatives.

Date: April 15, 2002.

Time: 8:30 a.m. to 4:30 p.m.

Agenda: Among the topics proposed for discussion are: (1) The NIH Response to COPR's October Report on Human Research Protections; (2) Health Disparities; and (3) Research in Environmental Health Sciences by Dr. Kenneth Olden, Director, NIEHS.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31, Conference Room 10, Bethesda, MD 20892.

Contact Person: Jennifer E. Gorman, NIH Public Liaison/COPR Coordinator, Office of Communications and Public Liaison, Office of the Director, National Institutes of Health 9000 Rockville Pike, Building 1, Room 344, Bethesda, MD 20892, (301) 435–4448, *gorman@od.nih.gov.*

In the interest of security. NIH has instituted stringent procedures for entrance into the building by non-government employees. Persons without a government I.D. will need to show a photo I.D. and sign-in at the security desk upon entering the building.

Information is also available on the Institute's/Center home page: *www.nih.gov/about/publicliaison/index.html,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program, National Institutes of Health, HHS)

Dated: March 14, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–7051 Filed 3–22–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel

Date: March 27, 2002.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: Pooks Hill Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: C Michael Kerwin, PhD, Scientific Review Administrator, Special Review and Resources Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 8039, Rockville, MD 20892–7405, 301–496–7421.

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. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: March 14, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–7050 Filed 3–22–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Research Resources; 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 Center for Research Resources Special Emphasis Panel Comparative Medicine.

Date: April 10, 2002.

Time: 1 p.m. to Adjournment.

Agenda: To review and evaluate grant applications.

Place: Office of Review, National Center for Research Resources, 6705 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Eric H. Brown, PhD, Scientific Review Administrator, Office of Review, National Center for Research Resources, National Institutes of Health, 6705 Rockledge Drive, MSC 7965, One Rockledge Centre, Room 6081, Bethesda, MD 20892–7965, 301–435–0815, *browne@ncrr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333; 93.371, Biomedical Technology; 93.389, Research Infrastructure, National Institutes of Health, HHS)

Dated: March 15, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–7052 Filed 3–22–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Infectious Agents in Vascular Disease Molecular Mechanism for HCMV Mediated Atherogenesis RFA–HL–02–002.

Date: June 17–18, 2002.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton, 8727 Colesville Road, Silver Spring, MD 20910.

Contact Person: Alessandra Bini, PhD, Scientific Review Administrator, Review Branch, Room 7204, Division of Extramural Affairs, National Heart, Lung, and Blood Institute, National Institutes of Health, 6701 Rockledge Drive, MSC 7924, Bethesda, MD 20892, 301–435–0299.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: March 14, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–7049 Filed 3–22–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; 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 Institute on Drug Abuse Special Emphasis Panel, Training and Career Development.

Date: March 25, 2002.

Time: 3:30 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: 6001 Executive Blvd., Bethesda, MD 20814, (Telephone Conference Call).

Contact Person: Mark Swieter, PhD, Health Scientist Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547. (301) 435–1389

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. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Award; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS)

Dated: March 18, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–7043 Filed 3–22–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; 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 Institute of Environmental Health Sciences Special Emphasis Panel, Review of Program Project Applications.

Date: April 1–3, 2002.

Time: 7 p.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: Rochester Crowne Plaza, 70 State Street, Rochester, NY 14614.

Contact Person: Ethel B. Jackson, DDS, Chief Scientific Review Branch, Office of Program Operations, Division of Extramural Research and Training, Nat. Institute of Environmental Health Sciences, P.O. Box 12233, MD EC–30, Research Triangle Park, NC 27709, 919/541–7846, *jackson4@niehs.nih.gov.*

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. 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences, National Institutes of Health, HHS)

Dated: March 14, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–7044 Filed 3–22–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; 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 Institute of Child Health and Human Development Special Emphasis Panel.

Date: March 22, 2002.

Time: 1 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: 6100 Executive Blvd., Room 5E01, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Anne Krey, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, National Institutes of Health, 6100 Executive Blvd., Rm. 5E03, Bethesda, MD 20892, 301–435–6908.

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. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: March 14, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–7045 Filed 3–22–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of 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 contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, ''Prevention of Group B Streptococcal (GBS) Disease''.

Date: April 2, 2002.

Time: 10 a.m. to 1 p.m.

Agenda: To review and evaluate contract proposals.

Place: 6700 B Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call)

Contact Person: Gerald L. McLaughlin, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2217, 6700–B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301–435–2766, *gm145a@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: March 14, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–7046 Filed 3–22–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of 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 meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel.

Date: April 1819, 2002.

Time: 10 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Four Points by Sheraton, 8400 Wisconsin Avenue, Ambassador II Room, Bethesda, MD 20814.

Contact Person: Robert C. Goldman, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2217, 6700–B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301–496–8424, *rg159w@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: March 14, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–7047 Filed 3–22–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Multicenter Clinical Trial of Crohn's Disease.

Date: April 12, 2002.

Time: 3 pm to 4:30 pm.

Agenda: To review and evaluate grant applications.

Place: Room 754, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892. (Telephone Conference Call)

Contact Person: Lakshmanan Sankaran, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, Room 754, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892–6600, (301) 594–7799.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel.

Date: May 7, 2002.

Time: 8 am to 5 pm.

Agenda: To review and evaluate grant applications.

Place: 2899 Jefferson Davis Highway, Arlington, VA 22202.

Contact Person: Maxine Lesniak, Scientific Review Administrator, Review Branch, DEA, NIDDK, Room 756, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892–6600, (301) 594–7792, *lesniakm@extra.niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: March 14, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–7048 Filed 3–22–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel.

Date: April 5, 2002.

Time: 12 p.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: 6000 Executive Blvd., Rm 409, Rockville, MD 20892. (Telephone Conference Call)

Contact Person: L. Tony Beck, PhD, Scientific Review Administrator, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Suite 409, 6000 Executive Blvd., MSC 7003, Bethesda, MD 20892–7003, 301–443–0913, *lbeck@mail.nih.gov.*

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel, Career Development Awards (K23) in Alcohol Research.

Date: April 13, 2002.

Time: 11 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Willco Building, Suite 409, 6000 Executive Boulevard, Rockville, MD 20892. (Telephone Conference Call)

Contact Person: Sean N. O'Rourke, Scientific Review Administrator, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Suite 409, 6000 Executive Boulevard, Bethesda, MD 20892–7003, 301–443–2861.

(Catalogue of Federal Domestic Assistance Program No. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93:272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs, 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: March 15, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–7053 Filed 3–22–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; 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 contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: April 8, 2002.

Time: 3:30 p.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892. (Telephone Conference Call)

Contact Person: Susan M. Matthews, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6134, MSC 9607, Bethesda, MD 20892–9607, 301–443–5047.

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. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: March 15, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–7054 Filed 3–22–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: The Use of Macrocyclic Lactones as Inhibitors of Vacuolar-Type ATPases for the Treatment of Cancer

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: This is notice, in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i), that the National Institutes of Health (NIH), Department of Health and Human Services, is contemplating the grant of an exclusive license to practice the invention embodied in: 60/122,953 filed 3/5/99 (Provisional I, DHHS ref. No. E–244–97/2); 60/169,564 filed 12/8/99 (Provisional II, DHHS ref. No. E–244–97/0) and PCT (PCT/US00/05582), filed 3/3/00 and claiming priority to both Provisionals I and II, ''Vacuolar-Type (H^+) ATPase Inhibiting Compounds, Compositions and Uses Thereof;'' and 60/053,784, filed 7/25/97 (DHHS Ref. No. E–244–97/1), converted into PCT/US98/15011 filed 7/23/98, ''Antitumor Macrocyclic Lactones, Compositions and Methods of Use'', to Attenuon, L.L.C., having a place of business in San Diego, CA. The aforementioned patent rights have been assigned to the United States of America.

DATES: Only written comments and/or application for a license which are received by the NIH Office of Technology Transfer on or before May 24, 2002, will be considered.

ADDRESSES: Requests for a copy of the patent application, inquiries, comments and other materials relating to the contemplated license should be directed to: Wendy R. Sanhai, Ph.D., Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; e-mail: *sanhaiw@od.nih.gov*; Telephone: (301) 496–7056, ext. 244; Facsimile: (301) 402–0220.

SUPPLEMENTARY INFORMATION: This invention describes a class of macrocyclic lactones (benzolactone enamides) derived from marine sponges, and which inhibit vacuolar-type (H^+) ATPases (V–ATPases). Selective inhibition of V–ATPases may represent an effective means of treating various disease states: Alzheimer's disease, glaucoma and osteoporosis and cancer (via affecting cellular proliferation, angiogenesis, tumor cell invasiveness, metastasis and drug resistance). The compounds have been shown to be active against a specific group of human tumors when tested in the NCI 60-cell line panel. The licensee of these inventions will be required to comport with all applicable federal and country-of-collection policies relating to biodiversity.

The field of use may be limited to the treatment of cancer, angiogenesis-dependent diseases and osteoporosis.

The prospective exclusive license will be royalty bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within 60 days from the date of this published Notice, NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Properly filed competing applications for a license filed in response to this notice will be treated as objections to the contemplated license. Comments and objections submitted in response to this notice will not be made available for public inspection, and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: March 14, 2002.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer.

[FR Doc. 02–7057 Filed 3–22–02; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (301) 443–7978.

Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: GPRA Client Outcomes for the Substance Abuse and Mental Health Services Administration (SAMHSA)—(OMB No. 0930–0208, Extension)

The mission of the Substance Abuse and Mental Health Services Administration (SAMHSA) is to improve the effectiveness and efficiency of substance abuse and mental health treatment and prevention services across the United States. All of SAMHSA's activities are designed to ultimately reduce the gap in the availability of substance abuse and mental health services and to improve their effectiveness and efficiency.

Data are collected from all SAMHSA knowledge development and application and targeted capacity expansion grants and contracts where client outcomes are to be assessed at intake and post-treatment. SAMHSA-funded projects are required to submit this data as a contingency for their award. The analysis of the data will also help determine whether the goal of reducing health and social costs of drug use to the public is being achieved.

The primary purpose of the proposed data collection activity is to meet the reporting requirements of the Government Performance and Results Act (GPRA) by allowing SAMHSA to quantify the effects and accomplishments of SAMHSA programs. In addition, the data will be useful in addressing goals and objectives outlined in ONDCP's *Performance Measures of Effectiveness.* Following is the estimated annual response burden for this effort.

Center	Number of clients	Responses/ client	Hours/ response	Annual burden hours
Center for Substance Abuse Treatment	3,750	3	.70	2,625

Center	Number of clients	Responses/ client	Hours/ response	Annual burden hours
Center for Substance Abuse Prevention	12,150	3	.63	7,654
Center for Mental Health Services	13,837	3	.25	3,459
Total				13,738

Send comments to Nancy Pearce, SAMHSA Reports Clearance Officer, Room 16–105, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: March 19, 2002.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 02–7064 Filed 3–22–02; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Request for Comments Regarding the Prevention, Identification, and Treatment of Co-occurring Disorders—Extension of Due Date

In compliance with section 503A of the Public Health Service Act (42 U.S.C. 290aa–2a), the Substance Abuse and Mental Health Services Administration (SAMHSA) is required to provide to the United States Congress a report on the prevention, identification, and treatment of co-occurring disorders. Public comment is solicited in order to aid in the development of this report. On March 6, 2002, SAMHSA published a notice requesting written input on this subject to be provided by March 27, 2002.

DATES: The new deadline for receipt of public comment has been extended until April 5, 2002.

ADDRESSES: All comments should be sent to James Winarski; Advocates for Human Potential; 323 Boston Post Road; Sudbury, MA 01776.

FOR FURTHER INFORMATION CONTACT: Eileen Elias, M.Ed., Special Expert, SAMHSA, 301–443–8742.

Dated: March 19, 2002.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 02–7030 Filed 3–22–02; 8:45 am]

BILLING CODE 4162–20–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4739–N–08]

Notice of Proposed Information Collection: Comment Request; Home Equity Conversion Mortgages (HECM): Consumer Protection Measures Against Excessive Fees

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: May 24, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., L'Enfant Plaza Building, Room 8001, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Vance T. Morris, Director, Office of Single Family Program Development, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 708–2121 (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Home Equity Conversion Mortgages (HECM): Consumer Protection Measures Against Excessive Fees.

OMB Control Number, if applicable: 2502–0534.

Description of the need for the information and proposed use: Events in the marketplace have given rise to vendors who prey on the elderly to use the HECM program as a vehicle for earning excessive fees for services which are of little or no value, or which can be obtained free of charge (or at minimal cost) from other sources—including HUD-approved Housing Counseling Agencies. The information is needed to assure that the homeowner is not obtaining a HECM mortgage under an obligation to pay excessive fees for services.

Agency form numbers, if applicable: None.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: An estimation of the total numbers of hours needed to prepare the information collection is 6,800, the number of respondents is 8,000 generating 32,000 responses annually, the frequency of response is once per mortgagor, and the hours per response is .25 hours.

Status of the proposed information collection: Extension of a currently approved collection.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: March 17, 2002.

John Weicher,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 02–7126 Filed 3–22–02; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4739–N–07]

Notice of Proposed Information Collection: Comment Request; Statement of Taxes

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting comments on the subject proposal.

DATES: May 24, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to Wayne Eddins, Reports Management Office, Department of Housing and Urban Development, 451 7th Street, SW., L'Enfant Plaza Building, Room 8003, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Betty A. Belin, Systems Accountant, Office of Financial Services, 451 7th Street, SW., Washington, DC 20410, telephone (202) 401–2168, extension 2807, (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Statement of Taxes.

OMB Control Number: 2505–0418.

Description of the need for the information and proposed use: When a lender with an insured multifamily mortgage assigns a mortgage or conveys a property to HUD, the lender is required to submit all records and accounts relative to the mortgage to HUD. These provisions are spelled out in Statute 12 U.S.C. 1713(g); Title II, section 207(g) of the National Housing Act; and 24 CFR 207.258(b)(4). Included in the records is the Statement of Taxes. From this Statement, HUD updates its records of the mortgagor's real estate taxes, the location (lot and block numbers) of the property, taxes due dates, and penalty dates. During the claim audit for insurance benefits, this form is used to verify the last taxes paid.

Agency form number: HUD–434.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The estimated number of respondents is 215, frequency of response is once per claim, the burden per response is estimated to be .50 hours, and the total estimated annual burden hours requested is 107.

Status of the proposed information collection: Extension of a currently approved collection.

Authority: The paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: March 19, 2002.

John C. Weicher,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 02–7127 Filed 3–22–02; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4743–N–03]

Notice of Planned Closing of Topeka, Kansas Post-of-Duty Station

AGENCY: Office of Inspector General, HUD.

ACTION: Notice of planned closing of Topeka, Kansas post-of-duty station.

SUMMARY: This notice advises the public that the HUD Office of Inspector General (OIG) is closing its Topeka, Kansas post-of-duty station, and also provides a cost-benefit analysis of the impact of the closure.

FOR FURTHER INFORMATION CONTACT: Bryan Saddler, Counsel to the Inspector General, Room 8260, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, (202) 708–1613. (This is not a toll free number.) A telecommunications device for hearing- and speech-impaired persons (TTY) is available at 1–800–877–8339 (Federal Information Relay Services). (This is a toll-free number.)

SUPPLEMENTARY INFORMATION:

Background

In 1998, HUD/OIG established a one-person post-of-duty station in Topeka, Kansas, to give direct support to the HUD/OIG's Operation Safe Home (OSH) initiative to combat violent and drug-related crime in public and assisted housing in Topeka and nearby communities. Although the Topeka post-of-duty station is only about 50 miles from HUD/OIG's Kansas City Regional Office, nationwide experience since the initiation of OSH in 1994 had proven that the best results/impact could be obtained when HUD/OIG Special Agents were physically located in the target city. However, in accordance with the requirements of the Fiscal Year 2002 HUD Appropriations Act (Pubic Law 107–73, approved November 26, 2001), HUD/OIG is terminating OSH and re-deploying staff to focus on investigations involving single-family fraud and property flipping. This change eliminates the need to maintain a separate post-of-duty station in Topeka, Kansas, and gives HUD/OIG the opportunity to generate cost savings associated with discontinuing an additional office.

Section 7(p) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(p)) provides that a plan for field reorganization, which may involve the closing of any field or regional office, of the Department of Housing and Urban Development may not take effect until 90 days after a cost-benefit analysis of the effect of the plan on the office in question is published in the **Federal Register**. The required cost-benefit analysis should include: (1) An estimate of cost savings anticipated; (2) an estimate of the additional cost which will result from the reorganization; (3) a discussion of the impact on the local economy; and (4) an estimate of the effect of the reorganization on the availability, accessibility, and quality of services provided for recipients of those services.

Legislative history pertaining to section 7(p) indicates that not all reorganizations are subject to the requirements of section 7(p). Congress stated that ''[t]his amendment is not intended to [apply] to or restrict the internal operations or organization of the Department (such as the

establishment of new or combination of existing organization units within a field office, the duty stationing of employees in various locations to provide on-site service, or the establishment or closing, based on workload, of small, informal offices such as valuation stations).'' (*See* House Conference Report No. 95–1792, October 14, 1978 at 105–106.)

The two-person duty station in Topeka, Kansas, is a single-purpose duty station, and the duty station is being closed based on workload rather than on a reorganization of HUD/OIG field offices. Although notice of the closing of a duty station is not subject to the requirement of section 7(p), as supported by legislative history, HUD/OIG nevertheless prepared a cost-benefit analysis for its own use in determining whether to proceed with the closing. Through this notice, HUD/OIG advises the public of the closing of the Topeka, Kansas duty station and provides the cost-benefit analysis of the impact of the closure.

Impact of the Closure of the Topeka, Kansas Post-of-Duty Station

HUD/OIG considered the costs and benefits of closing the Topeka, Kansas post-of-duty, and is publishing its cost-benefit analysis with this notice. In summary, HUD/OIG has determined that the closure will result in a cost savings, and, as a result of the size and limited function of the office, will cause no appreciable impact on the provision of authorized investigative services/activities in the area (*i.e.*, OSH activities, of course, will be impacted, but HUD/OIG has been directed to terminate these activities).

Cost-Benefit Analysis

A. *Cost Savings:* The Topeka, Kansas post-of-duty currently costs $21,415 per year in lease and other expenses. Thus, closing the post-of-duty will result in an annual savings of at least $21,415. In addition, by closing the office HUD/OIG will not be required to incur additional costs associated with current plans to install high-speed computer access lines to and on the premises, nor will HUD/OIG incur costs associated with the lease or purchase of duplicative office equipment.

B. *Additional Costs:* There are no offsetting expenses anticipated. The Special Agent assigned to the Topeka, Kansas post-of-duty will be reassigned to the Kansas City Regional Office, without need for relocation reimbursement. Further, there is adequate existing office space to accommodate the Special Agent within the Kansas City Regional Office.

C. *Impact on Local Economy:* The Topeka, Kansas post-of-duty office space comprises a mere 1,162 square feet of space, which can easily be released to other tenants. Thus, no appreciable impact on the local economy is anticipated.

D. *Effect on Availability, Accessibility and Quality of Services Provided to Recipients of Those Services:* The establishment of the Topeka, Kansas post-of-duty was based entirely on the needs of the HUD/OIG to have a Special Agent in closer proximity to OSH activities conducted in the Topeka area. These activities are being terminated. Further, as was the case prior to 1998, fraud investigations in the Topeka area can be cost effectively addressed by agents assigned to the Kansas City Regional Office, which is about 50 miles away.

For the reasons stated in this notice, HUD/OIG intends to proceed to close its Topeka, Kansas post-of-duty station at the expiration of the 90-day period from the date of publication of this notice.

Dated: March 15, 2002.

Michael P. Stephens,

Deputy Inspector General.

[FR Doc. 02–7125 Filed 3–22–02; 8:45 am]

BILLING CODE 4210–78–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of a Permit Application (Rockledge) for Incidental Take of the Golden-Cheeked Warbler

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: Rockledge, Inc. (Applicant) has applied for an incidental take permit (TE–051567–0) pursuant to section 10(a) of the Endangered Species Act (Act). The requested permit would authorize the incidental take of the endangered golden-cheeked warbler. The proposed take would occur as the result of the construction and occupation of a low-density residential development of 35 to 40 homesites on 53.5 acres of the 193.0-acre Russell Park Estates, Williamson County, Texas.

DATES: Written comments on the application should be received within 60 days of the date of this publication.

ADDRESSES: Persons wishing to review the application may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Room 4102, Albuquerque, New Mexico 87103. Persons wishing to review the EA/HCP may obtain a copy by contacting Scott Rowin, U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, Texas 78758 (512/490–0057). Documents will be available for public inspection by written request, by appointment only, during normal business hours (8 am to 4:30 pm) at the U.S. Fish and Wildlife Service, Austin, Texas. Written data or comments concerning the application and EA/HCP should be submitted to the Supervisor, U.S. Fish and Wildlife Service, Austin, Texas, at the above address. Please refer to permit number TE–051537–0 when submitting comments.

FOR FURTHER INFORMATION CONTACT: Scott Rowin, U.S. Fish and Wildlife Service, Austin Office, (512) 490–0057.

SUPPLEMENTARY INFORMATION: Section 9 of the Act prohibits the ''taking'' of endangered species such as the golden-cheeked warbler. However, the Fish and Wildlife Service (Service), under limited circumstances, may issue permits to take endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

The Service has prepared the Environmental Assessment/Habitat Conservation Plan (EA/HCP) for the incidental take application. A determination of jeopardy to the species or a Finding of No Significant Impact (FONSI) will not be made until at least 60 days from the date of publication of this notice. This notice is provided pursuant to Section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

Applicants: Rockledge, Inc. plans to construct a low-density residential development of 35 to 40 homesites, within 30 years, on approximately 53.5 acres of the 193.0-acre Russell Park Estates, located approximately 0.25 miles south of the intersection of County Road 262 and Farm to Market 3405, Williamson County, Texas. This action will eliminate up to 53.5 acres of golden-cheeked warbler habitat. In addition, the vulnerability of another approximately 34.4 acres of warbler habitat may be reduced as a result of indirect effects associated with the development. The Applicant has made every effort to minimize and/or avoid impacts to the Bone Cave harvestman and believes the proposed action will not impact the harvestman. No take for this species is being requested or would be granted by issuance of this permit. The Applicant proposes to compensate for this incidental take of the golden-cheeked warbler by preserving

approximately 139.4 acres of the highest quality warbler habitat onsite. This preserve land is adjacent to property owned by the U.S. Army Corps of Engineers.

Bryan Arroyo,

Acting Regional Director, Region 2.

[FR Doc. 02–7014 Filed 3–22–02; 8:45 am]

BILLING CODE 4510–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Bureau of Reclamation

Trinity River Mainstem Fishery Restoration Program

AGENCY: Fish and Wildlife Service and Bureau of Reclamation, Interior.

ACTION: Notice of intent to prepare a Supplemental Environmental Impact Statement/Supplemental Draft Environmental Impact Report (SEIS/SDEIR).

SUMMARY: The Fish and Wildlife Service (FWS) and the Bureau of Reclamation (Reclamation), along with the Hoopa Valley Tribe and Trinity County, California are preparing a Supplemental Environmental Impact Statement/Supplemental Draft Environmental Impact Report for the Trinity River Mainstem Fishery Restoration Program (Program). The purpose of the SEIS/SDEIR is to analyze the effects of two biological opinions associated with the Program issued on October 12, 2000, one by the FWS and the other by the National Marine Fisheries Service of the Department of Commerce (NMFS), on Central Valley Project (CVP) operations and the effects of the Program on energy generation within the context of the state of deregulation and supply uncertainty for electricity within California.

A final environmental impact statement (EIS) on the Program was issued in November, 2000, and a Record of Decision (ROD) executed on December 19, 2000. Central Valley water and power interests filed suit seeking to enjoin implementation of the ROD. On March 22, 2001, the court issued a Memorandum Decision and Order enjoining the federal defendants from implementing any of the flow related aspects of the ROD. *Westlands Water District* v. *United States Department of the Interior*, CIV–F–00–7124–OWW/DLB (E.D. Calif., filed May 3, 2001). In its Memorandum Decision and Order the court found that the effects of reasonable and prudent measures in the two biological opinions as well as the effects on power in light of the California energy crisis, were not adequately analyzed in the EIS. The federal agencies are now seeking to address these issues in a SEIS and are soliciting public input and comment on this process.

The overall objective of the Program is to meet Federal trust responsibilities for tribal fishery resources and restore the fisheries in the Trinity River basin to the level that existed prior to the construction of the Trinity River Division (TRD) of the CVP. These actions are authorized by the Act of August 12, 1955, 69 Stat. 719; the Trinity River Basin Fish and Wildlife Management Act, Public Law 98–541 (1984), as amended, and the Central Valley Project Improvement Act, Public Law 102–575, Title XXXIV (1992) (CVPIA). The FWS and Reclamation are the federal co-leads for purposes of complying with National Environmental Policy Act (NEPA); along with Hoopa Valley Tribe, which is also acting in a co-lead agency role. Trinity County functions as the state lead agency for purposes of complying with the California Environmental Quality Act (CEQA).

The purpose for the October 2000 EIS/EIR is as follows: to restore and maintain the natural production of anadromous fish on the Trinity River mainstem downstream of Lewiston Dam. The purpose of the SEIS/SEIR will be the same.

DATES: A scoping meeting will be held on Thursday, May 9, 2002, from 1:30 to 4:30 p.m. in Redding, California, to solicit public input on alternatives, concerns, and issues to be addressed in the SEIS/SDEIR.

Written comments on the scope of the SEIS/SDEIR may be mailed to Reclamation at the address below by May 23, 2002. Comments received after this date will be considered but may not be included in the resulting SEIS/SDEIR scoping report.

ADDRESSES: The scoping meeting will be held at the Holiday Inn, 1900 Hilltop Drive, Redding, CA 96002.

Written comments on the scope of the SEIS/SDEIR should be sent to Mr. Russell Smith, Bureau of Reclamation, Shasta Dam Office, 16349 Shasta Dam Boulevard, Shasta Lake CA 96019; telephone: (530) 275–1554; fax (530) 275–2441.

FOR FURTHER INFORMATION CONTACT: Mr. Russell Smith at the above address or by telephone at (530) 275–1554.

SUPPLEMENTARY INFORMATION: In 1983 an EIS on the Trinity River Basin Fish and Wildlife Management Program was prepared by the FWS (U.S. Fish and Wildlife Service, 1983). The environmental document analyzed habitat restoration actions, watershed rehabilitation, and improvements to the Trinity River Salmon and Steelhead Hatchery (TRSSH). The EIS clarified that the hatchery's purpose was to mitigate for the loss of the 109 miles of habitat upstream of Lewiston Dam; whereas, the restoration and rehabilitation projects were explicitly designed to increase natural fish production below the dam.

In 1984, the Trinity River Basin Fish and Wildlife Management Act (Public Law 98–541) was enacted. It formalized the existence of the Trinity River Basin Fish and Wildlife Task Force (Task Force), and directed the Secretary of the Interior (Secretary) to implement measures to restore fish and wildlife habitat in the Trinity River. The Task Force was directed at implementation of a fish and wildlife management program ''to restore natural fish and wildlife populations to levels approximating those which existed immediately prior to the construction of the Trinity Division.'' In 1996 Congress re-authorized and amended the original Trinity River Basin Fish and Wildlife Management Act (Public Law 104–143). The 1996 amendments clarified that ''restoration is to be measured not only by returning adult anadromous fish spawners, but by the ability of dependent tribal, commercial, and sport fisheries to participate fully, through enhanced in-river and ocean harvest opportunities, in the benefits of restoration * * * ''.

In 1992 Congress passed the CVPIA (Public Law 102–575, Title XXXIV) in order to protect, restore, and enhance fish, wildlife, and associated habitats in the Central Valley, including the Trinity River Basin. Specifically, the CVPIA provides at section 3406(b)(23) that ''[i]n order to meet Federal trust responsibilities to protect the fishery resources of the Hoopa Valley Tribe and meet the fishery restoration goals' of Public Law 98–541, the Secretary is directed to complete the Trinity River Flow Evaluation Study (TRFES) and to develop recommendations ''based on the best available scientific data, regarding permanent instream fishery flow requirements and TRD operating criteria and procedures for the restoration and maintenance of the Trinity River fishery.'' The CVPIA also specifically provided for the Secretary to consult with the Hoopa Valley Tribe on the TRFES and, upon the Tribe's concurrence, to implement the restoration recommendations accordingly.

A joint EIS/EIR, for the Trinity River Mainstem Fishery Restoration Program (TRMFRP) was prepared by the FWS, Reclamation, Trinity County, and the Hoopa Valley Tribe, and was completed in October, 2000. A ROD selecting the alternative to be implemented for the TRMFRP, was signed by the Secretary, with the concurrence of the Hoopa Valley Tribe, pursuant to section 3406(b)(23) of the CVPIA, and issued in December 2000. However, the EIR was not certified by Trinity County and it is not a finalized document under CEQA.

Subsequent to execution of the ROD, water and power interests in the Central Valley of California amended a previously filed lawsuit against the federal agencies materially involved in either the decision making process for the ROD or the associated Endangered Species Act approvals for the TRMFRP (Reclamation, FWS, and NMFS), in federal district court. Plaintiffs sought, and were granted a preliminary injunction for implementation of the flow related aspects of the ROD. The terms of the injunction limit the increase in flows in the Trinity River which may be implemented in the ROD, but allow the Secretary to proceed with all other activities approved by the ROD. *Westlands Water District* v. *United States Department of the Interior*, CIV-F–00–7124–OWW/DLB (E.D. Calif., filed May 3, 2001). Subsequently, the plaintiff and plaintiff-intervenors and federal defendants, but not defendant-intervenors Hoopa Valley and Yurok Tribes, jointly agreed to stay the case, pending the development of a supplemental NEPA document that would address the issues identified by the *Westlands* court as requiring further analysis; including the effect that the change in operations of the TRD would have within the context of deregulation of electrical utilities in California and the effects that compliance with the biological opinions issued by the FWS and NMFS would have upon CVP operations.

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: March 19, 2002.

Frank Michny,

Regional Environmental Officer, Mid-Pacific Region, Bureau of Reclamation.

Dated: March 19, 2002.

Mary Ellen Mueller,

Fisheries Supervisor, California and Nevada Operations Office, Fish and Wildlife Service.

[FR Doc. 02–7066 Filed 3–22–02; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–067–02–1610–JP–064B]

Notice of Intent To Prepare an Amendment to the California Desert Conservation Area Plan

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to prepare an amendment to the California Desert Conservation Area (CDCA) Plan and Environmental Assessment (EA) in the Western Colorado section of Imperial County, CA.

SUMMARY: Pursuant to 43 CFR 1610.2(c), notice is hereby given that the Bureau of Land Management proposes to amend the CDCA Plan, as amended in 1980. The proposed amendment will establish or revise designations of areas and trails for off-road vehicles in accordance with 43 CFR part 8342. The proposals will pertain to public lands addressed by the California Desert Conservation Area Plan in Imperial County that lie west of the Southern Pacific Railroad and the Chocolate Mountain Gunnery Range (excluding the Imperial Sand Dunes) and the western boundary of the CDCA in San Diego County, California. The proposed plan amendment will include an EA in accordance with the National Environmental Policy Act and CFR 1610.5–5.

DATES: The public is invited to submit comments on the scope of the plan amendment and EA. Written comments will be accepted until May 17, 2002. Two (2) public meetings California area. The times and places for meetings will be published in the Imperial Valley Press and the Yuma Daily Sun.

ADDRESSES: Comments should be sent to Greg Thomsen, Field Manager, Bureau of Land Management, El Centro Field Office, 1661 South 4th Street, El Centro, CA 92243–4561. Comments, including names and addresses of respondents, will be available for public review at the El Centro Field Office during normal working hours (7:45 AM to 4:30 PM, except holidays), and may be published as part of the EA or other related documents. Individuals may request confidentiality. If you wish to withhold your name or address from public review or from disclosure under the Freedom of Information Act, you must state this promptly at the beginning of your comment. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses will be made available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Arnold F. Schoeck, Lead Outdoor Recreation Planner, at the above address, telephone number (760) 337–4441, or e-mail at Arnold_Schoeck.ca.blm.gov.

SUPPLEMENTARY INFORMATION: Public input from previous public meetings and written comments in response to previous designations efforts will be used to define issues. Preliminary issues identified include: providing for off-highway vehicle use; providing adequate vehicle access for other casual uses; visitor safety; providing protection for Peninsular Bighorn Sheep and Flat-tailed Horned Lizards; and homeland defense (*i.e.*, US-Mexican Border issues).

Planning criteria will include honoring valid existing rights. The CDCA amendment will be consistent with officially approved resource related plans, policies and programs of other Federal agencies, State and local governments, and Indian Tribes. The proposed route of travel designation changes to the CDCA Plan requires a formal plan amendment before the designation changes can be implemented. The amendment process and ORV trail designations shall be conducted in compliance with the Federal Land Policy Management Act of 1976 (FLPMA), planning regulations (43 CFR part 1600), ORV trail designation regulations (43 CFR part 8340), BLM manual guidance, and all applicable Federal laws affecting BLM land use decisions and ORV designations. The planning process shall include an EA with a biological evaluation prepared in compliance with the National Environmental Policy Act of 1969 (NEPA), the President's Council of Environmental Quality (CEQ) regulations (40 CFR part 1500), and Bureau guidance.

The Bureau intends to rely largely on existing route inventory data, information obtained from coordination with other federal, state, and local

agencies, and consultation with Indian tribes, and public comments.

Three alternatives are anticipated to be: (1) A No Action Alternative that will maintain the existing designations. (2) The Updated Designation Alternative that will propose the designation changes identified in the previous update effort (1997). (3) A Protection Alternative that will propose additional seasonal closures and route closures in addition to changes in the Updated Designation Alternative.

Dated: March 15, 2002.

Greg Thomsen,

Field Manager.

[FR Doc. 02–7237 Filed 3–22–02; 8:45 am]

BILLING CODE 1610–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–958–1430–ET; GPO–0; OR–55334]

Public Land Order No. 7519; Withdrawal of National Forest System Land To Protect the White King/Lucky Lass Mine Reclamation Project Area; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws 40 acres of National Forest System land from location and entry under the United States mining laws until August 8, 2013, to protect the White King/Lucky Lass Mine reclamation project area. The land has been and will remain open to such forms of disposition as may by law be made of National Forest System land and to mineral leasing.

EFFECTIVE DATE: March 25, 2002.

FOR FURTHER INFORMATION CONTACT: Richard A. Woodward, Fremont National Forest, HC 10 Box 337, Lakeview, Oregon 97630, 541–947–2151.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. Subject to valid existing rights, the following described National Forest System land is hereby withdrawn from location or entry under the United States mining laws (30 U.S.C. Ch. 2 (1994)), to protect reclamation work on the White King/Lucky Lass Mine area:

Willamette Meridian

Fremont National Forest
T. 37 S., R. 19 E.,
Sec. 30, NW¼NE¼.

The area described contains 40.00 acres in Lake County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of National Forest System land under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal will expire on August 8, 2013, unless, as a result of a review conducted before the expiration date pursuant to section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1994), the Secretary determines that the withdrawal shall be extended.

Dated: March 13, 2002.

Rebecca W. Watson,

Assistant Secretary.

[FR Doc. 02–7061 Filed 3–22–02; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

National Park Service

Cape Cod National Seashore, South Wellfleet, MA; Cape Cod National Seashore Advisory Committee Two Hundred Thirty Seventh Meeting; Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770, 5 U.S.C. App 1, section 10), that a meeting of the Cape Cod National Seashore Advisory Commission will be held on Friday, April 26, 2002.

The Commission was reestablished pursuant to Public Law 87–126 as amended by Public Law 105–280. The purpose of the Commission is to consult with the Secretary of the Interior, or his designee, with respect to matters relating to the development of Cape Cod National Seashore, and with respect to carrying out the provisions of sections 4 and 5 of the Act establishing the Seashore.

The Commission members will meet at 1 p.m. at Headquarters, Marconi Station, Wellfleet, Massachusetts for the regular business meeting to discuss the following:

1. Adoption of Agenda
2. Approval of minutes of previous meeting (February 1, 2002)
3. Reports of Officers
4. Reports of Subcommittees
   Dune Shacks
   Nickerson Fellowship
5. Superintendent's Report
   News from Washington
   PWC Update
   Zoning Standards
   Highlands Center
   Doane Road Environmental Assessment Public Comment
6. Old Business
   Pheasant Hunting
7. New Business
8. Date and agenda for next meeting
9. Public comment and
10. Adjournment

The meeting is open to the public. It is expected that 15 persons will be able to attend the meeting in addition to Commission members.

Interested persons may make oral/written presentations to the Commission during the business meeting or file written statements. Such requests should be made to the park superintendent at least seven days prior to the meeting. Further information concerning the meeting may be obtained from the Superintendent, Cape Cod National Seashore, 99 Marconi Site Road, Wellfleet, MA 02667.

Dated: February 11, 2002.

Maria Burks,

Superintendent.

[FR Doc. 02–7003 Filed 3–22–02; 8:45 am]

BILLING CODE 4310–70–M

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 American Museum of Natural History, New York, NY

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 American Museum of Natural History, New York, NY.

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 American

Museum of Natural History professional staff in consultation with representatives of the Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; and Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah.

In 1921, human remains representing a minimum of one individual were collected by Charles L. Bernheimer and Earl Morris from the vicinity of Long Hollow, La Plata River, La Plata County, CO, during an expedition sponsored by the American Museum of Natural History. No known individual was identified. No associated funerary objects are present.

This individual has been identified as Native American based on the American Museum of Natural History's documentation, which refers to these remains as ''Ute.'' These human remains originate from an area utilized by Ute bands during the postcontact period.

Based on the above-mentioned information, officials of the American Museum of Natural History have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of a minimum of one individual of Native American ancestry. Officials of the American Museum of Natural History 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 Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; and Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah.

This notice has been sent to officials of the Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; and Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains should contact Elaine Guthrie, Acting Director of Cultural Resources, American Museum of Natural History, Central Park West at 79th Street, New York, NY 10024-5192, telephone (212) 769-5835, before April 24 2002. Repatriation of the human remains to the Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; and Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah may begin after that date if no additional claimants come forward.

Dated: February 5, 2002.

Robert Stearns,

Manager, National NAGPRA Program.

[FR Doc. 02–7008 Filed 3–22–02; 8:45 am]

BILLING CODE 4310–70–S

DEPARTMENT OF THE INTERIOR

National Park Service

CORRECTION—Notice of Inventory Completion for Native American Human Remains in the Control of the Arizona State Office, Bureau of Land Management, Phoenix, 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 Arizona State Office, Bureau of Land Management, Phoenix, 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 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.

This notice corrects the list of culturally affiliated groups cited in the Notice of Inventory Completion published July 21, 2000. The list of culturally affiliated groups for four of the sites listed in the original notice is corrected by adding the following group: Hopi Tribe of Arizona. These four sites are AZ T:13:9(ASM), AZ EE:1:154(ASM), AZ EE:1:155(ASM), and AZ EE:1:9:107(ASM).

Paragraphs 21 and 22 of the July 21, 2000, notice are corrected by substituting the following paragraphs:

Continuities of ethnographic materials, technology, and architecture indicate affiliation of sites AZ T:13:9(ASM), AZ EE:1:154(ASM) and AZ EE:1:155(ASM) with present-day Piman and O'odham cultures, and the **Hopi Tribe of Arizona**. Oral traditions presented by representatives of the Ak-Chin Indian Community of the Maricopa (Ak-Chin) Indian Reservation, Arizona; the Gila River Indian Community of the Gila River Indian Reservation, Arizona; **Hopi Tribe of Arizona**; the Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; the Tohono O'odham Nation of Arizona support affiliation with Hohokam sites in southern Arizona.

Based on the above-mentioned information, officials of the Bureau of Land Management have 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. Officials of the Bureau of Land Management have also determined that, pursuant to 43 CFR 10.2 (d)(2), the 32 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 the death rite or ceremony. Lastly, officials of the Bureau of Land Management 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 associated funerary objects and the Ak-Chin Indian Community of the Maricopa (Ak-Chin) Indian Reservation, Arizona; the Gila River Indian Community of the Gila River Indian Reservation, Arizona; **Hopi Tribe of Arizona**; the Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; and the Tohono O'odham Nation of Arizona.

Paragraphs 29, 30, 31, 32, 33 and 34 of the July 21, 2000, notice are corrected by substituting the following eight paragraphs for this section of the published notice. For clarity, paragraphs 29, 30 and 31, 32 are republished unchanged, although their positions in the notice are altered. The cultural affiliation for site AZ EE:4:9 (BLM) has not changed.

In 1987, human remains representing three individuals were recovered during legally authorized salvage excavations of site AZ EE:9:107(ASM) in Nogales, AZ. No known individuals were identified. No associated funerary object are present.

Based on ceramics and architecture, site AZ EE:9:107(ASM) was identified as a Hohokam village dating to A.D. 700-1200.

Continuities of ethnographic materials, technology, and architecture indicate affiliation of site AZ EE:9:107(ASM) with present-day Piman and O'odham cultures **and the Hopi Tribe of Arizona**. Oral traditions presented by representatives of the Ak-Chin Indian Community of the Maricopa (Ak-Chin) Indian Reservation, Arizona; the Gila River Indian Community of the Gila River Indian

Reservation, Arizona; **the Hopi Tribe of Arizona**; the Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; and the Tohono O'odham Nation of Arizona support affiliation with Hohokam sites in southern Arizona.

Based on the above-mentioned information, officials of the Bureau of Land Management have determined that, pursuant to 43 CFR 10.2(d)(1), the human remains listed above represent the physical remains of **three** individuals of Native American ancestry. Officials of the Bureau of Land Management 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 Ak-Chin Indian Community of the Maricopa (Ak-Chin) Indian Reservation, Arizona; the Gila River Indian Community of the Gila River Indian Reservation, Arizona; **the Hopi Tribe of Arizona**; the Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; and the Tohono O'odham Nation of Arizona.

In 1988, human remains representing two individuals were recovered during legally authorized salvage excavations of site AZ EE:4:9(BLM) along the San Pedro River near Fairbank, AZ. No known individuals were identified. No associated funerary objects are present.

Based on artifacts and site organization, site AZ EE:4:9(BLM) was identified as Sobaipuri.

Continuities of ethnographic materials, technology, and architecture indicate affiliation of site AZ EE:4:9(BLM) with present-day Piman and O'odham cultures. Oral traditions presented by representatives of the Ak-Chin Indian Community of the Maricopa (Ak-Chin) Indian Reservation, Arizona; the Gila River Indian Community of the Gila River Indian Reservation, Arizona; the Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; and the Tohono O'odham Nation of Arizona support affiliation with Sobaipuri sites in southern Arizona.

Based on the above-mentioned information, officials of the Bureau of Land Management have determined that, pursuant to 43 CFR 10.2(d)(1), the human remains listed above represent the physical remains of **two** individuals of Native American ancestry. Officials of the Bureau of Land Management 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 Ak-Chin Indian Community of the Maricopa (Ak-Chin) Indian Reservation, Arizona; the Gila River Indian Community of the Gila River Indian Reservation, Arizona; the Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; and the Tohono O'odham Nation of Arizona.

This notice has been sent to officials of the Hopi Tribe of Arizona; the Zuni Tribe of the Zuni Reservation, New Mexico; the Navajo Nation, Arizona, New Mexico and Utah; the Yavapai-Prescott Tribe of the Yavapai Reservation, Arizona; the Kaibab Band of Paiute Indians of the Kaibab Indian Reservation, Arizona; the Ak-Chin Indian Community of the Maricopa (Ak-Chin) Indian Reservation, Arizona; the Gila River Indian Community of the Gila River Indian Reservation, Arizona; the Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; the Tohono O'odham Nation of Arizona; the Fort Mohave Indian Tribe of Arizona, California and Nevada; and the Colorado River Indian Tribes of the Colorado River Indian Reservation, Arizona and California. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Gary Stumpf, Bureau of Land Management, Arizona State Office, 222 N. Central Avenue, Phoenix, AZ 85004, telephone (602) 417-9509, before April 24, 2002. Repatriation of the human remains and associated funerary objects to the respective culturally affiliated Indian tribes may begin after that date if no additional claimants come forward.

Dated: February 8, 2002.

Robert Stearns,

Manager, National NAGPRA Program.

[FR Doc. 02–7011 Filed 3–22–02; 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 Louisiana Department of Culture, Recreation, and Tourism, Division of Archaeology, Baton Rouge, LA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given under the Native American Graves Protection and Repatriation Act, 43 CFR 10.10 (a)(3), of the intent to repatriate cultural items in the possession of the Louisiana State Division of Archaeology, Baton Rouge, LA, that meet the definition of ''unassociated funerary object'' under Section 2 of the Act.

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 cultural items. The National Park Service is not responsible for the determinations within this notice.

The 49 cultural items are complete pottery vessels.

At an unknown date prior to 1985, Roy Pohler purchased these vessels from unknown sources. Museum records indicate that 36 pots were removed from locations in Clark County, AR; 5 pots were removed from the Bowman site, on the Little River, Clark County, AR; 2 pots were removed from Murfreesboro, Pike County, AR; 2 pots were removed from Pike County, AR; 1 pot was removed from Broken Bow, McCurtain County, OK; and 3 pots have no provenience. In 1985, Mr. Pohler donated the pottery vessels to the Louisiana Department of Culture, Recreation, and Tourism, Division of Archaeology.

Consultations with representatives of the Caddo Indian Tribe of Oklahoma and professional staff at the Louisiana Division of Archaeology and Louisiana State University indicate that, based on stylistic attributes, the ceramic vessels are culturally affiliated with the archaeological Caddo culture. The vessels date to the 16th century. The present day descendants of the Caddo people in Arkansas are the Caddo Indian Tribe of Oklahoma.

Because the Caddo are known to have buried their dead along with whole vessels, these pots are considered to be unassociated funerary objects. Based on the above-mentioned information, officials of Louisiana Division of Archaeology have determined that, pursuant to 43 CFR 10.2 (d)(2)(ii), these cultural items are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual. Officials of the Louisiana Division of Archaeology 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 unassociated funerary objects and the Caddo Indian Tribe of Oklahoma.

This notice has been sent to officials of the Caddo Indian Tribe of Oklahoma. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these unassociated funerary objects should contact Dr. Thomas Eubanks, State Archaeologist, Louisiana State Division of Archaeology, 1051 North 3rd Street Room 405, Baton Rouge, LA, telephone (225) 342-8170, before April 24, 2002. Repatriation of these unassociated funerary objects to the Caddo Indian Tribe of Oklahoma may begin after that date if no additional claimants come forward.

Dated: February 6, 2002.

Robert Stearns,

Manager, National NAGPRA Program.

[FR Doc. 02–7009 Filed 3–22–02; 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 Milwaukee Public Museum, Milwaukee, WI

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 Milwaukee Public Museum, Milwaukee, WI.

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 Milwaukee Public Museum professional staff and contract specialists in physical anthropology in consultation with representatives of the Zuni Tribe of the Zuni Reservation, New Mexico, and the Hopi Tribe of Arizona.

At an unknown date, human remains representing one individual were removed from a grave in an unknown location near Frisco, Catron County, NM, by an unknown person. These human remains were donated to the Milwaukee Public Museum by Mary E. Stewart in 1899. Ms. Stewart also donated human hair, believed to be from the same individual, to the Milwaukee Public Museum in 1901. No known individual was identified. No associated funerary objects are present.

While the exact age of the remains cannot be determined from existing evidence, cranial deformation associated with the use of hard cradleboards was noted and suggests a post-AD 700 date.

Based on cranial morphology and dental traits, these human remains are identified as Native American. Consultation evidence provided by representatives of the Zuni Tribe of the Zuni Reservation, New Mexico, and the Hopi Tribe of Arizona indicates that the geographical location of the burial is consistent with the traditional territories of the Zuni and Hopi peoples. Both groups claim descent from the archeologically defined Anasazi culture in Catron County, NM.

Based on the above-mentioned information, officials of the Milwaukee Public Museum 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 Milwaukee Public Museum 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 Zuni Tribe of the Zuni Reservation, New Mexico, and the Hopi Tribe of Arizona.

This notice has been sent to officials of the Zuni Tribe of the Zuni Reservation, New Mexico, and the Hopi Tribe of Arizona. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains should contact Dr. Alex Barker, Anthropology Section Head, Milwaukee Public Museum, 800 West Wells Street, Milwaukee, WI 53233, telephone (414) 278-2786, before April 24, 2002. Repatriation of the human remains to the Zuni Tribe of the Zuni Reservation, New Mexico, and the Hopi Tribe of Arizona may begin after that date if no additional claimants come forward.

Dated: February 7, 2002.

Robert Stearns,

Manager, National NAGPRA Program.

[FR Doc. 02–7010 Filed 3–22–02; 8:45 am]

BILLING CODE 4310–70–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate a Cultural Item in the Possession of the Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given under the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.10 (a)(3), of the intent to repatriate a cultural item in the possession of the Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA, that meets the definition of ''unassociated funerary object'' under Section 2 of the Act.

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 this cultural item. The National Park Service is not responsible for the determinations within this notice.

The cultural item is one headdress made of metal, copper, leather, and fiber.

In 1886, a ''Tlingit'' headdress was recovered from a ''shaman's grave,'' on Baranof Island, 17 miles from Sitka, AK, by Walter G. Chase, who donated the cultural item to the Peabody Museum of Archaeology and Ethnology in 1891.

Peabody Museum documentation indicates that this cultural item is Tlingit. Research and consultation with the Sealaska Corporation on behalf of the Kiks.adi Clan has indicated that this headdress (identified as Kiks.adi Ixt' Shaadaa) was recovered from an area considered to be the traditional territory of the Kiks.adi Clan, a Raven Clan of Tlingit people, who are represented by the Sealaska Corporation.

Based on the above-mentioned information, officials of the Peabody Museum of Archaeology and Ethnology have determined that, pursuant to 43 CFR 10.2 (d)(2)(ii), this one cultural item is reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and is believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual. Officials of the Peabody Museum of Archaeology and Ethnology 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 this cultural item and the Kiks.adi Clan of Tlingit people, who are represented by the Sealaska Corporation.

This notice has been sent to officials of the Angoon Community Association; Central Council of the Tlingit & Haida Indian Tribes; Kake Tribal Council; Petersburg Indian Association; Sealaska Corporation; Shaan Set, Inc.; and the Sitka Tribe of Alaska. Representatives of any other Indian tribe that believes itself to be culturally affiliated with this unassociated funerary object should contact Patricia Capone, Repatriation Coordinator, Peabody Museum of Archaeology and Ethnology, Harvard, 11 Divinity Avenue, Cambridge, MA 02138, telephone (617) 496-3702, before April 24, 2002. Repatriation of this unassociated funerary object to the Sealaska Corporation on behalf of the Kiks.adi Clan may begin after that date if no additional claimants come forward.

Dated: February 5, 2002.

Robert Stearns,

Manager, National NAGPRA Program.

[FR Doc. 02–7004 Filed 3–22–02; 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 Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA

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 Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA.

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 human remains was made by Peabody Museum of Archaeology and Ethnology professional staff in consultation with representatives of the Aleut Corporation; Aleutian/Pribilof Islands Association Inc.; Chaluka Corporation; and the Native Village of Nikolski, which is represented by the Nikolski IRA Council.

In 1874, human remains representing one individual were collected from Kagamil Island, AK, by Captain Hennings of the Alaska Commercial Company. These human remains were donated to the Peabody Museum of Archaeology and Ethnology by the Alaska Commercial Company through the Smithsonian Institution in 1875. No known individual was identified. No associated funerary objects are present.

Museum documentation and published sources describe the human remains as an ''Aleut'' and date them to the 18th century. Historical documents and consultation information indicate that the Native Village of Nikolski, which is today represented by the Nikolski IRA Council and the Chaluka Corporation, occupied the area where the human remains were collected during the 18th century.

Based on the above-mentioned information, officials of the Peabody Museum of Archaeology and Ethnology 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 Peabody Museum of Archaeology and Ethnology 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 Native Village of Nikolski, which is represented by the Nikolski IRA Council and the Chaluka Corporation.

This notice has been sent to officials of the Aleut Corporation; Aleutian/Pribilof Islands Association, Inc.; the Native Village of Nikolski; the Nikolski IRA Council; and the Chaluka Corporation. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains should contact Patricia Capone, Repatriation Coordinator, Peabody Museum of Archaeology and Ethnology, Harvard University, 11 Divinity Avenue, Cambridge, MA 02138, telephone (617) 496-3702, before April 24, 2002. Repatriation of the human remains to the Native Village of Nikolski, which is represented by the Nikolski IRA Council and the Chaluka Corporation, may begin after that date if no other additional claimants come forward.

Dated: February 5, 2002.

Robert Stearns,

Manager, National NAGPRA Program.

[FR Doc. 02-7005 Filed 3–22–02; 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 Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA

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 Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA.

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 human remains was made by Peabody Museum of Archaeology and Ethnology professional staff in consultation with representatives of the Aleut Corporation; Aleutian/Pribilof Islands Association, Inc.; Ounalashka Corporation; and the Qawalangin Tribe of Unalaska.

In 1872, human remains representing one individual were collected from the Amaknak Spit site, Dutch Harbor, Unalaska, AK, by William H. Dall, who donated these human remains to the Peabody Museum of Archaeology and Ethnology that same year. No known individual was identified. No associated funerary objects are present.

In 1886, human remains representing one individual were collected from a cave at Unalaska, AK, by Alice C. Fletcher, who donated these human remains to the Peabody Museum of Archaeology and Ethnology in 1887. No

known individual was identified. No associated funerary objects are present.

Peabody Museum of Archaeology and Ethnology documentation describes both of these sets of human remains as ''Aleut.'' Historical documents and consultation information indicate that the Qawalangin Tribe of Unalaska, which is today represented by the Ounalashka Corporation, has traditionally occupied the area of the Aleutian Islands from which the human remains were collected.

Based on the above-mentioned information, officials of the Peabody Museum of Archaeology and Ethnology have determined that, pursuant to 43 CFR 10.2 (d) (1), the human remains listed above represent the physical remains of two individuals of Native American ancestry. Officials of the Peabody Museum of Archaeology and Ethnology 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 Qawalangin Tribe of Unalaska, which is represented by the Ounalashka Corporation.

This notice has been sent to officials of the Aleut Corporation; Aleutian/Pribilof Islands Association, Inc.; Ounalashka Corporation; and the Qawalangin Tribe of Unalaska. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains should contact Patricia Capone, Repatriation Coordinator, Peabody Museum of Archaeology and Ethnology, Harvard University, 11 Divinity Avenue, Cambridge, MA 02138, telephone (617) 496-3702, before April 24, 2002. Repatriation of the human remains to the Qawalangin Tribe of Unalaska, which is represented by the Ounalashka Corporation, may begin after that date if no additional claimants come forward.

Dated: February 5, 2002.

Robert Stearns,

Manager, National NAGPRA Program.

[FR Doc. 02–7006 Filed 3–22–02; 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 Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA

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 Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA.

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 human remains was made by the Peabody Museum of Archaeology and Ethnology professional staff in consultation with representatives of the Bering Straits Native Corporation, the Unalakleet Native Corporation, and the Native Village of Unalakleet.

In 1869, human remains representing one individual were collected from Norton Sound, AK, by William H. Dall, who donated these human remains to the Peabody Museum of Archaeology and Ethnology in the same year. No known individual was identified. No associated funerary objects are present.

Peabody Museum of Archaeology and Ethnology documentation describes the remains as ''Unaleet [sic], Eskimo.'' Given the proximity of Norton Sound to the village of Unalakleet, the human remains are probably from Unalakleet. Historical documents and consultation information indicate that the Native Village of Unalakleet has traditionally occupied the area from which the human remains were collected.

Based on the above-mentioned information, officials of the Peabody Museum of Archaeology and Ethnology 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 Peabody Museum of Archaeology and Ethnology 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 Native Village of Unalakleet.

This notice has been sent to officials of the Native Village of Unalakleet, Unalakleet Native Corporation, and Bering Straits Native Corporation. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains should contact Patricia Capone, Repatriation Coordinator, Peabody Museum of Archaeology and Ethnology, Harvard University, 11 Divinity Avenue, Cambridge, MA 02138, telephone (617) 496-3702, before April 24, 2002. Repatriation of the human remains to the Native Village of Unalakleet may begin after that date if no additional claimants come forward.

Dated: February 5, 2002.

Robert Stearns,

Manager, National NAGPRA Program.

[FR Doc. 02–7007 Filed 3–22–02; 8:45 am]

BILLING CODE 4310–70–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate a Cultural Item in the Possession of the Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given under the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.10 (a)(3), of the intent to repatriate a cultural item in the possession of the Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA, that meets the definition of ''unassociated funerary object'' under Section 2 of the Act.

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 this cultural item. The National Park Service is not responsible for the determinations within this notice.

The cultural item is one beaded blanket fragment.

This object was purchased on behalf of William Claflin by Mrs. D. F. Craig, who lived near Fort Sill, OK, from 1922 to 1925. In 1985, the object was bequeathed to the Peabody Museum of Archaeology and Ethnology as part of the William Claflin Collection.

Peabody Museum of Archaeology and Ethnology records indicate that the object ''was bought by Mrs. Craig from an Indian Trader near Ft. Sill who claimed it had been taken from a grave'' and that the grave was that of a ''Comanche?'' individual. Based on the

specific cultural affiliation suggested by the collector, as noted in museum records, this burial was most likely a Comanche burial from the historic period. This unassociated funerary object originated in a region historically occupied by the Comanche, Apache, and Kiowa tribes. Therefore, the preponderance of historical, geographic, and archaeological evidence indicates that a reasonable link of shared group identity can be made between this unassociated funerary object and the Comanche Indian Tribe, Oklahoma.

Based on the above-mentioned information, officials of the Peabody Museum of Archaeology and Ethnology have determined that, pursuant to 43 CFR 10.2 (d)(2)(ii), this cultural item is reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and is believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual. Officials of the Peabody Museum of Archaeology and Ethnology 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 this cultural item and the Comanche Indian Tribe, Oklahoma.

This notice has been sent to officials of the Apache Tribe of Oklahoma; Fort Sill Apache Tribe of Oklahoma; Comanche Indian Tribe, Oklahoma; and Kiowa Indian Tribe of Oklahoma. Representatives of any other Indian tribe that believes itself to be culturally affiliated with this unassociated funerary object should contact Patricia Capone, Repatriation Coordinator, Peabody Museum of Archaeology and Ethnology, Harvard, 11 Divinity Avenue, Cambridge, MA 02138, telephone (617) 496-3702, before April 24, 2002. Repatriation of this unassociated funerary object to the Comanche Indian Tribe, Oklahoma may begin after that date if no additional claimants come forward.

Dated: February 5, 2002.

Robert Stearns,

Manager, National NAGPRA Program.

[FR Doc. 02–7012 Filed 3–22–02; 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 Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA

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 Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA.

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 the Peabody Museum of Archaeology and Ethnology professional staff in consultation with officials of the Wampanoag Repatriation Confederation, representing the Wampanoag Tribe of Gay Head (Aquinnah), the Mashpee Wampanoag Indian Tribe (a nonfederally recognized Indian group), and the Assonet Band of the Wampanoag Nation (a nonfederally recognized Indian group).

In 1936, human remains representing one individual from Nantucket, MA, were donated to the Peabody Museum by Miss Harwood of the Nantucket Observatory Astronomy Laboratory. The remains were recovered by an unknown collector at an unknown date. No known individual was identified. No associated funerary objects are present.

Osteological characteristics indicate that the individual is Native American. This interment most likely dates to the late Woodland period or later (post-A.D. 1000). Based on a compilation of radiocarbon-dated human remains from Nantucket by the Nantucket Historical Society, it is likely that these human remains are not older than 1,000 years. To date, no radiocarbon dates for human remains from Nantucket are earlier than circa A.D. 1000. According to archeological evidence and oral tradition, the island of Nantucket is located within the traditional territory of the Wampanoag Nation during the late Woodland period. The present-day tribes that are most closely affiliated with members of the Wampanoag Nation are the Wampanoag Tribe of Gay Head (Aquinnah), the Mashpee Wampanoag Indian Tribe (a nonfederally recognized Indian group), and the Assonet Band of the Wampanoag Nation (a nonfederally recognized Indian group).

In 1941, human remains representing one individual from the Hughes site, Nantucket, MA, were recovered by Arthur F. Hughes. The human remains were donated to the Peabody Museum of Archaeology and Ethnology through Edward Brooks of the Massachusetts Archaeological Society the same year. No known individual was identified. No associated funerary objects are present.

According to museum documentation, ceramic sherds, a broken bone awl, a bent ceramic pipe stem, and a probable Levanna-style triangular projectile point were found in association with the human remains, but are not in the possession of the Peabody Museum of Archaeology and Ethnology.

These human remains were found in a traditional Native American-style burial context, with the head oriented to the northeast and the face to the east. This interment most likely dates to the late Woodland period or later (post-A.D. 1000). Based on a compilation of radiocarbon-dated human remains from Nantucket by the Nantucket Historical Society, it is likely that these human remains are not older than 1,000 years. To date, no radiocarbon dates for human remains from Nantucket are earlier than circa A.D. 1000. Attributed dates of the stylistic characteristics of the funerary objects from the Hughes site are consistent with this radiocarbon information. Native ceramic pipes with bent stems are identified initially during the middle Woodland period (circa A.D. 1), but are most strongly associated with the late Woodland period and later (post-A.D. 1000) in New England. Levanna-style projectile points date to the middle Woodland period and later in the New England area (post-A.D. 1). According to archeological evidence and oral tradition, the Hughes site is located within the traditional territory of the Wampanoag Nation during the late Woodland period. The present-day tribes that are most closely affiliated with members of the Wampanoag Nation are the Wampanoag Tribe of Gay Head (Aquinnah), the Mashpee Wampanoag Indian Tribe (a nonfederally recognized Indian group), and the Assonet Band of the

Wampanoag Nation (a nonfederally recognized Indian group).

In 1956, human remains representing two individuals from Nantucket, MA, were donated to the Peabody Museum of Archaeology and Ethnology by the Robert S. Peabody Museum, Andover, MA. These human remains had been collected by Alfred Shurrocks and his wife in 1935, who then donated them to the Robert S. Peabody Museum. No known individuals were identified. No associated funerary objects are present.

Osteological characteristics indicate that the human remains are Native American. Based on a compilation of radiocarbon-dated human remains from Nantucket by the Nantucket Historical Society, it is likely that these human remains are not older than 1,000 years. To date, no radiocarbon dates for human remains from Nantucket are earlier than circa A.D. 1000. According to archeological evidence and oral tradition, the island of Nantucket is located within the traditional territory of the Wampanoag Nation during the late Woodland period. The present-day tribes that are most closely affiliated with members of the Wampanoag Nation are the Wampanoag Tribe of Gay Head (Aquinnah), the Mashpee Wampanoag Indian Tribe (a nonfederally recognized Indian group), and the Assonet Band of the Wampanoag Nation (a nonfederally recognized Indian group).

In 1959, human remains representing one individual from Nantucket, MA, were permanently loaned to the Peabody Museum of Archaeology and Ethnology by the Warren Anatomical Museum at the Harvard Medical School. These human remains may have been collected by J.M. Warren at an unknown date because they are from the J.M. Warren collection, which was assembled by Mr. Warren himself. No known individual was identified. No associated funerary objects are present.

Osteological characteristics indicate that the human remains are Native American. This interment most likely dates to the historic/contact period (post-A.D. 1500). The pattern of copper stains present on the cranial remains indicates that they were interred some time after European contact. Also, based on a compilation of radiocarbon-dated human remains from Nantucket by the Nantucket Historical Society, it is likely that these human remains are not older than 1,000 years. To date, no radiocarbon dates for human remains from Nantucket result earlier than circa A.D. 1000. Oral tradition and historic documentation indicate that the island of Nantucket is within the aboriginal and historic homeland of the Wampanoag Nation during the late Woodland period. The present-day tribes that are most closely affiliated with members of the Wampanoag Nation are the Wampanoag Tribe of Gay Head (Aquinnah), the Mashpee Wampanoag Indian Tribe (a nonfederally recognized Indian group), and the Assonet Band of the Wampanoag Nation (a nonfederally recognized Indian group).

Based on the above-mentioned information, officials of the Peabody Museum of Archaeology and Ethnology have 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. Officials of the Peabody Museum of Archaeology and Ethnology 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 Wampanoag Tribe of Gay Head (Aquinnah), and that there is a cultural relationship between these Native American human remains and the Mashpee Wampanoag Indian Tribe (a nonfederally recognized Indian group), and the Assonet Band of the Wampanoag Nation (a nonfederally recognized Indian group).

This notice has been sent to officials of the Wampanoag Repatriation Confederation, the Wampanoag Tribe of Gay Head (Aquinnah), the Mashpee Wampanoag Indian Tribe, and the Assonet Band of the Wampanoag Nation. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary object should contact Patricia Capone, Repatriation Coordinator, Peabody Museum of Archaeology and Ethnology, Harvard University, 11 Divinity Avenue, Cambridge, MA 02138, telephone (617) 496-3702, before April 24, 2002. Repatriation of these human remains to the Wampanoag Repatriation Confederation on behalf of the Wampanoag Tribe of Gay Head (Aquinnah), the Mashpee Wampanoag Indian Tribe (a nonfederally recognized Indian group), and the Assonet Band of the Wampanoag Nation (a nonfederally recognized Indian group), may begin after that date if no additional claimants come forward.

Dated: February 12, 2002.

Robert Stearns,

Manager, National NAGPRA Program.

[FR Doc. 02–7013 Filed 3–22–02; 8:45 am]

BILLING CODE 4310–70–S

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Freeport Regional Water Project, Sacramento River, CA

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of Intent to prepare an Environmental Impact Statement/ Environmental Impact Report.

SUMMARY: Pursuant to the National Environmental Policy Act of 1969 as amended, Reclamation proposes to participate in a joint Environmental Impact Statement/Environmental Impact Report (EIS/EIR) on the Freeport Regional Water Project (FRWP). The FRWP is being proposed by the Freeport Regional Water Authority (FRWA), a joint powers agency formed by the Sacramento County Water Agency (SCWA) and East Bay Municipal Utility District (EBMUD) to make use of Central Valley Project (CVP) contract and other water supplies, reduce rationing during droughts, reduce groundwater overdraft in Sacramento County, and to increase water service reliability for customers. The FRWP would enable Reclamation to meet delivery obligations under its water supply contracts with SCWA and EBMUD. The FRWA will be the lead agency under the California Environmental Quality Act (CEQA). The City of Sacramento will serve as a responsible agency under CEQA.

DATES: Reclamation and the Joint Powers Authority will seek public input on alternatives, concerns, and issues to be addressed in the EIS/EIR through scoping meetings in March. The schedule and locations of the scoping meetings are as follows:

- Monday, April 8, 2002, 6:30–8:30 p.m, Oakland, CA
- Thursday, April 11, 2002, 6:30–8:30 p.m., Sacramento, CA (Freeport)
- Monday, April 15, 2002, 6:30–8:30 p.m., Sacramento, CA (Meadowview)
- Thursday, April 18, 2002, 6:30–8:30 p.m, Herald, CA

Written comments on the scope of alternatives and impacts to be considered should be sent to the Freeport Regional Water Project at the address below by May 2, 2002. Reclamation estimates that the draft EIS/EIR will be available for public review in the summer of 2002.

ADDRESSES: The meeting locations are:

- Oakland at the EBMUD Training Room, 375 11th Street, 2nd Floor
- Sacramento at the Bartley Cavanaugh Golf Course, 8301 Freeport Boulevard

• Sacramento at the Meadowview Community Center, 2450 Meadowview Road

• Herald at the Herald Fire Department, Hendrickson Hall, 127 Ivie Road

Written comments on the project scope should be sent to Freeport Regional Water Project, c/o Gregg Ellis, 2600 V Street, Sacramento, CA 95818.

FOR FURTHER INFORMATION CONTACT: Rob Schroeder at 7794 Folsom Dam Road, Folsom California, 95630, telephone number (916) 989–7274.

SUPPLEMENTARY INFORMATION: SCWA provides water to two separate retail service areas within the unincorporated areas of central Sacramento County, SCWA Zone 41, and Elk Grove Water Service on the east side of the City of Elk Grove. SCWA is responsible for providing water supplies and facilities throughout these areas including the Laguna, Vineyard, Elk Grove and Mather Field communities through a capital funding zone known as ''Zone 40''. The long-term master plan for Zone 40 envisions meeting present and future water needs through a program of conjunctive use of groundwater and surface water. SCWA presently has a CVP entitlement of 22,000 acre-feet. Water for SCWA is currently delivered through the City of Sacramento's intake and treatment facilities, based on SCWA need and available City capacity. These and additional water supplies are expected to be conveyed through the FRWP.

EBMUD is a multipurpose regional agency that provides water to over 1.3 million municipal and industrial water users throughout portions of Contra Costa and Alameda Counties in the East Bay region. EBMUD currently obtains most of its supply from Pardee Reservoir on the Mokelumne River, with the remainder collected from local runoff in its East Bay terminal reservoirs. On July 26, 2001, EBMUD and Reclamation entered into an amendatory CVP contract which allows EBMUD to take delivery of its CVP supply at the location known as Freeport on the Sacramento River south of downtown Sacramento subject to all applicable environmental laws and regulations.

The FRWP is intended by the Joint Powers Authority to meet the identified water delivery needs of the SCWA and EBMUD. It would also enable Reclamation to meet its CVP water delivery obligations to these agencies under existing water supply contracts with EBMUD and SCWA.

The general purposes of the Freeport Regional Water Project are to:

• Provide surface water facilities through which SCWA can deliver water to Zone 40 to support growth approved under the County of Sacramento General Plan. Water would be delivered under SCWA's CVP water supply contract with Reclamation and other anticipated CVP contract assignments, appropriated water rights, and water rights transfers;

• Provide surface water facilities through which EBMUD can deliver water under its amendatory CVP water service contract to provide EBMUD with a supplemental water supply that would reduce existing and future customer deficiencies to manageable levels during drought conditions; and

• Capitalize on the opportunity to cooperate in an endeavor that would minimize costs to each agency and minimize environmental effects by constructing joint facilities to the extent feasible.

The FRWP would also enable Reclamation to deliver water under its CVP amendatory contract with EBMUD and its contract with SCWA.

The FRWP as currently envisioned would consist of:

• An approximately 185 million gallon per day (mgd) intake/pumping facility

• A raw water pipeline to a turnout at approximately Bradshaw Road in central Sacramento County,

• A new water treatment plant in central Sacramento County to serve SCWA needs,

• A raw water pipeline connecting to the Folsom South Canal,

• A new pumping plant near the end of the Folsom South Canal,

• A pipeline from the Folsom South Canal to the Mokelumne Aqueducts,

• A new pumping and treatment facility at the Mokelumne Aqueducts to deliver water to EBMUD.

The EIS/EIR will consider a range of alternatives including the no-action alternative.

Scoping is an early and open process designed to determine the issues and alternatives to be addressed in the EIS/EIR. The following are issues that have been identified by Reclamation to date: Sacramento River fishery effects; water quality; agricultural and municipal water supply availability, and quality; construction-related effects on the Sacramento River, urban areas, and natural habitats; and, wetland, upland, and aquatic habitats.

The draft EIS/EIR will focus on the impacts and benefits of implementing the various alternatives. It will contain an analysis of the physical, biological, social, and economic impacts arising from the alternatives. In addition, it will address the cumulative impacts of implementation of the alternatives in conjunction with other past, present, and reasonably foreseeable actions.

If special assistance is required, contact Mr. Robert Schroeder at Reclamation (916) 989–7274. Please notify Mr. Schroeder as far in advance of the workshops as possible to enable Reclamation to secure the needed services. If a request cannot be honored, the requestor will be notified. A telephone device for the hearing impaired (TDD) is available at (916) 989–7285.

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: February 20, 2002.

Frank Michny,

Regional Environmental Officer.

[FR Doc. 02–7065 Filed 3–22–02; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Proposed Construction of Campbell County Force Road

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Notice of application for grant funding; public comment period on request to fund the reconstruction of Campbell County Force Road.

SUMMARY: OSM is announcing its receipt of a grant application from the Wyoming Department of Environmental Quality, Abandoned Mine Land Division (AMLD). Wyoming is requesting $255,000 from the Abandoned Mine Land Reclamation Fund to pay 8.2 percent of the cost of building the Campbell County Force Road. In its application, the State proposes paying for part of the construction cost as a public facility project that will benefit a community impacted by coal mining.

This notice describes when and where you may read the grant application for funding the Campbell County Force Road. It also sets the time period during which you may send written comments on the request to us.

DATES: We will accept written comments until 4:00 p.m., m.s.t. April 24, 2002.

ADDRESSES: You should mail or hand-deliver written comments to Guy V. Padgett, Casper Field Office Director, at the address shown below. You may read Wyoming's grant application for this proposed project during normal business hours Monday through Friday (excluding holidays) at the same address. Also, we will send one free copy of the grant application to you if you contact OSM's Casper Field Office. Guy V. Padgett, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, Federal Building, Rm. 2403, 100 East ''B'' Street, Casper, Wyoming 82601–1918.

FOR FURTHER INFORMATION CONTACT: Guy V. Padgett, Telephone: (307) 261–6555.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking [or administrative] record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking [or administrative] record a respondent's identity, 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. However, we will not consider anonymous comments. We will take all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

SUPPLEMENTARY INFORMATION:

I. Background on Title IV of SMCRA

Title IV of the Surface Mining Control and Reclamation Act (SMCRA) established an Abandoned Mine Land Reclamation (AMLR) program. The purpose of the AMLR program is to reclaim and restore lands and waters that were adversely affected by past mining. The program is funded by a reclamation fee paid by active coal mining operations. Lands and waters eligible for reclamation under Title IV are primarily those that were mined, or affected by mining, and abandoned or inadequately reclaimed before August 3, 1977, and for which there is no continuing reclamation responsibility under State, Federal, or other laws.

Title IV of SMCRA allows States to submit AMLR plans to us. We, on behalf of the Secretary review those plans and consider any public comments we receive about them. If we determine that a State has the ability and necessary legislation to operate an AMLR program, the Secretary can approve it. The Secretary's approval gives a State exclusive authority to put its AMLR plan into effect.

Once the Secretary approves a State's AMLR plan, the State may apply to us for money to fund specific projects that will achieve the goals of its approved plan. We follow the requirements of the Federal regulations at 30 CFR parts 874, 875, and 886 when we review and approve such applications.

II. Background on the Wyoming AMLR Plan

The Secretary of the Interior approved Wyoming's AMLR plan on February 14, 1983. You can find background information on the Wyoming AML program, including the Secretary's findings and our responses to comments, in the February 14, 1983 **Federal Register** (48 FR 6536). Wyoming changed its plan a number of times since the Secretary first approved it. In 1984, we accepted the State's certification that it had addressed all known coal-related impacts in Wyoming that were eligible for funding under its program. As a result, the State may now reclaim low priority non-coal reclamation projects. You can read about the certification and OSM's acceptance in the May 25, 1984, **Federal Register** (49 FR 22139). At the same time, we also accepted Wyoming's proposal that it will ask us for funds to reclaim any additional coal-related problems that occur during the life of the AML program as soon as it becomes aware of them. In the April 13, 1992, **Federal Register** (57 FR 12731), we announced our decision to accept other changes in Wyoming's plan that describe how it will rank eligible coal, non-coal, and public facility projects for funding. Those changes also authorized the Governor of Wyoming to elevate the priority of a project based upon the Governor's determination of need and urgency. They also expanded the State's ability to construct public facilities under section 411 of SMCRA. We approved additional changes in Wyoming's plan concerning non-coal lien authority and contractor eligibility that improved the efficiency of the State's AML program. That approval is described in the February 21, 1996, **Federal Register** (61 FR 6537).

Once a State certifies that it has addressed all remaining abandoned coal mine problems and the Secretary concurs, then it may request funds to undertake abandoned non-coal mine reclamation, community impact assistance, and public facilities projects under sections 411(b), (e), and (f), of SMCRA.

State law regulations that apply to the proposed Abandoned Coal Mine Land Program Campbell County Force Road funding request include Wyoming Statue 35–11–1202 and Wyoming Abandoned Mine Land Regulations, Chapter VII, of the Wyoming Abandoned Mine Program.

III. Wyoming's Request To Fund the Cost of the Campbell County Force Road

The Wyoming Department of Environmental Quality will submitted to us a grant application in the fall of 2003. In that application, Wyoming will ask for $255,000 to pay for a part of the cost of constructing the Campbell County Force Road. This is 8.2 percent of the estimated cost of the project. The Governor of Wyoming certified the need and urgency to fund this project prior to completing the State's remaining inventory of non-coal reclamation work, as allowed by section 411(f) of SMCRA. that certification says the project is in a community impacted by coal mining activities. Campbell County will provide the balance of funding from county reserves, and may seek additional grant funding for future phases of the project.

This project will allow the realignment of a hazardous secondary road to reduce dangerous 90 degree curves which are public safety hazards. The Governor's certification states that the safety hazards impacting the Campbell County Force Road warrant funding of this project before the remaining inventory of non-coal projects are completed.

IV. How We Will Review Wyoming's Grant Application

We will review the grant application using regulations at 30 CFR 875.15; specifically subsections 875.15(e)(1) through (7). As stated in those regulations, the application must include the following information: (1) The need or urgency for the activity or the construction of the public facility; (2) the expected impact the project will have on Wyoming's coal or minerals industry; (3) the availability of funding from other sources and, if other funding is provided, its percentage of the total cost involved; (4) documentation from

other local, State, Federal agencies with oversight for such utilities or facilities describing what funding they have available and why their agency is not fully funding this specific project; (5) the impact on the State, the public, and the minerals industry if the facility is not funded; (6) the reason why this project should be selected before the priority projects relating to the protection of public health and safety or the environment from the damages caused by past mining activities, and (7) an analysis and review of the procedures Wyoming used to notify and involve the public in this request, and a copy of all comments received and their resolution by the State. Wyoming's application for the Campbell County Force Road project contains the information described in these seven subsections.

Section 875.15(f) requires us to evaluate all comments we receive and determine whether the funding meets the requirements of sections 875.15(e)(1) through (7) described above. It also requires us to determine if the request is in the best interests of the State's AML program. We will approve Wyoming's request to fund this project if we conclude that it meets all the requirements of 30 CFR 875.15.

V. What To Do if You Want To Comment on the Proposed Project

We are asking for public comments on Wyoming's request for funds to pay for part of the cost of reconstructing the Campbell County Force Road. You are welcome to comment on the project. If you do, please send us written comments. Make sure your comments are specific and pertain to Wyoming's funding request in the context of the regulations at 30 CFR 875.15 and the provisions of section 411 of SMCRA. You should explain any recommendations you make. If we receive your comments after the time shown under **DATES** or at locations other than the Casper Field Office, we will not necessarily consider them in our final decision or include them in the administrative record.

Dated: March 18, 2002.

Guy Padgett,

Director, Casper Field Office.

[FR Doc. 02–7090 Filed 3–22–02; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Proposed Construction of City of Lander Water Treatment Plant

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Notice of application for grant funding; public comment period on request to fund the City of Lander Water Treatment Plant.

SUMMARY: OSM is announcing its receipt of a grant application from the Wyoming Department of Environmental Quality, Abandoned Mine Land Division (AMLD). Wyoming is requesting $1,000,000 from the Abandoned Mine Land Reclamation Fund to pay part of the cost of building a City of Lander Water Treatment Plant. In its application, the State proposes paying for part of the construction cost as a public facility project that will benefit a community impacted by mineral mining.

This notice describes when and where you may read the grant application for funding the City of Lander Water Treatment Plant. It also sets the time period during which you may send written comments on the request to us.

DATES: We will accept written comments until 4 p.m., m.s.t., April 24, 2002.

ADDRESSES: You should mail or hand-deliver written comments to Guy V. Padgett, Casper Field Office Director, at the address shown below. You may read Wyoming's grant application for this proposed project during normal business hours Monday through Friday (excluding holidays) at the same address. Also, we will send one free copy of the grant application to you if you contact OSM's Casper Field Office.

Guy V. Padgett, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, Federal Building, Rm. 2403, 100 East ''B'' Street, Casper, Wyoming 82601–1918.

FOR FURTHER INFORMATION CONTACT: Guy V. Padgett, Telephone: (307) 261–6555.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking [or administrative] record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking [or administrative] record a respondent's identity, 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. However, we will not consider anonymous comments. We will take all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

SUPPLEMENTARY INFORMATION:

I. Background on Title IV of SMCRA

Title IV of the Surface Mining Control and Reclamation Act (SMCRA) established an Abandoned Mine Land Reclamation (AMLR) program. The purpose of the AMLR program is to reclaim and restore lands and waters that were adversely affected by past mining. The program is funded by a reclamation fee paid by active coal mining operations. Rands and waters eligible for reclamation under Title IV are primarily those that were mined, or affected by mining, and abandoned or inadequately reclaimed before August 3, 1977, and for which there is no continuing reclamation responsibility under State, Federal, or other laws.

Title IV of SMCRA allows States to submit AMLR plans to us. We, on behalf of the Secretary review those plans and consider any public comments we receive about them. If we determine that a State has the ability and necessary legislation to operate an AMLR program, the Secretary can approve it. The Secretary's approval gives a State exclusive authority to put its AMLR plan into effect.

Once the Secretary approves a State's AMLR plan, the State may apply to us for money to fund specific projects that will achieve the goals of its approved plan. We follow the requirements on the Federal regulations at 30 CFR parts 874, 875, and 886 when we review and approve such applications.

II. Background on the Wyoming AMLR Plan

The Secretary of the Interior approved Wyoming's AMLR plan on February 14, 1983. You can find background information on the Wyoming AML program, including the Secretary's findings and our responses to comments, in the February 14, 1983 **Federal Register** (48 FR 6536). Wyoming changed its plan a number of times since the Secretary first approved it. In 1984, we accepted the State's certification that it had addressed all known coal-related impacts in Wyoming that were eligible for funding under its program. As a result, the State may now

reclaim low priority non-coal reclamation projects. You can read about the certification and OSM's acceptance in the May 25, 1984, **Federal Register** (49 FR 22139). At the same time, we also accepted Wyoming's proposal that it will ask us for funds to reclaim any additional coal-related problems that occur during the life of the AML program as soon as it becomes aware of them. In the April 13, 1992, **Federal Register** (57 FR 12731), we announced our decision to accept other changes in Wyoming's plan that describe how it will rank eligible coal, non-coal, and public facility projects for funding. Those changes also authorized the Governor of Wyoming to elevate the priority of a project based upon the Governor's determination of need and urgency. They also expanded the State's ability to construct public facilities under section 411 of SMCRA. We approved additional changes in Wyoming's plan concerning non-coal lien authority and contractor eligibility that improved the efficiency of the State's AML program. That approval is described in the February 21, 1996, **Federal Register** (61 FR 6537).

Once a State certifies that it has addressed all remaining abandoned coal mine problems and the Secretary concurs, then it may request funds to undertake abandoned non-coal mine reclamation, community impact assistance, and public projects under sections 411(b), (e), and (f), of SMCRA.

State law and regulations that apply to the proposed Abandoned Coal Mine Land Program City of Lander Water Treatment Plant funding request include Wyoming Statue 35–11–1202 and Wyoming Abandoned Mine Land Regulations, Chapter VII, of the Wyoming Abandoned Mine Program.

III. Wyoming's Request To Fund the Cost of the City of Lander Water Treatment Plant

The Wyoming Department of Environmental Quality will submit to us a grant application in the fall of 2003. In that application, Wyoming will ask for $1,000,000 to pay for a part of the cost of constructing the City of Lander Water Treatment Plant. The Governor of Wyoming certified the need and urgency to fund this project prior to completing the State's remaining inventory of non-coal reclamation work, as allowed by section 411(f) of SMCRA. That certification says the project is in a community impacted by mineral mining activities. This project is the second phase of AML Project 44 which was included in the 2001 AML grant. This grant provided $887,239 of funding for the initial design and construction of the City of Lander Water Treatment Plant.

This project addresses an Enforcement Order from the EPA. The Governor's certification states that the safety hazards impacting the City of Lander water users warrant funding of this project before the remaining inventory of non-coal projects are completed.

IV. How We Will Review Wyoming's Grant Application

We will review the grant application using regulations at 30 CFR 875.15; specifically subsections 875.15(e)(1) through (7). As stated in those regulations, the application must include the following information: (1) The need or urgency for the activity or the construction of the public facility; (2) the expected impact the project will have on Wyoming's coal or minerals industry; (3) the availability of funding from other sources and, if other funding is provided, its percentage of the total cost involved; (4) documentation from other local, State, Federal agencies with oversight for such utilities or facilities describing what funding they have available and why their agency is not fully funding this specific project; (5) the impact on the State, the public, and the minerals industry if the facility is not funded; (6) the reason why this project should be selected before the priority projects relating to the protection of public health and safety or the environment from the damages caused by past mining activities, and (7) an analysis and review of the procedures Wyoming used to notify and involve the public in this request, and a copy of all comments received and their resolution by the State. Wyoming's application for the City of Lander Water Treatment Plant project contains the information described in these seven subsections.

Section 875.15(f) requires us to evaluate all comments we received and determine whether the funding meets the requirements of sections 875.15(e)(1) through (7) described above. It also requires us to determine if the request is in the best interests of the State's AML program. We will approve Wyoming's request to fund this project if we conclude that it meets all the requirements of 30 CFR 875.15.

V. What To Do If You Want To Comment on the Proposed Project

We are asking for public comments on Wyoming's request for funds to pay for part of the cost of constructing the City of Lander Water Treatment Plant. You are welcome to comment on the project. If you do, please send us written comments. Make sure your comments are specific and pertain to Wyoming's funding request in the context of the regulations at 30 CFR 875.15 and the provisions of section 411 of SMCRA. You should explain any recommendations you make. If we receive your comments after the time shown under **DATES** or at locations other than the Casper Field Office, we will not necessarily consider them in our final decision or include them in the administrative record.

Dated: March 18, 2002.

Guy Padgett,

Director, Casper Field Office.

[FR Doc. 02–7089 Filed 3–22–02; 8:45 am]

BILLING CODE 4310–05–M

INTERNATIONAL TRADE COMMISSION

Index and Description of Major Information Systems and Availability of Records

AGENCY: United States International Trade Commission.

ACTION: Notice announcing availability of public information.

SUMMARY: The United States International Trade Commission (USITC or Commission) provides notice of its index and description of major information systems and availability of its records.

FOR FURTHER INFORMATION CONTACT: Marilyn R. Abbott (202–205–2799), Secretary, 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 and persons seeking information on the Commission, or making submittals or requests, and seeking decisions, may contact the Office of the Secretary at 202–205–2000.

SUPPLEMENTARY INFORMATION: The Commission makes agency records available to the public in a number of ways: *Electronic Document Information System.* This system provides Internet access to public documents filed with the Office of the Secretary. Docketing information for USITC investigations instituted since 1996 is available electronically by accessing the USITC Internet site at ''*http://www.usitc.gov*'' or directly at ''*http://dockets.usitc.gov/eol/public/.*''

FOIA. Commission records may also be requested under the Freedom of Information Act (FOIA) (5 U.S.C. 552). These requests are filed with the Secretary at 500 E Street, SW., Washington, DC 20436, and must clearly be identified in the request letter and on the envelope as a ''Freedom of Information Act Request.'' Commission rules for requesting information under FOIA are set out in 19 CFR 201.17–201.21.

Government Information Locator. The USITC has an entry in the Government Information Locator Service, at ''*http://www.access.gpo.gov/su_docs/gils/gils.html.*''

Libraries. The Commission maintains two libraries, its National Library of International Trade (the Commission's main reference library), located on the 3rd floor of the Commission building, and a law library, located on the 6th floor. Both are open to the public during normal business hours of 8:45 a.m. to 5:15 p.m. The libraries contain, among other things, complete sets of Commission reports. To determine whether the respective libraries have the information sought, persons seeking information may call the main library at 202–205–2630, or the law library at 202–205–3287.

Public Reading Room. The Commission's docket files in the Office of the Secretary contain the submissions made in all Commission investigations. The files are available for inspection in the Public Reading Room in the Office of the Secretary. The Public Reading Room is located on the 1st floor of the Commission building. Persons having questions regarding availability of records may call the Dockets staff at 202–205–1802. Depending on the age of the records requested, the files are available electronically, in hard copy, and/or on microfiche.

Reports. Reports containing the findings and conclusions of Commission investigations and Commissioner opinions are available in hard copy, generally at no charge, from the Office of the Secretary (telephone 202–205–1809). Reports are also made available for download from the USITC Internet site.

Rules. The Commission's Rules of Practice and Procedure set out the procedures used in Commission proceeding. The rules in 19 CFR parts 200–213 are located in the Code of Federal Regulations and the Commission's Internet site.

Tariff and Trade Data Web. The Commission's DataWeb ''*http://dataweb.usitc.gov,*'' provides public access to tariff and trade data. Data from 1989 are available and can be retrieved in a number of classification systems.

USITC Internet Site. Recent Commission notices, news releases, meeting agendas, monthly calendars, general information ''fact sheets,'' Commissioner biographies, schedules of pending investigations (including hearing dates and deadlines for written submissions), reports, information frequently requested under FOIA, and general information about the Commission are available electronically through the Internet at ''*http://www.usitc.gov.*''

Copies of Commission public records can also be obtained from the Secretary through an on-site duplicating service for a minimum fee.

By order of the Commission.

Issued: March 19, 2002.

Marilyn R. Abbott,

Secretary.

[FR Doc. 02–7140 Filed 3–22–02; 8:45 am]

BILLING CODE 3–22–M

JUDICIAL CONFERENCE OF THE UNITED STATES

Hearing of the Judicial Conference Advisory Committee on Rules of Bankruptcy Procedure

AGENCY: Judicial Conference of the United States, Advisory Committee on Rules of Bankruptcy Procedure.

ACTION: Notice of cancellation of open hearing.

SUMMARY: The public hearing on proposed amendments to the Federal Rules of Bankruptcy Procedure, scheduled for April 12, 2002, in Washington, DC, has been canceled. [Original notice of hearing appeared in the **Federal Register** of March 4, 2002.]

FOR FURTHER INFORMATION CONTACT: John K. Rabiej, Chief, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502–1820.

Dated: March 19, 2002.

John K. Rabiej,

Chief, Rules Committee Support Office.

[FR Doc. 02–7076 Filed 3–22–02; 8:45 am]

BILLING CODE 2210–55–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act (''CERCLA'')

Pursuant to Section 122(d)(2) of CERCLA, 42 U.S.C. 9622(d)(2), notice is hereby given that on March 4, 2002, a proposed Consent Decree in *United States* v. *Hybard Paul*, Civil Action No. 01–0184–P–L, was lodged with the United States District Court for the Southern District of Alabama.

In this action the United States sought to recover response costs incurred by the Environmental Protection Agency (''EPA'') during the performance of a response action to address releases and threatened releases of hazardous substances at the Walker Springs Wood Treater Superfund Site (''Site'') in Walker Springs, Clarke County, Alabama. The Decree resolves the liability of Defendant Hybard Paul for the United States' past response costs and future costs. The Defendant will make a one-time payment of $250,000 to the Hazardous Substances Superfund. In return, the United States will covenant not to sue or to take administrative action against defendant under Sections 106 and 107(a) of CERCLA.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the 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. *Hybard Paul*, DOJ Ref. 90–11–3–07380.

The Consent Decree may be examined at the Office of the United States Attorney, Southern District of Alabama, Riverview Plaza, Suite 600, 63 S. Royal Street, Mobile, Alabama 36602, and at EPA Region 4, Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303. A copy of the 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 refer to *United States* v. *Hybard Paul*, No. 01–0184–P–L (S.D. Ala.), DOJ Ref. 90–11–3–07380, and enclose a check in the amount of $3.75 (25 cents

per page reproduction cost) payable to the Consent Decree Library.

Ellen M. Mahan,

Assistant Section Chief, Environmental Enforcement Section, Environment & Natural Resources Division.

[FR Doc. 02–7025 Filed 3–22–02; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Clean Water Act

Under 28 CFR 50.7, notice is hereby given that on March 5, 2002, a proposed consent decree in *United States and Ohio* v. *City of Youngstown, Ohio,* Civil Action No. 4:98 CV 2438, was lodged with the United States District Court for the Northern District of Ohio.

In this action, the United States sought injunctive relief and civil penalties under Section 309(b) and (d) of the Clean Water Act (''the Act''), 33 U.S.C. 1319(b) and (d), against the City of Youngstown, Ohio, (''Youngstown'') for violations of Section 301 of the Act, 33 U.S.C. 1311, and the terms and conditions of Youngstown's National Pollutant Discharge Elimination System (''NPDES'') permits at Youngstown's wastewater treatment plant and throughout its sewer collection system. The Complaint alleges that Youngstown violated the Clean Water Act and its applicable NPDES permits by failing to meet certain permit deadlines, failing to comply with effluent limitations in its permits, discharging wastewater and raw sewage through unpermitted point sources, failing to monitor its discharges in accordance with its permit requirements, and failing to notify the regulatory agencies of missed deadlines.

The proposed Clean Water Act consent decree provides for injunctive relief consisting of the following: (1) Elimination of the overflow point known as outfall 6108 at the Orchard Meadow area of Mill Creek Park; (2) elimination of certain specified direct discharges of sanitary sewage and process wastewater that are not currently connected to the Youngstown collection system; (3) development and implementation of Youngstown's long term control plan as required by its discharge permit; (4) removal of accumulated sewer sediments in the Mill Creek collector; (5) short-term improvements to Youngstown's collection system maintenance programs, documentation, and data management; (6) an evaluation of Youngstown's collection system maintenance programs and data management and proposed improvements; (7) replacement of the Meadowbrook pump station and the Lansdowne pump station and evaluation of additional upgrades at the Dry Run pump station; (8) implementation of a revised inspection schedule for combined sewer overflows; (9) implementation of measures to reduce vandalism at manholes within the collection system; and (10) installation of additional level sensing equipment at certain specified overflow structures. In addition, Youngstown will pay a civil penalty of $60,000, to be split evenly between the United States and its co-plaintiff the State of Ohio, to resolve the claims in the Complaint.

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 and Ohio* v. *City of Youngstown,* DOJ Ref. #90–5–1–1–4383.

The proposed consent decree may be examined at the office of the United States Attorney for the Northern District of Ohio, 1800 Bank One Center, 600 Superior Avenue East, Cleveland, Ohio 44114, and at U.S. EPA Region 5, 77 West Jackson Boulevard, Chicago, IL 60604. A copy of the 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, or by faxing a request to Tonia Fleetwood, fax no. (202) 514–0097 phone confirmation number (202) 514–1547. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $9.75 (25 cents per page reproduction costs), payable to the U.S. Treasury.

William D. Brighton,

Assistant Chief, Environment Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 02–7026 Filed 3–22–02; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Center for Waste Reduction Technologies (CWRT): Solvent Selection Guide

Notice is hereby given that, on February 7, 2002, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. *et seq.* (''the Act''), CWRT: Solvent Selection Guide has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties are Center for Waste Reduction Technologies (''CWRT''), New York, NY; Cytec Industries Inc., West Paterson, NJ; The Dow Chemical Company, Midland, MI; E.I. du Pont de Nemours & Company, Wilmington, DE; GalxoSmithKline, King of Prussia, PA; Pharmacia, Peapack, NJ; Pfizer Corporation, New London, CT; and Rohm and Haas Company, Philadelphia, PA. The nature and objectives of the venture are to develop solvent selection tools to facilitate the selection of solvent candidates in early compound development, make life cycle EHS impacts/issues visible for each solvent candidate, facilitate process optimization in late compound development, explore solvent mixtures that do not introduce additional complexity into managing solvents, and explore designer solvent possibilities.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 02–7028 Filed 3–22–02; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production act of 1993—DVD Copy Control Association (''DVD CCA'')

Notice is hereby given that, on January 15, 2002, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), DVD Copy Control Association (''DVD CCA'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Alphacast Co. Ltd., Seoul, REPUBLIC OF KOREA; Almedio, Inc., Tokyo, JAPAN; AniMeta Systems, Inc.,

Taipei, TAIWAN; CMC Magnetics Corporation, Taipei, TAIWAN; Flextronics International Denmark A/S, Pandrup, DENMARK; Guangdong Cosmic Digital Technology, Co., Ltd., Dong Guan City, Guangdong, PEOPLE'S REPUBLIC OF CHINA; Guangzhou Telefield Limited, Guangdong, PEOPLE'S REPUBLIC OF CHINA; Hibino Corporation, Minato-Ku Tokyo, JAPAN; Homenema Disk Incorporation, Taipei Hsien, TAIWAN; iCEBOX LLC, Seattle, WA; Linn Products Limited, Glasgow, Scotland, UNITED KINGDOM; NewSoft Technology Corp., Taipei, TAIWAN; ODME B.V., Eindhoven, THE NETHERLANDS; Optical Disc Stampers, Orange, CA; Tanway Electronic Factory, Guangzhou, PEOPLE'S REPUBLIC OF CHINA; Zhongshan Kenloon Digital Technology Co., Ltd., Zhongshan, Guangdong, PEOPLE'S REPUBLIC OF CHINA; and Zhong Shan Shi NEON Electronic Fty. Ltd., Kowloon, HONG-KONG-CHINA have been added as parties to this venture.

Also, Alcorn McBride Inc., Orlando, FL; Amoisonic Electronics Co., Ltd., Xiamen, PEOPLE'S REPUBLIC OF CHINA; ANAM Electronics Co. Ltd., Ansan-City, Kyungki-Do, REPUBLIC OF KOREA; C-Cube Semiconductor II Inc., Milpitas, CA; Chaintech Computer Co. Ltd., Tapiei Hsien, TAIWAN; Cinet AS, Oslo, NORWAY; C-Media Electronics Inc., Taipei, TAIWAN; CNERC–OD, Taipei, TAIWAN; Coach Master International dba CMI Worldwide, Inc., Seattle, WA; Comjet Information Systems Corp., Taipei, TAIWAN; Compal Electronics, Taipei, TAIWAN; Compaq Computer Corporation, Houston, TX; Computer & Entertainment, Inc., Taipei, TAIWAN; Creative Technology Ltd., Singapore, SINGAPORE; Daesung Eltec Co., Ltd., Seoul, REPUBLIC OF KOREA; Daikin Industries, Tokyo, JAPAN; Diskware Co., Ltd., Koutou-ku, Tokyo, JAPAN; Eastman Kodak Company (Digital & Applied Imaging Division), Rochester, NY; E-Smart Electronics, Ltd., Kowloon, HONG-KONG-CHINA; First International Computer, Inc., Taipei Hsien, TAIWAN; Fly Ring Digital Technology, Ltd., Hong Kong, HONG KONG-CHINA; Freindly CD-Tek Corporation, Taipei, TAIWAN; Fema O.D. S.A., Barcelona, SPAIN; Gigastorage Corporation, Hsinchu, TAIWAN; Goldteck International Inc., Taipei, TAIWAN; Great China Technology, Inc., Taipei Hsien, TAIWAN; Gynco Electronics (HK) Ltd., Tainan Hsien, TAIWAN; Hermosa Cysware Ltd., Taipei, TAIWAN; Highlead Technology, Inc., Taipei Hsien, TAIWAN; Hisaki Sekkei Inc., Fukushima, JAPAN; Hua Du shi Teng Wei Electronic Factory, Kowloon Bay, HONG KONG-CHINA; InterMagic Corporation, Seoul, REPUBLIC OF KOREA; Jeu Hang Technology Co., Ltd., Taipei, TAIWAN; Kenden Corporation, Chiyoda-ku, Tokyo, JAPAN; Konka Group Co., Ltd., Shenzhen Special Zone, PEOPLE'S REPUBLIC OF CHINA; Lection Technology Co., Ltd., Fremong, CA; Luxsonor Semiconductor Inc., Fremont, CA; Makidol Electronics Co., Ltd., Shenzhen, PEOPLE'S REPUBLIC OF CHINA; MbyN Inc., Kyungki-do, REPUBLIC OF KOREA; Media Dimensions, Inc., Austin, TX; Metatec International Corporation, Dublin, OH; Motorola, Inc., Austin, TX; National Semiconductor, Corp. (Mediamatics), Santa Clara, CA; Novac Co., Ltd., Tokyo, JAPAN; Pan-International Industrial Corp., Hsinchu City, TAIWAN; PitsExpert Technology Co., Ltd., Taipei, TAIWAN; Proside Corporation, Chiba, JAPAN; Provac Disc Media Inc., Toronti, Ontario, CANADA; QNX Software Systems Ltd., Kanata, Ontario, CANADA; Sasken Communication Technologies Limited, Bangalore, INDIA; Sensory Science Corporation, Scottsdale, AZ; Shinwa Industries (PRC), Ltd., Guangdong, PEOPLE'S REPUBLIC OF CHINA; Silicon Integrated Systems Corporation, Sunnyvale, CA; Silicon Magic Corporation, Sunnyvale, CA; Soft4D Co., Ltd., Songnam-Si, REPUBLIC OF KOREA; Spruce Technologies, Inc., San Jose, CA; STMicroelectronics, Inc., Carrollton, TX; Stream Machine Company, Milpitas, CA; Sun Microsystems Inc., Palo Alto, CA; Takaya Corporation, Okayama, JAPAN; Toolex International N.V., Eindhoven, THE NETHERLANDS; Trident Microsystems, Inc., Santa Clara, CA; Videolar S/A, Alphaville-Barueri, BRAZIL; Yuan High-Tech Development Co., Ltd., Taipei, TAIWAN; and Zen Research N.V., Curacao, NETHERLANDS ANTILLES have been dropped as parties to this venture.

The following members have changed their names: Ahead Software GmbH to Ahead Software AG, Karlsbad, GERMANY; and Lite-On Technology to JVC Lite-On IT Manufacture and Sales, Limited, Hong Kong, HONG KONG-CHINA.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and DVD Copy Control Association (''DVD CCA'') intends to file additional written notification disclosing all changes in membership.

On April 11, 2001, DVD Copy Control Association (''DVD CCA)'' filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on August 3, 2001 (66 FR 40727).

The last notification was filed with the Department on October 12, 2001. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on January 3, 2002 (67 FR 349).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 02–7027 Filed 3–22–02; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—the Oceanic Institute: Biosecure Zero-Exchange Shrimp Technology

Notice is hereby given that, on February 6, 2002, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), The Oceanic Institute: Biosecure Zero-Exchange Shrimp Technology (BioZEST) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties are PIC–USA, Berkeley, CA; Kahuku Shrimp Company, Kahuku, HI; Zeigler Brothers, Inc., Gardners, PA; and The Oceanic Institute, Waimanalo, HI. The nature and objectives of the venture are to develop and demonstrate an economically viable, environmentally responsible, and sustainable production system for shrimp in the U.S. using selectively bred animals in a closed environment that prevents the introduction of disease agents. The system entails zero exchange of water and is termed the ''Biosecure Zero-exchange Shrimp Technology'' or BioZEST. The activities of this joint venture project will be partially funded by an award from the Advanced Technology Program, National Institute

of Standards and Technology, Department of Commerce.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 02–7029 Filed 3–22–02; 8:45 am]

BILLING CODE 4410–11–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 the 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 Section 1301.34 of title 21, Code of Federal Regulations (CFR), notice is hereby given that on October 12, 2001, Chiragene, Inc., Technology Centre of New Jersey, 661 Highway One, North Brunswick, New Jersey 08902, made application by renewal to the Drug Enforcement Administration to be registered as an importer of phenylacetone (8501), a basic class of controlled substance listed in Schedule II.

The firm plans to import the phenylacetone to manufacture amphetamine.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic class of controlled substance 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 in 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed, in quintuplicate, to the Deputy Assistant Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than April 24, 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 basic class of any controlled substance 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: March 12, 2002.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 02–7115 Filed 3–22–02; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated July 13, 2001, and published in the **Federal Register** on July 23, 2001, (66 FR 38324), Stepan Company, Natural Products Department, 100 W. Hunter Avenue, Maywood, New Jersey 07607, made application to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Cocaine (9041)	II
Benzoylecgonine (9180)	II

The firm plans to manufacture bulk controlled substances for distribution to its customers.

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 Stepan Company to manufacture the listed controlled substances is consistent with the public interest at this time. DEA has investigated Stepan Company 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 controlled substances listed above is granted.

Dated: March 12, 2002.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 02–7116 Filed 3–22–02; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Parole Commission

[(Public Law 94–409) (5 U.S.C. Sec. 552b)]

Record of Vote of Meeting Closure

I, Edward F. Reilly, Jr., Chairman of the United States Parole Commission, was present at a meeting of said Commission which started at approximately 11:00 a.m. on Thursday, March 15, 2002, at the U.S. Parole Commission, 5550 Friendship Boulevard, 4th Floor, Chevy Chase, Maryland 20815. The purpose of the meeting was to decide four appeals from the National Commissioners' decisions pursuant to 28 CFR 2.27. Three Commissioners were present, constituting a quorum when the vote to close the meeting was submitted.

Public announcement further describing the subject matter of the meeting and certifications of General Counsel that this meeting may be closed by vote of the Commissioners present were submitted to the Commissioners prior to the conduct of any other business. Upon motion duly made, seconded, and carried, the following Commissioners voted that the meeting be closed: Edward F. Reilly, Jr., Michael J. Gaines, and John R. Simpson.

In witness whereof, I make this official record of the vote taken to close this meeting and authorize this record to be made available to the public.

Dated: March 19, 2002.

Edward F. Reilly, Jr.,

Chairman, U.S. Parole Commission.

[FR Doc. 02–7170 Filed 3–21–02; 10:18 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Office of the Secretary; Submission for OMB Review; Comment Request

March 15, 2002.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in

accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contract Marlene Howze at (202) 693–4158 or e-mail *Howze-Marlene@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, Office of Management and Budget, Room 10235, Washington, DC 20503 (202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

* Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

* Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumption used;

* Enhance the quality, utility, and clarity of the information to be collected; and minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Type of Review: Extension of a currently approved collection.

Agency: Bureau of Labor Statistics (BLS).

Title: Producer Price Index Survey.

OMB Number: 1220–0008.

Affected Public: Business or other for-profit.

Estimated Time Per Response and Total Burden Hours:

Form	Number of respondents	Frequency	Total responses	Average time per response (minutes)	Estimated total burden (hours)
BLS 1810A, A1, B, C, C1, and E	1,585	Once	6,340	120	12,680
BLS 473P	26,250	Monthly	1,260,000	18	378,000
Totals	27,835		1,266,340		390,680

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing service): $0.

Description: The Producer Price Index, one of the Nation's leading economic indicators, is used as a measure of price movements, as an indicator of inflationary trends, for inventory valuation, and as a measure of purchasing power of the dollar at the primary market level. It is also used for market and economic research and as a basis for escalation in long-term contracts and purchase agreements. The failure to calculate data would tend to extend the time frame required for accurate recognition of and appropriate adaptation to economic events.

Ira L. Mills,

DOL Clearance Officer.

[FR Doc. 02–7142 Filed 3–22–02; 8:45 am]

BILLING CODE 4510–24–M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c) (2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The Bureau of Labor Statistics (BLS) is soliciting comments concerning the revision of the *''Labor Market Information (LMI) Cooperative Agreement.''* A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the Addresses section of this notice.

DATES: Written comments must be submitted to the office listed in the Addresses section of this notice on or before May 24, 2002.

ADDRESSES: Send comments to Amy A. Hobby, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 4080, 2 Massachusetts Avenue, NE., Washington, DC 20212, telephone number 202–691–7628 (this is not a toll free number).

FOR FURTHER INFORMATION CONTACT: Amy A. Hobby, BLS Clearance Officer, telephone number 202–691–7628. (See Addresses section.)

SUPPLEMENTARY INFORMATION:

I. Background

The BLS enters into Cooperative Agreements with State Employment Security Agencies (SESAs) annually to provide financial assistance to the SESAs for the production and operation of the following LMI statistical programs: Current Employment Statistics, Local Area Unemployment Statistics, Occupational Employment Statistics, Covered Employment and Wages Report, and Mass Layoff Statistics. The Cooperative Agreement provides the basis for managing the administrative and financial aspects of these programs.

II. Desired Focus of Comments

The BLS is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology,

e.g., permitting electronic submissions of responses.

III. Current Action

Office of Management and Budget (OMB) clearance is being sought for the LMI Cooperative Agreement. The existing collection of information allows Federal staff to negotiate the Cooperative Agreement with the SESAs and monitor their financial and programmatic performance and adherence to administrative requirements imposed by common regulations implementing OMB Circular A–102 and other grant-related regulations. The information collected also is used for planning and budgeting at the Federal level and in meeting Federal reporting requirements.

Type of Review: Revision of a currently approved collection.

Agency: Bureau of Labor Statistics.

Title: Labor Market Information (LMI) Cooperative Agreement.

OMB Number: 1220–0079.

Affected Public: State, Local or Tribal Governments.

Frequency: Monthly, quarterly, annually.

Information collection	Respondents	Frequency	Responses	Time	Total hours
Work Statements	55	1	55	1–2 hr	55–110
BIF (LMI 1A, 1B)	55	1	55	1–6 hr	55–330
Quarterly Automated Financial Reports	48	4	192	10–50 min	32–160
Monthly Automated Financial Reports	48	*8	384	5–25 min	32–160
BLS Cooperative Statistics Financial Report (LMI 2A)	7	12	84	1–5 hr	84–420
Quarterly Status Report (LMI 2B)	1–30	4	4–120	1 hr	4–120
Total	1–55		774–890		262–1300
Average Totals	55		832		781

*Reports are not received for end-of-quarter months, *i.e.*, December, March, June, September.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC, this 12th day of March, 2002.

Jesús Salinas,

Acting Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 02–7141 Filed 3–22–02; 8:45 am]

BILLING CODE 4510–24–P

COMMISSION ON OCEAN POLICY

Public Meeting

AGENCY: U.S. Commission on Ocean Policy.

ACTION: Notice.

SUMMARY: The U.S. Commission on Ocean Policy will hold its fourth regional meeting, the Commission's sixth public meeting, to hear and discuss coastal and ocean issues of concern to the Southwest region of the United States, covering the coastal area of California.

DATES: Public meetings will be held Thursday, April 18, 2002 from 12:30 p.m. to 6:15 p.m. and Friday, April 19, 2002 from 8:30 a.m. to 6:00 p.m.

ADDRESSES: The meeting location is the Embassy Room, Davidson Executive Conference Center, University of Southern California, 3415 Figueroa Street, Los Angeles, California 90089–0871.

FOR FURTHER INFORMATION CONTACT: Terry Schaff, U.S. Commission on Ocean Policy, 1120 20th Street, NW, Washington, DC, 20036, 202–418–3442, *schaff@oceancommission.gov.*

SUPPLEMENTARY INFORMATION: This meeting is being held pursuant to requirements under the Oceans Act of 2000 (Public Law 106–256, Section 3(e)(1)(E)). The agenda will include presentations by invited speakers representing local and regional government agencies and non-governmental organizations, comments from the public and any required administrative discussions and executive sessions. Invited speakers and members of the public are requested to submit their statements for the record electronically by April 10, 2002 to the meeting Point of Contact. Public comment periods are scheduled for Thursday, April 18 and Friday, April 19. The agenda for the meeting, including specific times for the public comment periods, and guidelines for making public comments will be posted on the Commission's website at *http://www.oceancommission.gov* prior to the meeting.

Dated: March 19, 2002.

Admiral James D. Watkins,

USN (ret.), Chairman, U.S. Commission on Ocean Policy.

[FR Doc. 02–7063 Filed 3–22–02; 8:45 am]

BILLING CODE 6820–WM–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for OMB Review; Comment Request for Reinstatement of a Revised Information Collection: RI 20–80

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) has submitted to the Office of Management and Budget (OMB) a request for reinstatement of a revised information collection. RI 20–80, Alternative Annuity Election, is used for individuals who are eligible to elect whether to receive a reduced annuity and a lump-sum payment equal to their retirement contributions (alternative form of annuity) or an unreduced annuity and no lump sum.

Approximately 200 RI 20–80 forms are completed annually. We estimate it takes approximately 20 minutes to complete the form. The annual burden is 67 hours.

For copies of this proposal, contact Mary Beth Smith-Toomey on (202) 606–8358, FAX (202) 418–3251 or E-mail to *mbtoomey@opm.gov.* Please include your mailing address with your request.

DATES: Comments on this proposal should be received on or before April 24, 2002.

ADDRESSES: Send or deliver comments to—

Ronald W. Melton, Chief, Operations Support Division, Retirement and Insurance Service, U.S. Office of Personnel Management, 1900 E Street, NW., Room 3349A, Washington, DC 20415–3540.

and

Joseph Lackey, OPM Desk Officer, Office of Information & Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW., Room 10235 Washington, DC 20503.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION—CONTACT: Donna G. Lease, Team Leader, Desktop Publishing and Printing, Budget and Administrative Services Division, (202) 606–0623.

Office of Personnel Management.

Kay Coles James,

Director.

[FR Doc. 02–7020 Filed 3–22–02; 8:45 am]

BILLING CODE 6325–50–P

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedule C in the excepted service, as required by Civil Service Rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: Pam Shivery, Director, Washington Service Center, Employment Service (202) 606–1015.

SUPPLEMENTARY INFORMATION: Individual authorities established under Schedule C between February 1, 2002, and February 28, 2002, appear in the listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities as of June 30 will also be published.

Schedule C

The following Schedule C authorities were established during February 2002:

Broadcasting Board of Governors

Senior Projects Officer to the Director, Voice of America. Effective February 21, 2002.

Senior Projects Officer to the Director, Voice of America. Effective February 21, 2002.

Commission on Civil Rights

Special Assistant to the Commissioner. Effective February 8, 2002.

Department of Agriculture

Confidential Assistant to the Administrator, Rural Utilities Service. Effective February 1, 2002.

Special Assistant to the Director, Office of Communications. Effective February 1, 2002.

Confidential Assistant to the Assistant Secretary for Congressional Relations. Effective February 8, 2002.

Confidential Assistant to the Assistant Secretary for Congressional Relations. Effective February 11, 2002.

Special Assistant to the Under Secretary for Farm and Foreign Agricultural Service. Effective February 25, 2002.

Confidential Assistant to the Administrator, Animal and Plant Health Inspection Service. Effective February 28, 2002.

Department of the Air Force (DOD)

Confidential Assistant to the Assistant Secretary (Financial Management Comptroller). Effective February 8, 2002.

Department of the Army (DOD)

Secretary (Office Automation) to the Under Secretary of the Army. Effective February 6, 2002.

Secretary (Office Automation) to the Assistant Secretary of the Army (Civil Works). Effective February 8, 2002.

Secretary (Office Automation) to the General Counsel of the Army. Effective February 8, 2002.

Special Assistant to the Secretary of the Army. Effective February 15, 2002.

Personal And Confidential Assistant to the Assistant Secretary of the Army (Financial Management and Comptroller). Effective February 22, 2002.

Special Assistant to the Assistant Secretary of the Army (Civil Works) for Congressional Affairs. Effective February 26, 2002.

Department of Commerce

Chief Information Officer to the Under Secretary of Technology. Effective February 4, 2002.

Deputy Director to the Director, Office of Public Affairs, International Trade Administration. Effective February 6, 2002.

Confidential Assistant to the Assistant Secretary for Export Administration. Effective February 6, 2002.

Confidential Assistant to the Deputy Assistant Secretary for Domestic Operations. Effective February 19, 2002.

Confidential Assistant to the Assistant Secretary and Director General of the U.S. and Foreign Commercial Service. Effective February 22, 2002.

Deputy Director to the Director, Office of the White House Liaison. Effective February 28, 2002.

Department of Defense

Electronic Commerce Specialist to the Deputy Assistant Secretary of Defense (Deputy Chief Information Officer). Effective February 1, 2002.

Defense Fellow to the Special Assistant to the Secretary of Defense for White House Liaison. Effective February 4, 2002.

Staff Assistant to the Deputy Assistant Secretary of Defense (Near East/South Asia). Effective February 4, 2002.

Defense Fellow to the Special Assistant to the Secretary of Defense (White House Liaison). Effective February 5, 2002.

Speech Writer to the Director, Directorate for Editorial Services. Effective February 5, 2002.

Public Affairs Specialist to the Assistant Secretary of Defense for Public Affairs. Effective February 6, 2002.

Special Assistant to the Principal Deputy Assistant Secretary of Defense (Legislative Affairs). Effective February 8, 2002.

Public Affairs Specialist to the Deputy Assistant Secretary of Defense (Public Affairs) for Issues and Strategy Management. Effective February 8, 2002.

Defense Fellow to the Special Assistant to the Secretary (White House Liaison). Effective February 11, 2002.

Defense Fellow to the Special Assistant to the Secretary of Defense (White House Liaison). Effective February 11, 2002.

Director, Communications Strategy to the Assistant Secretary of Defense for Public Affairs). Effective February 11, 2002.

Defense Fellow to the Special Assistant to the Secretary of Defense (White House Liaison). Effective February 11, 2002.

Defense Fellow to the Special Assistant to the Secretary of Defense (White House Liaison). Effective February 11, 2002.

Special Assistant to the Assistant Secretary of Defense (Legislative Affairs). Effective February 13, 2002.

Executive Assistant to the Special Assistant to the Secretary of Defense for White House Liaison. Effective February 13, 2002.

Special Assistant to the Principal Deputy Under Secretary of Defense (Policy). Effective February 19, 2002.

Defense Fellow to the Director, Administration and Management. Effective February 21, 2002.

Defense Fellow to the Director, Administration and Management. Effective February 21, 2002.

Writer-Editor to the Director, Strategic Communications. Effective February 21, 2002.

Confidential Assistant to the Assistant Secretary of Defense. Effective February 22, 2002.

Public Affairs Specialist to the Assistant Secretary of Defense for Public Affairs. Effective February 24, 2002.

Defense Fellow to the Special Assistant to the Secretary of Defense (White House Liaison). Effective February 25, 2002.

Department of Education

Special Assistant to the Deputy Assistant Secretary for Intergovernmental, Constituent Relations and Corporate Liaison. Effective February 1, 2002.

Special Assistant to the Assistant Secretary for Elementary and Secondary Education. Effective February 1, 2002.

Confidential Assistant to the Director, White House Initiative on Hispanic Education. Effective February 5, 2002.

Confidential Assistant to the Assistant Secretary for Postsecondary Education. Effective February 5, 2002.

Confidential Assistant to the Chief of Staff. Effective February 6, 2002.

Special Assistant to the Chief of Staff. Effective February 6, 2002.

Confidential Assistant to the Chief of Staff. Effective February 6, 2002.

Special Assistant to the Director, Office of Public Affairs. Effective February 11, 2002.

Confidential Assistant to the Assistant Secretary for Elementary and Secondary Education. Effective February 14, 2002.

Special Assistant to the Chief of Staff. Effective February 14, 2002.

Confidential Assistant to the Chief of Staff. Effective February 14, 2002.

Confidential Assistant to the Chief of Staff. Effective February 14, 2002.

Special Assistant to the Assistant Secretary for Postsecondary Education. Effective February 14, 2002.

Secretary's Regional Representative to the Deputy Assistant Secretary for Regional Services. Effective February 14, 2002.

Special Assistant to the Chief of Staff. Effective February 21, 2002.

Director, Office of Scheduling and Briefing to the Chief of Staff. Effective February 24, 2002.

Confidential Assistant to the Director, Office of Public Affairs. Effective February 25, 2002.

Special Assistant to the Chief of Staff. Effective February 27, 2002.

Special Assistant to the Assistant Secretary for Postsecondary Education. Effective February 28, 2002.

Secretary's Regional Representative, Region 7 to the Deputy Assistant Secretary for Regional Services. Effective February 28, 2002.

Department of Energy

Policy Advisor to the Secretary of Energy. Effective February 1, 2002.

Special Assistant to the Assistant Secretary for Policy and International Affairs. Effective February 4, 2002.

Trip Coordinator to the Deputy Director for Advance. Effective February 5, 2002.

Senior Policy Advisor for Middle East Affairs to the Assistant Secretary for Policy and International Affairs. Effective February 7, 2002.

Special Assistant to the Assistant Secretary for Fossil Energy. Effective February 8, 2002.

Special Assistant to the Secretary of Energy. Effective February 13, 2002.

Deputy Director to the Director, Office of Economic Impact and Diversity. Effective February 15, 2002.

Special Assistant to the Deputy Secretary of Energy. Effective February 25, 2002.

White House Liaison to the Secretary of Energy. Effective February 27, 2002.

Department of Health and Human Services

Deputy Director for Operations to the Director of Intergovernmental Affairs. Effective February 5, 2002.

Deputy Director of the Director of Scheduling. Effective February 11, 2002.

Special Assistant to the Secretary of Health and Human Services. Effective February 13, 2002.

Confidential Assistant to the Director of Scheduling. Effective February 25, 2002.

Director of Communications to the Deputy Assistant Secretary for Public Affairs (Policy and Strategy). Effective February 27, 2002.

Special Assistant to the Chief of Staff. Effective February 27, 2002.

Department of Housing and Urban Development

Staff Assistant to the Deputy Assistant Secretary for Public Affairs. Effective February 1, 2002.

Deputy Assistant Secretary for Special Needs to the Assistant Secretary for Community Planning and Development. Effective February 19, 2002.

Staff Assistant to the Assistant Deputy Secretary for Field Policy and Management. Effective February 20, 2002.

Special Assistant to the Deputy Secretary of Housing and Urban Development. Effective February 28, 2002.

Department of the Interior

Speechwriter to the Director of Communications. Effective February 15, 2002.

Associate Director to the Director, Office of Congressional and Legislative Affairs. Effective February 22, 2002.

Special Assistant to the Director, Minerals Management Service. Effective February 26, 2002.

Department of Justice

Attorney Advisor to the Attorney General. Effective February 4, 2002.

Attorney Advisor/Special Assistant to the Director, Office of Domestic Preparedness, Office of Justice Programs. Effective February 5, 2002.

Attorney Advisor to the Assistant Attorney General, Civil Division. Effective February 5, 2002.

Secretary (OA) to the United States Attorney, District of Maryland. Effective February 8, 2002. Deputy Assistant Attorney General to the Assistant Attorney General, Tax Division. Effective February 8, 2002.

Counsel to the Assistant Attorney General, Civil Division. Effective February 11, 2002.

Senior Advisor to the Director, Office of Public Affairs. Effective February 12, 2002.

Special Assistant to the Director, Office of Congressional and Public Relations. Effective February 14, 2002.

Secretary (OA) to the United States Attorney, Southern District of Alabama. Effective February 21, 2002.

Secretary (Office Automation) to the United States Attorney, District of New Mexico. Effective February 25, 2002.

Department of Labor

Senior Intergovernmental Liaison to the Assistant Secretary for Congressional and Intergovernmental Affairs. Effective February 4, 2002.

Speech Writer to the Assistant Secretary, Office of Public Affairs. Effective February 4, 2002.

Staff Assistant to the Deputy Secretary. Effective February 4, 2002.

Special Assistant to the Deputy Under Secretary for International Labor Affairs. Effective February 11, 2002.

Special Assistant to the Assistant Secretary for Employment and Training Administration. Effective February 13, 2002.

Special Assistant to the Director, Women's Bureau. Effective February 19, 2002.

Senior Intergovernmental Officer to the Assistant Secretary for Congressional and Intergovernmental Affairs. Effective February 20, 2002.

Staff Assistant to the Assistant Secretary for Policy. Effective February 21, 2002.

Special Assistant to the Assistant Secretary for Disability Employment Policy. Effective February 22, 2002.

Special Assistant to the Assistant Secretary for Public Affairs. Effective February 25, 2002.

Staff Assistant to the Assistant Secretary for Congressional and Intergovernmental Affairs. Effective February 27, 2002.

Special Assistant to the Assistant Secretary for Administration and Management. Effective February 28, 2002.

Department of the Navy (DOD)

Staff Assistant to the Secretary of the Navy. Effective February 12, 2002.

Department of State

Senior Advisor to the U.S. Permanent Representative to the Organization of American States. Effective February 4, 2002.

Senior Advisor to the Assistant Secretary for South Asian Affairs. Effective February 6, 2002.

Legislative Management Officer to the Assistant Secretary for Legislative Affairs. Effective February 8, 2002.

Protocol Officer (Ceremonials) to the Chief of Protocol. Effective February 22, 2002.

Public Affairs Specialist to the Assistant Secretary for Public Affairs. Effective February 26, 2002.

Staff Assistant to the Senior Advisor (White House Liaison). Effective February 26, 2002.

Special Assistant to the Secretary of State. Effective February 26, 2002.

Department of Transportation

Associate Director to the Assistant Secretary for Government Affairs. Effective February 5, 2002.

Special Assistant to the Assistant Secretary for Transportation Policy. Effective February 8, 2002.

Special Assistant to the Administrator, National Highway Traffic Safety Administration. Effective February 25, 2002.

Chief, Consumer Information Division to the Administrator, National Highway Traffic Safety Administration. Effective February 26, 2002.

Director, Office of Public and Consumer Affairs to the Administrator, National Highway Traffic Safety Administration. Effective February 26, 2002.

Department of the Treasury

Speechwriter to the Assistant Secretary for Public Affairs. Effective February 14, 2002.

Senior Advisor to the Assistant Secretary for Management and Chief Financial Officer. Effective February 25, 2002.

Department of Veterans Affairs

Director, Congressional Affairs to the Assistant Secretary for Congressional and Legislative Affairs. Effective February 8, 2002.

Environmental Protection Agency

Senior Advisor on Outreach to the Assistant Administrator for Solid Waste and Emergency Response. Effective February 11, 2002.

Associate Assistant Administrator to the Assistant Administrator for Office of Prevention, Pesticides and Toxic Substances. Effective February 11, 2002.

Special Assistant to the Director of Operations. Effective February 11, 2002.

Special Assistant for Communications to the Assistant Administrator, Office of Water. Effective February 11, 2002.

Public Affairs Specialist to the Associate Administrator. Effective February 14, 2002.

Export-Import Bank of the United States

Special Assistant to the Vice President for Public Affairs. Effective February 26, 2002.

Federal Emergency Management Agency

Deputy Chief of Staff to the Director. Effective February 8, 2002.

Staff Assistant to the General Counsel. Effective February 22, 2002.

Special Assistant to the Chief Information Officer to the Assistant Director, Information Technology Services Directorate. Effective February 27, 2002.

Federal Housing Finance Board

Special Assistant to the Chairman. Effective February 26, 2002.

National Transportation Safety Board

Senior Policy Advisor to the Chairman, National Transportation Safety Board. Effective February 25, 2002.

Office of Management and Budget

Counselor to the Controller, Office of Federal Financial Management. Effective February 4, 2002.

Confidential Assistant to the Deputy Director, Office of Management and Budget. Effective February 8, 2002.

Deputy Director to the Associate Director for Communications. Effective February 11, 2002.

Office of National Drug Control Policy

Associate Deputy Director to the Deputy Director, State and Local Affairs. Effective February 8, 2002.

Securities and Exchange Commission

Director of Communications to the Chairman. Effective February 8, 2002.

Senior Advisor for Legislative Affairs to the Director of Communications. Effective February 8, 2002.

Director of Public Affairs to the Director of Communications. Effective February 8, 2002.

Small Business Administration

Special Assistant to the Assistant Administrator for Congressional and Legislative Affairs. Effective February 4, 2002.

Special Assistant to the Chief Operating Officer. Effective February 20, 2002.

Senior Advisor to the Associate Deputy Administrator for Government Contracting and Business Development. Effective February 25, 2002.

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR 1954–1958 Comp., P. 218.

Office of Personnel Management.

Kay Coles James,

Director.

[FR Doc. 02–7021 Filed 3–22–02; 8:45 am]

BILLING CODE 6325–38–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Representative Payee Parental Custody Monitoring

(2) *Form(s) submitted:* G–99d

(3) *OMB Number:* 3220–0176

(4) *Expiration date of current OMB clearance:* 5/31/2002

(5) *Type of request:* Extension of a currently approved collection

(6) *Respondents:* Individuals or households

(7) *Estimated annual number of respondents:* 1,850

(8) *Total annual responses:* 1,850

(9) *Total annual reporting hours:* 154

(10) *Collection description:* Under Section 12(e) of the Railroad Retirement Act, the RRB is authorized to select, make payments to, and conduct transactions with an annuitant's relative or some other person willing to act on behalf of the annuitant as a representative payee. The collection

obtains information needed to verify the parent-for-child payee still retains custody of the child.

Additional Information or Comments: Copies of the forms and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312) 751–3363. Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, 60611–2092 and to the OMB Desk Officer for the RRB, at the Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 02–7067 Filed 3–22–02; 8:45 am]

BILLING CODE 7905–01–M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Certification of Relinquishment of Rights.

(2) *Form(s) submitted:* G–88.

(3) *OMB Number:* 3220–0016.

(4) *Expiration date of current OMB clearance:* 5/31/2002.

(5) *Type of request:* Extension of a currently approved collection.

(6) *Respondents:* Individuals or households.

(7) *Estimated annual number of respondents:* 3,600.

(8) *Total annual responses:* 3,600.

(9) *Total annual reporting hours:* 360.

(10) *Collection description:* Under Section 2(e)(2) of the Railroad Retirement Act, the Railroad Retirement Board must have evidence that an annuitant for an age and service, spouse, or divorced spouse annuity has relinquished their rights to return to the service of a railroad employer. The collection provides the means for obtaining this evidence.

FOR FURTHER INFORMATION CONTACT: Copies of the forms and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312–751–3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 and to the OMB Desk Officer for the RRB, at the Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 02–7068 Filed 3–22–02; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 25465; 812–12420]

Delaware Investments Dividend and Income Fund, Inc. and Delaware Investments Global Dividend and Income Fund, Inc.; Notice of Application

March 18, 2002.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 19(b) of the Act and rule 19b–1 under the Act.

SUMMARY OF APPLICATION: Delaware Investments Dividend and Income Fund, Inc. (''DDF'') and Delaware Investments Global Dividend and Income Fund, Inc. (''DGF'') (DDF and DGF each, a ''Fund'' and collectively, the ''Funds'') request an order to permit them to make up to twelve distributions of long-term capital gains in any one taxable year, so long as they maintain in effect their distribution policies with respect to their common stock calling for fixed monthly distributions.

FILING DATES: The application was filed on January 24, 2001 and amended on March 14, 2002.

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 April 12, 2002, and should be accompanied by proof of service on the 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, c/o Bruce G. Leto, Stradley Ronon Stevens & Young, LLP., 2600 One Commerce Square, Philadelphia, PA 19103–7098.

FOR FURTHER INFORMATION CONTACT: Keith A. Gregory, Senior Counsel, at (202) 942–0611, 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. The Funds are registered under the Act as closed-end, diversified management investment companies and organized as Maryland corporations. Each Fund's primary investment objective is high current income; capital appreciation is a secondary objective. The Funds seek to achieve their goals by investing in a wide variety of income-generating equity securities, including dividend-paying common stocks, convertible securities, preferred stocks and other equity related securities. The Funds' shares are listed on the New York Stock Exchange and have historically traded at a discount to net asset value (''NAV''). Delaware Management Company, an investment adviser registered under the Investment Advisers Act of 1940 (''Advisers Act''), serves as the Funds'' investment adviser. Delaware International Advisers, Ltd., an investment adviser registered under the Advisers Act, serves as the sub-adviser for the foreign component of DGF's investment portfolio.

2. On July 20, 1995 and November 16, 1995, respectively, the boards of directors of DGF and DDF (the ''Boards''), including a majority of the directors who are not ''interested persons'' of each Fund, as defined in section 2(a)(19) of the Act, adopted a distribution policy (each, a ''Distribution Policy'' and collectively, the ''Distribution Policies'') with respect to each Fund's shares of common stock. The Boards considered that the Distribution Policies would provide a consistent income stream to the Funds' shareholders and might help support the market price of the Funds' common stock. The Boards review and approve the level of the distribution for each respective Fund at each quarterly Board

meeting. Pursuant to the Distribution Policies, the shareholders of each Fund currently receive a fixed distribution of 12.5 cents per share on a monthly basis. If for any taxable year, the total distributions required by the Distribution Policies exceed the sum of each Fund's net investment income and net realized capital gains, the excess generally will be treated as a return of capital (up to the amount of the shareholder's adjusted tax basis in his shares). Applicants state that the Distribution Policies provide a steady cash flow to the Funds' shareholders and are a method to reduce the trading discount from NAV.

3. Applicants request relief to permit the Funds, so long as they maintain in effect the Distribution Policies, to make up to twelve long-term capital gains distributions in any one taxable year.

Applicants' Legal Analysis

1. Section 19(b) of the Act provides that a registered investment company may not, in contravention of such rules, regulations, or orders as the Commission may prescribe, distribute long-term capital gains more often than once every twelve months. Rule 19b–1(a) under the Act permits a registered investment company, with respect to any one taxable year, to make one capital gains distribution, as defined in section 852(b)(3)(C) of the Internal Revenue Code of 1986, as amended (the ''Code''). Rule 19b–1(a) also permits a supplemental distribution to be made pursuant to section 855 of the Code not exceeding 10% of the total amount distributed for the year. Rule 19b–1(f) permits one additional long-term capital gains distribution to be made to avoid the excise tax under section 4982 of the Code.

2. The Funds assert that rule 19b–1, by limiting the number of net long-term capital gains distributions the Funds may make with respect to any one year, would prohibit the Funds from including available net long-term capital gains in certain of their fixed monthly distributions. As a result, the Funds state that they could be required to fund these monthly distributions with returns of capital (to the extent net investment income and net realized short-term capital gains are insufficient to cover a monthly distribution). The Funds further assert that, to distribute all of their long-term capital gains within the limits in rule 19b–1, the Funds may be required to make total distributions in excess of the annual amount called for by the Distribution Policies or retain and pay taxes on the excess amount. The Funds assert that the application of rule 19b–1 to their Distribution Policies may create pressure to limit the realization of long-term capital gains based on considerations unrelated to investment goals.

3. The Funds submit that the concerns underlying section 19(b) and rule 19b–1 are not present in their situation. One of the concerns leading to the adoption of section 19(b) and rule 19b–1 was that shareholders might be unable to distinguish between frequent distributions of capital gains and dividends from investment income. The Funds state that the Distribution Policies have been described in the Funds' periodic communications to their shareholders. The Funds further state that, as required by rule 19a–1 under the Act, a separate statement showing the source of the distribution will accompany any distribution. The Funds also state that a statement showing the amount and source of each monthly distribution during the year will be included with each Fund's IRS Form 1099–DIV report sent to each shareholder who received distributions during the year (including shareholders who sold shares during the year).

4. The Funds submit that another concern underlying section 19(b) and rule 19b–1 is that frequent capital gains distributions could facilitate improper fund distribution practices, including, in particular, the practice of urging an investor to purchase shares of a fund on the basis of an upcoming dividend (''selling the dividend''), when the dividend results in an immediate corresponding reduction in NAV and is, in effect, a return of the investor's capital. The Funds state that this concern does not apply to closed-end investment companies, such as the Funds, that do not continuously distribute their shares.

5. The Funds state that increased administrative costs also are a concern underlying section 19(b) and rule 19b–1. The Funds assert that this concern is not present because the Funds will continue to make monthly distributions regardless of whether capital gains are included in any particular distribution.

6. Section 6(c) of the Act provides that the Commission may exempt any person or transaction from any provision of the Act or any rule under the Act to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. For the reasons stated above, the Funds believe that the requested relief satisfies this standard.

Applicants' Condition

The Funds agree that the order granting the requested relief will terminate upon the effective date of a registration statement under the Securities Act of 1933, as amended, for any future public offering by the Funds of their common shares other than:

(i) A non-transferable rights offering to shareholders of the Funds, provided that such offering does not include solicitation by brokers or the payment of any commissions or underwriting fee; and

(ii) An offering in connection with a merger, consolidation, acquisition, spin-off or reorganization; unless the Funds have received from the staff of the Commission written assurance that the order will remain in effect.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–7039 Filed 3–22–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: [67 FR 10778, March 8, 2002].

STATUS: Closed Meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE AND TIME OF PREVIOUSLY ANNOUNCED MEETING: Tuesday, March 12, 2002 at 10:00 a.m.

CHANGE IN THE MEETING: Additional Item.

The following item was added to the closed meeting held on Tuesday, March 12, 2002: regulatory matter concerning financial markets.

Commissioner Hunt, as duty officer, determined that Commission business required the above change and that no earlier notice thereof was possible.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries attended the closed meeting. Certain staff members who had an interest in the matter were also present.

The General Counsel of the Commission, or his designee, certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(5), (7), (9)(A), (9)(B), and (10) and 17 CFR 200.402(a)(5), (7), 9(i), 9(ii) and (10), permitted consideration of the scheduled matter at the closed meeting.

At times, changes in Commission priorities require alterations in the

scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942–7070.

Dated: March 19, 2002.

Jonathan G. Katz,

Secretary.

[FR Doc. 02–7166 Filed 3–20–02; 5:02 pm]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45574; File No. SR–CBOE–2001–63]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Amendment No. 1 Thereto and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 2 Thereto by the Chicago Board Options Exchange, Inc. Relating to the Exchange's AutoQuote System

March 15, 2002.

I. Introduction

On December 17, 2001, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') submitted to the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change relating to the Exchange's Auto-Quote System. The Exchange filed Amendment No. 1 to the proposed rule change on February 7, 2002.[3] The **Federal Register** published the proposed rule change and Amendment No. 1 for comment on February 13, 2002.[4] The Exchange filed Amendment No. 2 to the proposed rule change on March 7, 2002.[5] The Commission received no comments on the proposed rule change. This order approves the proposed rule change, as amended by Amendment No. 1, and issues notice of, and grants accelerated approval to, Amendment No. 2.

II. Description of Proposal

CBOE Rule 8.15 currently provides that the appropriate MPC may appoint Lead Market-Makers (''LMMs'') and Supplemental Market-Makers (''SMMs'') for a specified period of time to participate in opening rotations in S&P 100 options (''OEX'') and options on the Dow Jones Industrial Average (''DJX''). The proposed rule change amends CBOE Rule 8.15 to make explicit in the rule that the appropriate Market Performance Committee (''MPC'') may appoint LMMs and SMMs to determine a formula for generating automatically updated market quotations and to use the Exchange's AutoQuote system or to provide a proprietary automated quotation updating system to monitor and automatically update market quotations during the trading day in any options class for which a Designated Primary Market-Maker (''DPM'') has not been appointed.

Proposed new paragraph (d) of CBOE Rule 8.15 provides that LMMs and SMMs appointed pursuant to the CBOE Rule 8.15 to determine a formula for generating automatically updated market quotations must, for the period in which its acts as LMM or SMM, use the Exchange's AutoQuote system or a proprietary automated quotation updating system to update market quotations during the trading day. Proposed paragraph (d) also requires LMMs to disclose to the trading crowd the variables of the formula for generating automatically updated market quotations unless exempted by the appropriate MPC. Proposed paragraph (d) further provides a cross-reference to the requirements of Interpretation .07 to CBOE Rule 8.7, which sets forth the AutoQuote obligations of market makers.[6] The Exchange also proposes to eliminate the references to S&P 100 options and options on the DJX from CBOE Rule 8.15 so that the appropriate MPC may appoint LMMs and SMMs in other options classes without having to file a proposed rule change with the Commission.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[7] Specifically, the Commission believes that the proposed rule change is consistent with the Section 6(b)(8) [8] requirement that the rules of an exchange not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

The Commission believes that the proposed rule change should deter collective action, except as authorized by the Exchange's rules, by clearly establishing in the Exchange's rules the responsibilities of, and conduct permitted by, Exchange members in setting AutoQuote parameters. For instance, the proposal amends CBOE Rule 8.15 to make explicit in the rule that in options for which a DPM has not been appointed, the Exchange's MPC may appoint LMMs and SMMs to determine a formula for generating automatically updated market quotations and to use the Exchange's AutoQuote system or to provide a proprietary automated quotation updating system. The Commission believes this provision should clarify the obligations of LMMs and SMMs with respect to the Exchange's AutoQuote system. In addition, the proposal would permit the LMM or SMM to receive input from members of the crowd in setting the parameters of the formula used to automatically update options quotations. At this time, the Commission believes it is reasonable for the Exchange's rules to permit members of the crowd to be given a voice in setting AutoQuote parameters because, pursuant to the Exchange's rules, they will be obligated to execute orders at the resultant quote.[9]

Finally, the Commission finds that the proposed rule change is designed to effectively limit the circumstances in which collective action is permissible.

The Commission finds good cause for accelerating approval of Amendment No. 2 because it clarifies the obligations of LMMs and SMMs regarding AutoQuote. Accordingly, the Commission finds that good cause exists, consistent with sections 6(b)(5) of the Act,[10] and section 19(b)(2) of the Act[11] to accelerate approval of Amendment No. 2 to the proposed rule

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Patrick Sexton, Assistant General Counsel, CBOE, to Deborah Flynn, Assistant Director, Division of Market Regulation (''Division''), Commission (''Amendment No. 1''). Amendment No. 1 requests the Commission to designate the proposed rule change as having been filed pursuant to section 19(b)(2) of the Act. 15 U.S.C. 78s(b)(2).

[4] Securities Exchange Act Release No. 45419 (February 7, 2002), 67 FR 6772.

[5] *See* letter from Patrick Sexton, Assistant General Counsel, CBOE, to Deborah Flynn, Assistant Director, Division, Commission, dated March 5, 2002 (''Amendment No. 2'').

[6] *See* Amendment No. 2, *supra* note 5.

[7] In approving the proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[8] 15 U.S.C. 78f(b)(8).

[9] The Commission expects the Exchange to monitor the collective actions that are undertaken pursuant to the rule change approved herein for any undesirable or inappropriate anticompetitive effects. The Commission's examination staff will monitor the Exchange's efforts in this regard.

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78s(b)(2).

change prior to the thirtieth day after publication in the **Federal Register**.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 2, including whether the Amendment No. 2 is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–CBOE–2001–63 and should be submitted by April 15, 2002.

V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[12] that the proposed rule change (SR–CBOE–2001–63), as amended, is approved, and Amendment No. 2 is approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–7040 Filed 3–22–02; 8:45 am]

BILLING CODE 8010–01–P

[12] 15 U.S.C. 78s(b)(2).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45591; File No. SR–MSRB–2002–01]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Order Granting Approval of Proposed Rule Change Relating to Rule G–17 on Disclosure of Material Facts

March 18, 2002.

On January 25, 2002, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'')[1] and Rule 19b–4 thereunder,[2] the Municipal Securities Rulemaking Board (''MSRB'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change relating to Rule G–17, on disclosure of material facts.

The Commission published the proposed rule change for comment in the **Federal Register** on February 12, 2002.[3] The Commission received no comment letters relating to the forgoing proposed rule change. This order approves the proposal.

I. Description of the Proposed Rule Change

The proposed rule change provides an interpretation of the duty to deal fairly set forth in Rule G–17. The MSRB's proposed this interpretation to set forth an expanded explanation of what Rule G–17's obligation to ''disclose all material facts'' means in today's innovative market. The MSRB believes that technological changes necessitate interpretive guidance for the application of certain rules. Alternative trading systems present the most graphic example of changing dealer/customer relationships and the consequent need for regulatory change, but these relationship obligations are not necessarily limited to electronic trading venues.

As part of a dealer's obligation to deal fairly, the MSRB has consistently interpreted that Rule G–17 creates affirmative disclosure obligations for brokers, dealers and municipal securities dealers (collectively, ''dealers''). The MSRB has stated that a dealer's affirmative disclosure obligations require that a dealer disclose, at or before the sale of municipal securities to a customer, all material facts concerning the transaction, including a complete description of the security.[4] These obligations apply even when a dealer is acting as an order taker and effecting non-recommended secondary market transactions.

Rule G–17 requires that dealers disclose to a customer at the time of trade all material facts about a transaction known by the dealer. In addition, a dealer is required to disclose material facts about a security when such facts are reasonably accessible to the market. Thus, a dealer would be responsible for disclosing to a customer any material fact concerning a municipal securities transaction made publicly available through sources such as the NRMSIR system, the MSIL® system, TRS, rating agency reports and other sources of information relating to the municipal securities transaction generally used by dealers that effect transactions in the type of municipal securities at issue (collectively, ''established industry sources'').[5]

In addition to the basic disclosure obligations, the duty to ''deal fairly'' is intended to ''refer to the customs and practices of the municipal securities markets, which may, in many instances differ from the corporate securities markets.'' [6] The customs and practices of the industry suggest that the sources of information generally used by a dealer that effects transactions in municipal securities may vary with the type of municipal security. For example, a dealer might have to draw on fewer industry sources to disclose all material facts about an insured ''triple-A'' rated general obligation bond than for a non-rated conduit issue. In addition, to the extent that a security is more complex, for example, because of complex structure or where credit quality is changing rapidly, a dealer might need to take into account a broader range of information sources prior to executing a transaction.

II. Discussion

The MSRB believes that the proposed rule change is consistent with section 15B(b)(2)(C) of the Exchange Act.[7] The

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Release No. 34–45361 (January 30, 2002), 67 FR 6562.

[4] *See e.g.,* Rule G–17 Interpretation—Educational Notice on Bonds Subject to ''Detachable'' Call Features, May 13, 1993, *MSRB Rule Book* (July 2001) at 129–130. The Commission described material facts as those ''facts which a prudent investor should know in order to evaluate the offering before reaching an investment decision.'' *Municipal Securities Disclosure,* Exchange Act Release No. 26100 (Sept. 22, 1988) 53 FR 37778 at note 76, quoting In re *Walston & Co. Inc., and Harrington*, Exchange Act Release No. 8165 (Sept. 22, 1967) 43 SEC 508, 1967 SEC LEXIS 553. Furthermore, the United States Supreme Court has stated that a fact is material if there is a substantial likelihood that its disclosure would have been considered significant by a reasonable investor. *TSC Industries, Inc.* v. *Northway, Inc.,* 426 U.S. 438 (1976).

[5] Dealers operating electronic trading platforms have inquired whether providing electronic access to material information is consistent with the obligation to disclose information under Rule G–17. The MSRB believes that the provision of electronic access to material information to customers who elect to transact in municipal securities on an electronic platform is generally consistent with a dealer's obligation to disclose such information, but that whether such access is effective disclosure ultimately depends upon the particular facts and circumstances present.

[6] *See* Exchange Act Release No. 13987 (Sept. 22, 1977).

[7] MSRB rules shall, ''be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade * * * to remove impediments to and perfect the

Continued

MSRB believes that this rule satisfies this standard because it is intended to clarify that a dealer's general obligation to provide disclosure is viewed within the context of reasonably available information about the municipal security and the dealer's actual knowledge of the municipal security. Additionally, the MSRB believes that the proposed rule change will not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act, since it applies equally to all brokers, dealers and municipal securities dealers.

The Commission must approve a proposed MSRB rule change if the Commission finds that the MSRB's proposal is consistent with the requirements of the Exchange Act and the rules and regulations thereunder that govern the MSRB.[8] The language of section 15B(b)(2)(C) of the Exchange Act requires that the MSRB's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principals of trade, to foster cooperation and coordination with persons engaged in regulating, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national system, and, in general, to protect investors and the public interest.[9]

After careful review, the Commission finds that the MSRB's proposed rule change consisting of an interpretation of Rule G–17, on disclosure of material facts, meets this standard. The Commission believes that this proposed rule change is consistent with the requirements of the Exchange Act, and the rules and regulations thereunder. In particular, the Commission finds that the proposed rule is consistent with the requirements of section 15B(b)(2)(C) of the Act, set forth above.

III. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Exchange Act, [10] that the proposed rule change (File No. SR–MSRB–2002–01) be and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–7042 Filed 3–22–02; 8:45 am]

BILLING CODE 8010–01–U

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45573; File No. SR–Phlx–2001–33]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Amendment Nos. 1 and 2 Thereto by the Philadelphia Stock Exchange, Inc. Relating to Solicitation of Trading Interest on the Exchange Floor

March 15, 2002.

I. Introduction

On March 8, 2001, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt Phlx Rule 1033(a)(ii) and Options Floor Procedure Advice (''OFPA'') F–32 pertaining to the solicitation of quotations.[3] On May 11, 2001, the Exchange filed Amendment No. 1 to the proposed rule change with the Commission.[4] On November 21, 2001, the Exchange filed Amendment No. 2 to the proposed rule change with the Commission.[5] The proposed rule change and Amendment Nos. 1 and 2 were published in the **Federal Register** on February 12, 2002.[6] No comments were received regarding the proposal. This order approves the proposed rule change, as amended.

II. Description of the Proposal

The Exchange proposes to adopt Phlx Rule 1033(a)(ii) and OFPA F–32, which would permit the members of a trading crowd (including the specialist and Registered Options Traders (''ROTs'')) to discuss, negotiate, and agree upon the price or prices at which an order of a size greater than the AUTO–X guarantee can be executed at that time, or the number of contracts that can be executed at a given price or prices in response to a floor broker's request for a single bid or offer. The proposal would expressly permit a collective response from trading crowd members. However, members would not be required to participate in a collective response and may voice a bid or offer independently from, and differently from, the trading crowd members. In fact, an individual ROT with the necessary liquidity, willing to execute a trade at a price better than the prevailing market, could bid against the crowd and take the entire trade, or part of the trade, pursuant to the Phlx allocation rules.[7]

III. Discussion

After careful consideration the Commission has determined to approve the proposed rule change. For the reasons discussed below, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange,[8] and, in particular, with section 6(b)(8) of the Act,[9] which requires that the rules of an exchange do not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

This proposed rule change will clearly establish in the Phlx's rules the parameters under which Phlx specialists and ROTs may coordinate to respond efficiently to the needs of investors, while fulfilling their duty to make fair and orderly markets. In particular, the proposed rule change will allow the trading crowd, in response to a floor broker's request for a single bid or offer for a large size order, to collectively discuss, negotiate and agree upon the price or prices at which an order of a size greater than the AUTO–X guarantee

mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.

[8] Additionally, in approving this rule, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[9] 15 U.S.C. 78o–4(b)(2)(c).

[10] 15 U.S.C. 78s(b)(2).

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4

[3] The Exchange filed this proposed rule change pursuant to the provisions of Section IV.B.j. of the Commission's September 11, 2000 Order Instituting Public Administrative Proceedings Pursuant to Section 19(h)(1) of the Act, which required the Exchange, among other things, to adopt new, or amend existing, rules to include any practice or procedure whereby market makers trading any particular option class determine by agreement the spreads or option prices at which they will trade any option class.

[4] See Letter from Richard S. Rudolph, Counsel, Phlx, to Nancy J. Sanow, Assistant Director, Division of Market Regulation (''Division''), Commission, dated May 10, 2001 (''Amendment No. 1'').

[5] *See* Letter from Richard S. Rudolph, Counsel, Phlx, to Nancy J. Sanow, Assistant Director, Division, Commission, dated November 21, 2001 (''Amendment No. 2'').

[6] *See* Securities Exhange Act Release No. 45391 (February 4, 2002), 67 FR 6570.

[7] *See* Phlx Rule 1014. *See also* File No. SR–Phlx-2001–39 (proposing to amend Phlx Rule 1014).

[8] In approving this proposed rule change, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[9] 15 U.S.C. 78f(b)(8).

can be executed at that time, or the number of contracts that can be executed at a given price or prices.

The Commission believes that this proposed rule change recognizes the desire of the marketplace to provide a single price to a request to fill a large order that a single member might not be able to fill. The Commission believes that any anticompetitive effect of this proposal is limited by requiring that there be a request for a single price and that the order be sufficiently large.[10] In addition, the Commission notes that under the proposed rule change, a single crowd participant may voice a bid or offer independently from, and differently from, the specialist and other members of a trading crowd in order to execute the entire order or part of the order.[11]

Finally, the Commission finds that the proposed rule change is designed to effectively limit the circumstances in which collective action is permissible.

IV. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[12] that the proposed rule change (SR–Phlx–2001–33) is approved, as amended.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Scretary.

[FR Doc. 02–7041 Filed 3–22–02; 8:45 am]

BILLING CODE 8010–01–U

SMALL BUSINESS ADMINISTRATION

Connecticut District Advisory Council; Public Meeting

The U.S. Small Business Administration Connecticut District Advisory Council, located in the geographical area of Hartford, Connecticut will hold a public meeting at 8:30 a.m., on Monday, April 8, 2002, Connecticut District Office, 330 Main Street, Hartford, Connecticut 06106, to discuss such matters as may be presented. For further information, write or call Marie Record, District Director, U.S. Small Business Administration, 330 Main Street, Hartford, Connecticut—(860) 240–4700.

Anyone wishing to attend and make an oral presentation to the Board must contact Marie A. Record, no later than April 4, 2002 via e-mail or fax. Marie A. Record, District Director, U.S. Small Business Administration, Connecticut District Office 330 Main Street, Hartford, CT 06106 (860) 240–4670 phone or (860) 240–4714 fax or e-mail *marie.record@sba.gov.*

Steve Tupper,

Committee Management Officer.

[FR Doc. 02–7119 Filed 3–22–02; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that TD Lighthouse Capital Fund, L.P. (''TD Lighthouse''), 303 Detroit Street, Suite 301, Ann Arbor, Michigan 48104, and TD Origin Capital Fund, L.P. (''TD Origin''), 150 Washington Avenue, Santa Fe, New Mexico, Federal Licensees under the Small Business Investment Act of 1958, as amended (''the Act''), in connection with the financing of a small concern, has sought an exemption under section 312 of the Act and section 107.730, Financings which Constitute Conflicts of Interest, of the Small Business Administration (''SBA'') rules and regulations (13 CFR 107.730 (2002)). TD Lighthouse and TD Origin propose to provide equity financing to LivHome, Inc. (''LivHome''), 5900 Wilshire Boulevard, Suite 705, Los Angeles, California 90036. The financing is contemplated for market expansion and working capital.

The financing is brought within the purview of Section 107.730(a)(1) of the Regulations because Tullis Dickerson Capital Focus II, L.P. and TD Javelin Capital Fund II, L.P., Associates of both TD Lighthouse and TD Origin, currently and collectively own greater than 10 percent of LivHome, and therefore LivHome is considered an Associate of TD Lighthouse and TD Origin as defined in Section 107.50 of the Regulations.

Notice is hereby given that any interested person may submit written comments on the transaction to the Associate Administrator for Investment, U.S. Small Business Administration, 409 Third Street, SW, Washington, DC 20416.

Dated: March 19, 2002.

Harry Haskins,

Acting Associate Administrator for Investment.

[FR Doc. 02–7118 Filed 3–22–02; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Public Notice 3917]

Secretary of State's Advisory Committee on Private International Law (ACPIL), Study Group on International Carriage of Goods by Sea; Meeting Notice

There will be a public meeting of a Study Group of the Secretary of State's Advisory Committee on Private International Law on Friday April 5, 2002, to consider the draft instrument on the International Carriage of Goods by Sea, as prepared by the Comité Maritime International (CMI) for the United Nations Commission on International Trade Law (UNCITRAL). The meeting will be held from 2 p.m. to 5 p.m. in the offices of Haight Gardner Holland & Knight, Suite 100, 2099 Pennsylvania Avenue, NW., Washington, DC.

The purpose of the Study Group meeting is to assist the Departments of State and Transportation in determining the U.S. negotiating position for the first session of the UNCITRAL Working Group on this draft instrument, to be held in New York from April 15 to 26, 2002.

A copy of the preliminary draft convention is available on UNCITRAL's website, *www.uncitral.org.* The Study Group meeting is open to the public up to the capacity of the meeting room. Persons wishing to attend should contact Miss Rosie Gonzales by fax at 202–776–8482, by telephone at 202–776–8420 or by e-mail at *gonzaler@ms.state.gov,* providing their name, affiliation, telephone and fact number, and e-mail address. Persons who wish to have their views considered are encouraged to submit written comments in advance of the meeting. Comments should refer to Docket number MARAD–2001–11135. Written comments may be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20490–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/*

[10] The Commission expects the Exchange to monitor the collective actions that are undertaken pursuant to the rule change approved herein for any undesirable or inappropriate anticompetitive effects. The Commission's examination staff will monitor the Exchange's efforts in this regard.

[11] *See supra* note 7. *See also* Phlx Rules 1015(a) and 1082(e).

[12] 15 U.S.C. 78s(b)(2).

[13] 17 CFR 200.30–3(a)(12).

submit/. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., e.s.t., Monday through Friday, except federal holidays. An electronic version of this document, along with all documents entered into this docket is available on the World Wide Web at *http//dms.dot.gov.*

Mary Helen Carlson,

Attorney-Adviser, Office of Legal Adviser for Private International Law, Department of State.

Edmund T. Sommer, Jr.,

Chief, Division of General and International Law, Office of the Chief Counsel, Maritime Administration, Department of Transportation.

[FR Doc. 02–7120 Filed 3–22–02; 8:45 am]

BILLING CODE 4710–08–P

TENNESSEE VALLEY AUTHORITY

Sunshine Act; Meeting

Agency Holding the Meeting: Tennessee Valley Authority (Meeting No. 1538).

Time and Date: 9 a.m. (CST), March 26, 2002.

Place: Trousdale County Courthouse, 200 East Main Street, Hartsville, Tennessee.

Status: Open.

Agenda

Approval of minutes of meeting held on January 22, 2002.

New Business

C—Energy

C1. Sale at public auction of two coal leases on the TVA Illinois Coal Reserves and delegation of authority to the Executive Vice President, Fossil Power Group, to administer and amend the leases to maximize royalty income to TVA.

C2. Contract with Martin Marietta Aggregates for limestone supply for Cumberland Fossil Plant.

C3. Contract with Vulcan Materials Company for limestone supply for Widows Creek Fossil Plant Units 7 and 8.

C4. Contract with KenAmerican Resources, Inc., for coal supply for Paradise Fossil Plant Units 1 and 2.

C5. Contract with Liberty Coal Company, LLC, for coal supply for Shawnee Fossil Plant Unit 10.

C6. Extension of Contract No. CO0107–01 with Hopkins County Coal, LLC for coal supply for Widows Creek Fossil Plant Units 7 and 8 and award of a contract to Synfuel Solutions Operating, LLC for synthetic fuel to be manufactured from coal produced by Hopkins County Coal.

C7. Delegation of authority to enter into a coal transloading and blending services contract with Calvert City Terminal LLC for delivery to various TVA fossil plants.

C8. Contract with Cameco, Inc., for the supply of uranium trioxide to be used as blend stock to convert highly enriched uranium transferred to TVA from DOE into low enriched uranium suitable for use in nuclear fuel at TVA's Browns Ferry Nuclear Plant.

C9. Supplements to contracts with Adecco, Midpoint International, Inc., and Westaff to continue staff augmentation engineering and technical support services for all TVA organizations.

E—Real Property Transactions

E1. Public auction sale of approximately 554 acres of TVA land on the Hartsville Nuclear Plant Site Reservation for industrial/commercial development purposes only in Trousdale and Smith Counties, Tennessee (Tract No. XOHNP–2).

E2. Sale of noncommercial, nonexclusive permanent easements to Johnny and Lynn Solomon (Tract No. XTELR–224RE) and Michael and Nancy Huddleston (Tract No. XTELR–225RE) for construction, operation, and maintenance of private water-use facilities affecting approximately .08 acre of land on Tellico Reservoir in Monroe and Loudon Counties, Tennessee.

E3. Grant of permanent and temporary construction easements, without charge, except for payment of administrative costs, to the city of Jefferson City, Tennessee, affecting approximately 2.2 acres of land on Cherokee Reservoir in Jefferson County, Tennessee (Tract No. XTCK–66S), for a sewer line and pump station.

E4. Grant of a permanent easement for a substation, without charge, except for payment of administrative costs, to Appalachian Electric Cooperative affecting approximately 8.8 acres of land on Cherokee Dam Reservation in Grainger County, Tennessee (Tract No. XTCK–65SS).

E5. Modification of deed restrictions affecting approximately 11.9 acres of former TVA land on Chickamauga Reservoir (a portion of Tract No. XCR–188) in Rhea County, Tennessee.

E6. Grant of a permanent easement, without charge, except for administrative costs, to the city of Dayton, Tennessee, for recreation purposes affecting approximately 91.5 acres of land on Chickamauga Reservoir in Rhea County, Tennessee (Tract No. XTCR–199RE).

E7. Grant of a 5-year term easement, without charge, except for administrative costs, to the Watts Bar Utility District for a well, water storage tank, and waterlines affecting approximately 3.2 acres of land on Watts Bar Reservoir in Rhea County, Tennessee (Tract No. XTWBR–142E).

E8. Sale of a permanent easement to Jeff Pearcy for a road and utilities easement affecting approximately 0.53 acre of land on Kentucky Reservoir in Decatur County, Tennessee (Tract No. XGIR–938H).

E9. Grant of a permanent easement, without charge, except for payment of administrative costs, to the State of Tennessee for highway improvement purposes affecting approximately 1.1 acres of land on Melton Hill Reservoir in Anderson County, Tennessee (Tract No. XTMHR–20H).

E10. Grant of a permanent easement, without charge, except for payment of administrative costs, to the Bond Cemetery Perpetual Care Fund, Inc., for a cemetery expansion affecting approximately 1.6 acres of land on Cedar Creek Reservoir in Franklin County, Alabama (Tract No. XTBCCER–2CE).

E11. Grant of a permanent easement, without charge, except for payment of administrative costs, to the Alabama Department of Conservation and Natural Resources for general governmental and storage space purposes, affecting approximately 7 acres of land on Wheeler Reservoir in Limestone County, Alabama (Tract No. XTWR–108B).

E12. Public auction sale for commercial development purposes of approximately 4.1 acres of land on the Muscle Shoals Reservation in Colber County, Alabama (Tract No. X2NPT–16).

F—Other

F1. Approval to file condemnation cases to acquire transmission line easements of rights-of-way affecting Tracts Nos. HCVB–1, –2, –43, –45, –47, –49, –51, –54, –68, –71, –55 and –76, Hanceville-Bremen Transmission Line in Cullman County, Alabama, and Tracts Nos. SEM–1, –3, –38, and –29, Sturgis-Eupora Tap to Maben Transmission Line in Choctaw and Webster Counties, Mississippi.

Information Items

1. Approval of the renewal of the Regional Resource Stewardship Council charter for an additional 2 years.

2. Approval of the extension of Contract No. CO0036–01 with AEI

Resources, Inc., for coal supply to Widows Creek Fossil Plant.

3. Approval of an amendment to the Business Practice entitled ''The Acquisition and Disposal of Fossil Fuels and Related Transportation and Storage'' to standardize and streamline TVA's fuel acquisition process and to reflect recent changes in the strategic alignment of the Fossil Power Group.

4. Approval of an amendment to the Business Practice entitled ''The Sale or use of Coal Combustion By-Products and Related Services'' to reflect recent changes in the strategic alignment of the Fossil Power Group.

For more information: Please call TVA Media Relations at (865) 632–6000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 898–2999. People who plan to attend the meeting and have special needs should call (865) 632–6000. Anyone who wishes to comment on any of the agenda in writing may send their comments to: TVA Board of Directors, Board Agenda Comments, 400 West Summit Hill Drive, Knoxville, Tennessee 37902.

Dated: March 19, 2002.

Maureen H. Dunn,

General Counsel and Secretary.

[FR Doc. 02–7153 Filed 3–20–02; 4:25 am]

BILLING CODE 8120–08–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Flammability Test Method for Aircraft Blankets

AGENCY: Federal Aviation Administration.

ACTION: Notice of availability for public comment.

SUMMARY: This notice announces the availability of and requests comments on a proposed Technical Standard Order (TSO) pertaining to a flammability test method for aircraft blankets. The proposed TSO prescribes the minimum performance standards that aircraft blankets must meet to be identified with the marking ''TSO–C152.''

DATES: Comments must identify the TSO file number and be received on or before June 7, 2002.

ADDRESSES: Send all comments on the proposed technical standard order to: Technical Programs and Continued Airworthiness Branch, AIR–120, Aircraft Engineering Division, Aircraft Certification Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591. Or deliver comments to: Federal Aviation Administration, Room 815, 800 Independence Avenue, SW., Washington, DC 20591. Comments must identify the TSO file number.

FOR FURTHER INFORMATION CONTACT: Mr. Hal Jensen, Technical Programs and Continued Airworthiness Branch, AIR–120, Aircraft Engineering Division, Aircraft Certification Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, FAX No. (202) 267–5340.

Comments Invited

Interested persons are invited to comment on the proposed TSO listed in this notice by submitting such written data, views, or arguments as they desire to the above specified address. Comments received on the proposed technical standard order may be examined, before and after the comment closing date, in Room 815, FAA Headquarters Building (FOB–10A), 800 Independence Avenue, SW., Washington, DC 20591, weekdays except Federal holidays, between 8:30 a.m. and 4:30 p.m. All communications received on or before the closing date for comments specified above will be considered by the Director of the Aircraft Certification Service before issuing the final TSO.

Background

This TSO is proposed to provide minimum performance standards for the flammability characteristics of blankets to be used for passenger comfort in aircraft cabins.

On November 28, 1993, the pilot of a Northwest Airlines B727–200 aircraft declared an emergency after a fire was reported in an overhead stowage bin. The fire was noticed just as the aircraft was being pushed back from the loading gate at Dorval International Airport. The fire was extinguished by crew members and all passengers were safely evacuated.

The stowage bin involved in the fire contained a personal carry-on bag and five 100 percent polyester airline blankets in two separate piles. The blankets were supplied by two different manufacturers. Upon completion of their investigation, the Transportation Safety Board (TSB) of Canada determined that the original source of fuel for the fire was the 100 percent polyester airline blankets. This conclusion was based on TSB testing of a section of unburned blanket. In their first test, a lit match was placed at the edge of the blanket. In their second test, a lit match was placed on top of the blanket. In both cases, the blanket ignited and rapid propagation of flame was observed.

The Federal Aviation Administration (FAA) does not require flammability testing of airline blankets. Therefore in light of the above incident, the U.S. National Transportation Safety Board asked the FAA to develop a fire performance test method and performance criteria for blankets suppled to commercial airline operators. At that time, many airlines used blankets that met only the FAA vertical Bunsen burner test criteria specified in Title 14 Code of Federal Regulations § 25.853. However, this test may be inappropriate as a measurement of ignitability for certain types of blankets since the polyester blankets involved in the Northwest Airlines B727–200 fire met the test criteria.

In March 1996, the FAA's Technical Center completed the development of a flammability test for blankets. The Technical Center published its report and included it in the FAA's Aircraft Materials Fire Test Handbook. In August 1996, the FAA issued Flight Standards Information Bulletin for Air Transportation (FSAT) 96–11 that recommended that air carriers replace old blankets at the end of their service life with blankets that met these new FAA-developed standards.

FSAT 96–11 expired in August 1997, and industry no longer had an FAA-approved flammability standard for aircraft blankets to reference. Therefore, the FAA is issuing Technical Standard Order (TSO) C152, Flammability Test Method for Aircraft Blankets.

How To Obtain Copies

A copy of the proposed TSO–C152 may be obtained via the Internet, http://www.faa.gov/avr/air/100home.htm, or on request from the office listed under ''For Further Information Contact.'' Copies of Advisory Circular (AC) 20–115, Radio Technical Commission for Aeronautics, Inc., Document RTCA/DO–178, AC 25–17, Transportation Airplane Cabin Interiors Crashworthiness Handbook, and DOT/FAA/CT–89/15, ''Aircraft Materials Fire Test Handbook,'' may be obtained from the U.S. Department of Transportation, Subsequent Distribution Office, SVC–121.23, 3341 Q 75th Avenue, Landover, MD 20785. Department of Transportation (DOT) Specifications may be purchased from the U.S. Department of Transportation Records Center, 400 7th Street SW, Washington, DC 20590.

Issued in Washington, DC, on March 7, 2002.

John McGraw,

Acting Manager, Aircraft Engineering Division, Aircraft Certification Service.

[FR Doc. 02–6129 Filed 3–22–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Burleigh and Morton Counties, ND

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Burleigh and Morton Counties, North Dakota.

FOR FURTHER INFORMATION CONTACT: Calvin Larson, Environment and Design Engineer, Federal Highway Administration, 1471 Interstate Loop, Bismarck, North Dakota 58503–0567, Telephone: (701) 250–4204; Terrence Udland, Bridge Engineer, North Dakota Department of Transportation, 608 East Boulevard Avenue, Bismarck, North Dakota 58505–0700, Telephone: (701) 328–1969.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the North Dakota Department of Transportation, will prepare an environmental impact statement (EIS) to determine the best long-term solution for the Liberty Memorial Bridge crossing of the Missouri River. The proposed improvement would involve the rehabilitation or reconstruction of the bridge and approach roadways.

The existing bridge is 80 years old and has developed extensive deterioration and damage due to weathering, ice control chemicals, and traffic conditions. In addition, the bridge approach geometry and lane widths do not conform to current highway standards and therefore constitute a safety hazard. Emergency repairs to the pier caps were completed in 2001. These repairs were limited and are projected to last for only five years.

The bridge is listed on the National Register of Historic Places. It was christened the Liberty Memorial Bridge in honor of North Dakota World War I soldiers. It was the first vehicular bridge over the Missouri River in North Dakota. At the time it was completed, it was the only vehicular bridge between Great Falls, Montana and Sioux City, Iowa. It was also the final link in the coast-to-coast National Parks Highway, later designated U.S. Highway 10.

The alternatives that will likely be evaluated include (1) taking no action; (2) rehabilitating the existing bridge; (3) rehabilitating the existing bridge and constructing a new bridge adjacent to the existing; and (4) constructing a new bridge in the vicinity of the existing bridge and demolishing the existing bridge.

Letters describing the proposed action and soliciting views and comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed or are known to have an interest in this proposal. Public scoping meetings for identifying significant issues to be addressed in the environmental impact statement will be held on April 8, 2002 in the Bismarck, North Dakota, City Council Chamber and on April 9, 2002 in the Mandan, North Dakota, City Council Chamber.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the North Dakota Department of Transportation or FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation of Federal programs and activities apply to this program)

Issued on: March 8, 2002.

J. Michael Bowen,

Division Administrator, Federal Highway Administration, Bismarck, North Dakota.

[FR Doc. 02–7015 Filed 3–22–02; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Ex Parte No. 290 (Sub No. 5) (2002–2)]

Quarterly Rail Cost Adjustment Factor

AGENCY: Surface Transportation Board, DOT.

ACTION: Approval of rail cost adjustment factor.

SUMMARY: The Board has approved the second quarter 2002 rail cost adjustment factor (RCAF) and cost index filed by the Association of American Railroads. The second quarter 2002 RCAF (Unadjusted) is 1.062. The second quarter 2002 RCAF (Adjusted) is 0.563. The second quarter 2002 RCAF–5 is 0.541.

EFFECTIVE DATE: April 1, 2002.

FOR FURTHER INFORMATION CONTACT: H. Jeff Warren, (202) 565–1533. Federal Information Relay Service (FIRS) for the hearing impaired: 1–800–877–8339.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dā-To-Dā Legal, Suite 405, 1925 K Street, NW, Washington, D.C. 20006, phone (202) 293–7776. [Assistance for the hearing impaired is available through FIRS: 1–800–877–8339.]

This action will not significantly affect either the quality of the human environment or energy conservation.

Pursuant to 5 U.S.C. 605(b), we conclude that our action will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Decided: March 19, 2002.

By the Board, Chairman Morgan and Vice Chairman Burkes.

Vernon A. Williams,

Secretary.

[FR Doc. 02–7121 Filed 3–22–02; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–565 (Sub–No. 6X); STB Docket No. AB–55 (Sub–No. 604X)]

New York Central Lines, LLC—Abandonment Exemption—in Shelby County, OH; CSX Transportation, Inc.—Discontinuance of Service Exemption—in Shelby County, OH

New York Central Lines, LLC (NYC) and CSX Transportation, Inc. (CSXT) have filed a notice of exemption under 49 CFR 1152 subpart F—*Exempt Abandonments and Discontinuances of Service* for NYC to abandon and CSXT to discontinue service over approximately .90 miles of railroad between milepost QIO 163.98 and milepost QIO 163.08 in Sidney, Shelby County, OH.[1] The line traverses United States Postal Service Zip Code 45365.

[1] Pursuant to Board authorization in 1998, CSX Corporation, CSXT's parent company, and Norfolk Southern Corporation jointly acquired control of Conrail Inc., and its wholly owned subsidiary, Consolidated Rail Corporation (Conrail). As a result of that acquisition, certain assets of Conrail have been assigned to NYC, a wholly owned subsidiary

NYC and CSXT have certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to these exemptions, any employee adversely affected by the abandonment or discontinuance shall be protected under *Oregon Short Line R. Co.—Abandonment-Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, these exemptions will be effective on April 24, 2002, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by April 4, 2002. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by April 15, 2002, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicants' representative: Natalie S. Rosenberg, Counsel, CSX Transportation, Inc., 500 Water Street J150, Jacksonville, FL 32202.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

NYC and CSXT have filed an environmental report which addresses the effects, if any, of the abandonment and discontinuance on the environment and historic resources. SEA will issue an environmental assessment (EA) by March 29, 2002. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1552. [TDD for the hearing impaired is available at 1–800–877–8339.] Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), NYC shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by NYC's filing of a notice of consummation by March 25, 2003, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at www.stb.dot.gov.

Decided: March 15, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02–6869 Filed 3–22–02; 8:45 am]

BILLING CODE 4915–00–P

of Conrail, to be exclusively operated by CSXT pursuant to an operating agreement. The line to be abandoned is included among the property being operated by CSXT pursuant to the NYC operating agreement.

[2] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[3] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. *See* 49 CFR 1002.2(f)(25). This fee is scheduled to increase to $1,100, effective April 8, 2002.

Corrections

Federal Register

Vol. 67, No. 57

Monday, March 25, 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.

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 15

RIN 3038–AB88

Reporting Levels for Large Trader Reports; Security Futures Products

Correction

In rule document 02–6288 beginning on page 11569 in the issue of Friday, March 15, 2002, make the following corrections:

1. On page 11569, in the first column, under the heading **SUMMARY:**, in the fourth line, ''features'' should read, ''futures''.

§ 15.03 [Corrected]

2. On page 11571, in § 15.03, in the table, under the column ''Number of contracts'', in the second line from the bottom, ''100'' should read, ''200''.

[FR Doc. C2–6288 Filed 3–22–02; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF DEFENSE

Department of the Army

MTMC Pam 55–4, ''How to do Business in the DoD Personal Property Program.'' Defense Transportation Regulation Part IV, Tender of Service

Correction

In notice document 02–6582 beginning on page 12540 in the issue of Tuesday, March 19, 2002, make the following correction:

On page 12541, in the second column, in the second paragraph, in the seventh line, the word ''exam'' is changed to read ''final''.

[FR Doc. C2–6582 Filed 3–22–02; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 388

[Docket Nos. RM02–4–000]

Notice of Extension of Time

Correction

Proposed rule document 02–5972 was inadvertently published in the Rules and Regulations section in the issue of Wednesday, March 13, 2002, appearing on page 11229. It should have appeared in the Proposed Rules section.

[FR Doc. C2–5972 Filed 3–22–02; 8:45 am]

BILLING CODE 1505–01–D

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

Correction

In notice document 02–6313 beginning on page 11692 in the issue of Friday, March 15, 2002, make the following correction:

On page 11692, in the third column, in the second line under the heading ''**DATES**'', ''March 14, 2002'' should read, ''May 14, 2002''.

[FR Doc. C2–6313 Filed 3–22–02; 8:45 am]

BILLING CODE 1505–01–D

PENSION BENEFIT GUARANTY CORPORATION

Required Interest Rate Assumption for Determining Variable-Rate Premium; Interest Assumptions for Multiemployer Plan Valuations Following Mass Withdrawal

Correction

In notice document 02–6428 beginning on page 11722 in the issue of March 15, 2002, make the following correction:

On page 11722, in the third column, under the heading Variable-Rate Premiums in the first paragraph, in the tenth line, the phrase ''(currently 85 percent)'' is removed.

[FR Doc. C2–6428 Filed 3–22–02; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 172

[Docket No. RSPA– 2002–11675 (HM–145M)]

RIN 2137–AD65

Hazardous Materials: Revisions to the List of Hazardous Substances and Reportable Quantities

Correction

In rule document 02–5089 on page 9926 in the issue of Tuesday, March 5, 2002, make the following correction:

On page 9927, in the third column, Table 1 to Appendix A is corrected to read as set forth below:

TABLE 1 TO APPENDIX A—HAZARDOUS SUBSTANCES OTHER THAN RADIONUCLIDES

Hazardous substance	Reportable quantity (RQ) pounds (kilograms)
[REMOVE].	
* * * * *	
2,4,6–Tribromophenol	100
K140	100
K156	1
K157	1
K158	1
K169	10
K170	1
K171	1
K172	1
* * * * *	
[REVISE].	
* * * * *	
Chloromethyl methyl ether	10 (4.54)
* * * * *	
Dichloromethyl ether	10 (4.54)
* * * * *	
Methane, chloromethoxy- ..	10 (4.54)
* * * * *	
Methane, oxybis(chloro-	10 (4.54)
* * * * *	
[ADD].	
* * * * *	
K156	1 (0.454)
K157	1 (0.454)
K158	1 (0.454)

TABLE 1 TO APPENDIX A—HAZARDOUS SUBSTANCES OTHER THAN RADIONUCLIDES—Continued

Hazardous substance	Reportable quantity (RQ) pounds (kilograms)
K169	10 (4.54)

TABLE 1 TO APPENDIX A—HAZARDOUS SUBSTANCES OTHER THAN RADIONUCLIDES—Continued

Hazardous substance	Reportable quantity (RQ) pounds (kilograms)
K170	1 (0.454)

TABLE 1 TO APPENDIX A—HAZARDOUS SUBSTANCES OTHER THAN RADIONUCLIDES—Continued

Hazardous substance	Reportable quantity (RQ) pounds (kilograms)
K171	1 (0.454)
K172	1 (0.454)
K174	1 (0.454)
K175	1 (0.454)
K176	1 (0.454)
K177	5000 (2270)
K178	1 (0.454)

[FR Doc. C2–5089 Filed 3–22–02; 8:45 am]

BILLING CODE 1505–01–D

Corrections

Federal Register

Vol. 67, No. 57

Monday, March 25, 2002

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Reporting Levels for Large Trader Reports; Security Futures Products

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§ 15.03 [Corrected]

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[FR Doc. C2–6288 Filed 3–22–02; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF DEFENSE

Department of the Army

MTMC Pam 55–4, ''How to do Business in the DoD Personal Property Program.'' Defense Transportation Regulation Part IV, Tender of Service

Correction

In notice document 02–6582 beginning on page 12540 in the issue of Tuesday, March 19, 2002, make the following correction:

On page 12541, in the second column, in the second paragraph, in the seventh line, the word ''exam'' is changed to read ''final''.

[FR Doc. C2–6582 Filed 3–22–02; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 388

[Docket Nos. RM02–4–000]

Notice of Extension of Time

Correction

Proposed rule document 02–5972 was inadvertently published in the Rules and Regulations section in the issue of Wednesday, March 13, 2002, appearing on page 11229. It should have appeared in the Proposed Rules section.

[FR Doc. C2–5972 Filed 3–22–02; 8:45 am]

BILLING CODE 1505–01–D

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

Correction

In notice document 02–6313 beginning on page 11692 in the issue of Friday, March 15, 2002, make the following correction:

On page 11692, in the third column, in the second line under the heading ''**DATES**'', ''March 14, 2002'' should read, ''May 14, 2002''.

[FR Doc. C2–6313 Filed 3–22–02; 8:45 am]

BILLING CODE 1505–01–D

PENSION BENEFIT GUARANTY CORPORATION

Required Interest Rate Assumption for Determining Variable-Rate Premium; Interest Assumptions for Multiemployer Plan Valuations Following Mass Withdrawal

Correction

In notice document 02–6428 beginning on page 11722 in the issue of March 15, 2002, make the following correction:

On page 11722, in the third column, under the heading Variable-Rate Premiums in the first paragraph, in the tenth line, the phrase ''(currently 85 percent)'' is removed.

[FR Doc. C2–6428 Filed 3–22–02; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 172

[Docket No. RSPA– 2002–11675 (HM–145M)]

RIN 2137–AD65

Hazardous Materials: Revisions to the List of Hazardous Substances and Reportable Quantities

Correction

In rule document 02–5089 on page 9926 in the issue of Tuesday, March 5, 2002, make the following correction:

On page 9927, in the third column, Table 1 to Appendix A is corrected to read as set forth below:

TABLE 1 TO APPENDIX A—HAZARDOUS SUBSTANCES OTHER THAN RADIONUCLIDES

Hazardous substance	Reportable quantity (RQ) pounds (kilograms)
[REMOVE].	
* * * * *	
2,4,6–Tribromophenol	100
K140	100
K156	1
K157	1
K158	1
K169	10
K170	1
K171	1
K172	1
* * * * *	
[REVISE].	
* * * * *	
Chloromethyl methyl ether	10 (4.54)
* * * * *	
Dichloromethyl ether	10 (4.54)
* * * * *	
Methane, chloromethoxy- ..	10 (4.54)
* * * * *	
Methane, oxybis(chloro-	10 (4.54)
* * * * *	
[ADD].	
* * * * *	
K156	1 (0.454)
K157	1 (0.454)
K158	1 (0.454)

TABLE 1 TO APPENDIX A—HAZARDOUS SUBSTANCES OTHER THAN RADIONUCLIDES—Continued

Hazardous substance	Reportable quantity (RQ) pounds (kilograms)
K169	10 (4.54)

TABLE 1 TO APPENDIX A—HAZARDOUS SUBSTANCES OTHER THAN RADIONUCLIDES—Continued

Hazardous substance	Reportable quantity (RQ) pounds (kilograms)
K170	1 (0.454)

TABLE 1 TO APPENDIX A—HAZARDOUS SUBSTANCES OTHER THAN RADIONUCLIDES—Continued

Hazardous substance	Reportable quantity (RQ) pounds (kilograms)
K171	1 (0.454)
K172	1 (0.454)
K174	1 (0.454)
K175	1 (0.454)
K176	1 (0.454)
K177	5000 (2270)
K178	1 (0.454)

[FR Doc. C2–5089 Filed 3–22–02; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Monday,
March 25, 2002

Part II

Environmental Protection Agency

40 CFR Parts 260 and 261

Regulation of Hazardous Oil-Bearing Secondary Materials From the Petroleum Refining Industry and Other Hazardous Secondary Materials Processed in a Gasification System To Produce Synthesis Gas; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 260 and 261

[FRL–7162–8]

RIN 2050–AE78

Regulation of Hazardous Oil-Bearing Secondary Materials From the Petroleum Refining Industry and Other Hazardous Secondary Materials Processed in a Gasification System To Produce Synthesis Gas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing revisions to the RCRA hazardous waste program to allow a conditional exclusion from the definition of solid waste. This exclusion would be for hazardous oil-bearing secondary materials generated by the petroleum refinery industry when these materials are processed in a gasification system to produce synthesis gas fuel and other non-fuel chemical by-products. We are proposing this exclusion to put the gasification of these hazardous oil-bearing secondary materials on the same regulatory footing (i.e., excluded) as other hazardous secondary materials returned to a petroleum refining process. If adopted, this proposal will establish a more consistent regulatory framework for this practice, potentially enhancing the use of this technology, as well as establishing conditions on the practice to assure the legitimacy of this fuel manufacturing activity.

We are also soliciting comment on a proposal that would extend the conditional exclusion to other hazardous secondary materials generated by industries (other than the petroleum refining industry).

DATES: EPA will accept public comment on this proposed rule until June 24, 2002. Comments postmarked after the close of the comment period will be stamped ''late'' and may or may not be considered by the Agency.

ADDRESSES: Commenters should submit an original and two copies of their comments referencing Docket Number F–2002–RPRP–FFFFF to: (1) If using regular U. S. Postal Service mail: RCRA Docket Information Center, Office of Solid Waste (5305G), U.S. Environmental Protection Agency Headquarters (EPA–HQ), 1200 Pennsylvania Avenue, NW., Washington, DC 20460–0002, or (2) If using special delivery, such as overnight express service: RCRA Docket Information Center (RIC), Crystal Gateway One, 1235 Jefferson Davis Highway, First Floor, Arlington, VA 22202. The official record (i.e., public docket) for this proposed rulemaking is F–2001–RPRP–FFFFF. In addition to this official record, two additional dockets have material supporting this proposal. They are: F–98–PR2A–FFFFF and F–98–RCSF–FFFFF.

Public comments and supporting materials are available for viewing in the RCRA Docket Information Center (RIC), located at Crystal Gateway I, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays. To review docket materials, it is recommended that the public make an appointment by calling 703–603–9230. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost $0.15/page. The index and some supporting materials are available electronically. See the ''Supplementary Information'' section for information on accessing them.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline at 1–800–424–9346 or TDD 1–800–553–7672 (hearing impaired). In the Washington, DC, metropolitan area, call 703–412–9810 or TDD 703–412–3323. The RCRA Hotline is open Monday-Friday, 9 am to 6 pm, Eastern Standard Time. For more detailed information on specific aspects of this proposed rulemaking, contact Elaine Eby at 703–308–8449 or *eby.elaine@epa.gov,* or write her at the Office of Solid Waste, 5302W, U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460–0002.

SUPPLEMENTARY INFORMATION:

Electronic Comment Submission

You may submit comments electronically through the Internet to: rcra-docket@epa.gov. You should identify comments in electronic format with the docket number F–2002–RPRP—FFFFF. All electronic comments must be submitted as an ASCII (text) file avoiding the use of special characters and any form of encryption. If possible, EPA's Office of Solid Waste (OSW) would also like to receive an additional copy of the comments on disk in WordPerfect 6.1 file format.

Commenters should not submit electronically any confidential business information (CBI). An original and two copies of CBI must be submitted under separate cover to: RCRA CBI Document Control Officer, Office of Solid Waste (5305W), U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460–0002.

Availability of the Proposal on the Internet

Please follow these instructions to access the proposal: From the World Wide Web (WWW) type *http://www.epa.gov/epaoswer/hazwaste/gas.htm.*

The official record for this action will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into paper form and place them in the official record, which will also include all comments submitted directly in writing. The official record is the paper record maintained at the RIC listed in the **ADDRESSES** section at the beginning of this document.

EPA responses to comments, whether the comments are written or electronic, will be published in a notice in the **Federal Register** or in a response to comments document placed in the official record for this proposed rulemaking. EPA will not immediately reply to commenters electronically other than to seek clarification of electronic comments that may be garbled in transmission or during conversion to paper form, as discussed above.

How Can I Influence EPA's Thinking on This Proposed Rule?

In developing this proposal, we tried to address the concerns of all our stakeholders. Your comments will help us improve this rule. We invite you to provide different views on options we propose, new approaches we haven't considered, new data, how this rule may effect you, or other relevant information. We welcome your views on all aspects of this proposed rule, but we request comments in particular on the items we have specifically identified throughout the proposal. Your comments will be most effective if you follow the suggestions below:

- Explain your views as clearly as possible and why you feel that way.
- Provide solid technical and cost data to support your views.
- If you estimate potential costs, explain how you arrived at the estimate.
- Tell us which parts you support, as well as those you disagree with.
- Provide specific examples to illustrate your concerns.
- Offer specific alternatives.
- Refer your comments to specific sections of the proposal, such as the units or page numbers of the preamble, or the regulatory sections.
- Make sure to submit your comments by the deadline in this document.

• Be sure to include the name, date, and docket number with your comments.

The Agency will consider the public comments during development of the final rule related to this action. The Agency urges commenters submitting data in support of their views to include evidence that appropriate quality assurance/quality control (QA/QC) procedures were followed in generating the data. Data the Agency cannot verify through QA/QC documentation may be given less consideration or disregarded in developing regulatory options for the final rule.

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I. Statutory Authority

These regulations are proposed under the authority of sections 3001, 3002, 3003, and 3004 of the Solid Waste Disposal Act of 1970, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), 42 U.S.C. 6921, 6922, 6923 and 6924.

II. Summary of Today's Proposal

The Environmental Protection Agency (EPA or the Agency) is today proposing a conditional exclusion from the definition of solid waste. This exclusion will apply to hazardous oil-bearing secondary materials (i.e., sludges, byproducts, or spent materials) generated by the petroleum refining industry (Standard Industrial Classification (SIC) 2911) when processed, either on-site or off-site, in a gasification system to produce synthesis gas fuel and other non-fuel chemical by-products. We are proposing that the exclusion be subject to a set of conditions that specify the following: (1) The system meets the definition of a gasification system; (2) the system generates a synthesis gas fuel that meets the specifications of exempted synthesis gas; (3) the materials generated by the gasification system must not be placed on the land if they exceed the nonwastewater Universal Treatment Standards (UTS) for chromium, lead, nickel, vanadium, arsenic, and antimony (found at 40 CFR 268.48); and (4) the excluded materials must not be placed on the land or speculatively accumulated prior to insertion into the gasification system.

We are also soliciting comment on a proposed option to broaden today's conditional exclusion to other generated hazardous secondary materials.

III. Why Are We Proposing This Exclusion?

We are proposing this exclusion to put gasification of hazardous oil-bearing secondary materials (i.e., sludges, byproducts, or spent materials) on the same regulatory footing, i.e., excluded—as other secondary materials returned to a petroleum refining process. We believe that such operations are better viewed as an aspect of petroleum production rather than as hazardous waste management. (See 63 FR 42110, August 6, 1998) At the present time, gasification systems processing these materials are exempt from RCRA permitting, as recycling units. While the operation itself (i.e., gasification) is exempt, there are numerous RCRA requirements that still apply to the overall operation (e.g., storage and handling). The Agency believes that gasification systems processing hazardous oil-bearing secondary materials from petroleum refineries operate as fuel manufacturing devices whether the operation takes place at a petroleum refinery or elsewhere. As such, we believe that these additional requirements present an unnecessary impediment to a fuel manufacturing activity.[1] We are therefore proposing to revise the current regulations that apply to this activity to better reflect our current way of thinking.

Today's proposal supplements the current exclusions applicable to the petroleum refining industry (found at 40 CFR 261.4(a)(12)). In fact, we are proposing this exclusion for many of the same reasons that we excluded hazardous oil-bearing secondary materials recycled through coking and quench coking processes in the petroleum refining industry. See August 6, 1998, Petroleum Listing Final Rule (see 63 FR 42110).[2] In that rule, we

[1] In a May 25, 1995 letter from Michael Shapiro, Director of the Office of Solid Waste to William Spratlin, Director, EPA Region VII Air, RCRA, and Toxics Division, we explained that our regulations classify gasification devices operating at petroleum refineries to convert waste materials into fuels as recycling devices exempt from RCRA permitting. OSWER Directive 9441.1995(18).

[2] On July 15, 1998, we published in the **Federal Register** (see 63 FR 38139) a Notice Of Data Availability (NODA). In the NODA, we requested comment on extending a then-proposed and now final solid waste exclusion applying to certain recycling activities performed at petroleum refineries (See 63 FR 42110, August 6, 1998). The Agency requested comment as to whether the exclusion should also apply to the recycling of hazardous oil-bearing secondary materials in a gasification system operating at a petroleum refinery. As a result of the comments received on the NODA, the Agency proceeded with investigating whether gasification of oil-bearing hazardous secondary materials from the petroleum industry is better regulated as a recycling waste-management activity or whether it should be excluded as a fuel manufacturing activity. The gasification industry has argued that the current regulatory process does not make sense because secondary materials from the petroleum refining

Continued

determined that hazardous oil-bearing secondary materials returned to a petroleum refinery fuel production process need not be regarded as RCRA solid wastes, even though a fuel is ultimately produced. See 63 FR at 42127–42128. Instead, the insertion of petroleum refining residuals back into the refining process can be viewed as a production process that involves the recovery of fuel value from crude oil, which is the basic raw material used in petroleum refining.

In the case of gasification, we are proposing this exclusion because we have determined that the situation is analogous. Gasification of hazardous oil-bearing secondary materials from petroleum refineries involves the recovery of organic components from the residuals of crude oil refining to produce a gaseous fuel, which can be viewed as part of a fuel production process. Particular indicia that this is a production process are the high cost of construction a gasification unit and the exacting product specification that apply to the final product. Furthermore, the gasification process appears to provide a better and more efficient means to recover fuels from oil-bearing materials than provided by quench coking, which we already determined to be a valid process in refining operations (see 63 FR 42114).

If adopted, this exclusion will provide a more consistent regulatory framework for petroleum refineries that wish to include gasification as part of their refining configuration. We also believe it will promote the use of a fuel manufacturing process that produces marketable fuels and chemicals from materials that were otherwise destined for waste treatment, disposal, or a less environmentally benign recycling activity.

IV. What Are the Environmental Benefits of This Proposal?

There are numerous environmental benefits associated with today's proposal. First, if promulgated, the exclusion will reduce the total amount of hazardous waste sent for disposal by petroleum refineries. Based on data from the 1997 Biennial Reporting System (BRS) database, petroleum refineries operating in the United States generate approximately 130 million tons of RCRA hazardous waste annually with at least 7–10 million tons managed in RCRA units.[3] Although equal volumes of these same materials would be generated under this proposal, a large fraction of the waste materials generated by petroleum refineries would be processed into synthesis gas and other co-products reducing the amount of waste materials sent for traditional RCRA treatment and disposal.

If adopted, today's proposal also likely provides additional benefits to the environment because of the unique features of gasification, including: (1) Increased efficiency in the production of electricity; (2) reduction in emissions of acid rain causing pollutants; (3) reduction in particulate matter and pollutants implicated in global warming; (4) increased resource conservation; (5) displacement of virgin materials used in the chemical manufacturing industry by chemicals produced from gasification; and (6) reduction in energy usage and pollution from reductions in the acquisition, transportation, and preparation of virgin materials used in electricity production, petroleum refining and chemical manufacturing industries.

V. Background and Overview

A. How Have Gasification Devices Been Used in the Past?

Gasification devices have a long history of use in the United States for the production of fuels. The use of gasification processes to produce useable quantities of fuel began in the mid 1800's when manufactured gas plants converted coal into hydrogen gas and methane to power city street lamps. Following the widespread use of electricity to power city lights, the operation of manufactured gas plants largely ended. Use of gasification systems to produce fuel from coal or other organic sources increased briefly during the years surrounding and during World War II as the international community experienced a shortage of fuels derived from oil. Following the end of World War II, the use of gasification declined rapidly as more effective techniques to produce fuels from crude oil were developed and crude oil was once again plentiful. In the 1970's, gasification technologies were resurrected to deal with fuel shortages. During this time, the United States Department of Energy (DOE) financed research in gasification technologies that resulted in commercial ventures designed to use the technology to produce higher value fuels from low value coal. Over the last 10 to 15 years, private industry and the DOE have continued their investigation of gasification as a clean coal energy alternative, and have developed better methods to extract fuel value from organic containing materials, as well as developing more efficient turbines to utilize the clean burning fuel.

In recent years, the oil refining and chemical manufacturing industries have configured gasification systems to produce base chemical products and fuels. Presently, gasification systems operate around the world in a number of different configurations. In the United States, gasification systems have been designed to gasify coal, municipal solid waste, tires, petroleum coke, biomass, and oil-bearing hazardous secondary materials into synthesis gas for the production of electricity or use as a feedstock to produce more complex chemical products. Data on the use of gasification to process hazardous waste is limited. Information that does exist, has largely been confined to configurations where the systems produce specialty chemical intermediates from virgin materials, or where the devices produce a fuel from historically waste-like materials that can be burned for energy recovery (e.g., gasification of petroleum refinery secondary materials).

There are two reasons gasification has been used relatively infrequently to process hazardous wastes. First, gasification systems are expensive and generally cost more to construct and operate than conventional process devices utilized by fuel and chemical manufacturers. Second, current regulations (albeit relatively minimal for the gasification of hazardous oil-bearing secondary materials from the petroleum industry) limit operators processing these materials from using them in the most cost effective manner. However, because of increased emphasis on the use of more efficient systems, there is renewed interest in using gasification as a possible method to reduce the volume

industry should not be defined as solid wastes if they are to be processed in a gasification system. Nor is the operation of the gasification system, pursuant to the exemption for recycling processes in 40 CFR 261.6(c)(1), altogether satisfactory to the industry. This is because the resulting synthesis gas fuel remains classified as a hazardous waste fuel (see 40 CFR 261.2(c)(2) (fuels produced from secondary materials are normally themselves wastes) and 40 CFR 261.3(c)(2)(so-called derived from rule, which, as relevant here, states that fuels derived from listed wastes remain hazardous waste-derived fuels)), unless it meets the specification for hazardous constituents set out in 40 CFR 261.38 of the rules. The gasification industry maintains that this regulatory framework discourages the use of gasification as a means to recycle hazardous oil-bearing secondary materials from the petroleum refining industry. Representatives of the petroleum refining industry have suggested that an exclusion from the definition of solid waste for secondary materials processed in a gasification system is a more appropriate classification under RCRA, and would greatly enhance the use of this technology in the industry. Proponents of gasification technologies likewise maintain that petroleum refineries would be more likely to recycle their solid waste if the regulatory status of the devices and the gasification system were clearly identified to be a part of the fuel manufacturing process.

[3] See Regulatory Impacts of Proposed Exclusions of Petroleum Refinery Wastes.

of wastes disposed, and thereby reduce the associated treatment costs of those wastes, while producing valuable commodities from the process.

B. How Do Gasification Systems Operate?

In general, gasification systems are designed to react carbon containing materials and steam at high temperatures under partial oxidation conditions to produce a synthesis gas fuel composed mainly of carbon monoxide and hydrogen. However, all gasification systems do not operate in exactly the same manner. Gasification systems can be designed to operate at high or low pressures, reducing conditions, using dry or wet feed systems, but they are all operated in a manner that limits the complete oxidation of hydrogen and carbon monoxide to water and carbon dioxide. Some gasification systems derive a portion of the energy—in the form of heat—from the partial oxidation of the materials being fed to the system. When the feed materials are partially oxidized, heat is given off. The heat helps sustain the process by promoting the disassociation of other molecular species in the reactor freeing the molecular species for limited oxidation. In gasification systems, this process promotes the formation of hydrogen and carbon monoxide species which are the base compounds in synthesis gas fuel. Using organic materials as both fuel and raw material for the gasification process is one of the reasons the system operates with increased efficiency when compared to traditional power plants that use coal or petroleum coke as their fuel.

Gasification systems generally include two basic components. The first is the high temperature reactor or gasifier and the second is a gas cleanup or polishing system used to remove various contaminants from the raw (un-polished) synthesis gas fuel. The two systems work in conjunction to produce a high purity synthesis gas that can be used directly as a fuel for power production, or used to produce chemicals or fuels in other manufacturing processes. Operators of gasification systems monitor and control the operation to ensure that it is producing a high quality synthesis gas. They monitor and limit parameters such as the BTU value, sulfur content, chloride content, and ash content of the materials fed to the reactor (gasifier). They also continuously monitor and regulate the amount of oxygen fed to the reactor, the temperature of the reactor, and the composition of the raw synthesis gas produced by the reactor. In the synthesis gas cleanup stage, operators monitor and regulate various other parameters that maintain the removal efficiency of the cleanup system. The result of these parameter specifications and attendant monitoring is production of a synthesis gas that meets the desired specifications.

Gasification systems, similar to many of the more traditional fuel production units found at petroleum refineries, are expensive, highly engineered systems that must be carefully operated to produce marketable fuels and co-products in a cost-effective manner. Both traditional petroleum refining processes (e.g., distillation, catalytic cracking, fractionation, thermal cracking, etc.) and gasification systems operate under conditions in which the feed, temperature, and pressure are closely controlled to optimize the production of marketable fuels or fuel components. Owners/Operators of both gasification systems and traditional refinery process units must analyze and characterize the feed materials, in addition to controlling the operation of the unit. Operational control of the gasification system is necessary to optimize the conversion processes occurring in the reaction chamber and to regulate the performance of the gas polishing systems.

C. How Do Gasification Systems Remove Contaminants From Raw Synthesis Gas?

In a gasification system, the gas cleanup or polishing component will be configured and monitored to operate with varying degrees of performance. The operation of the gas cleanup component is determined by the composition of the raw synthesis gas and the product specifications for the fuel and chemicals generated. Generally, the systems operate with sufficient effectiveness to produce a synthesis gas that contains low contaminant levels of sulfur, nitrogen, ash, and metals. The systems used to remove contaminants are generally the same types of systems used in other industrial settings to produce commercial grade chemical compounds or to remove unwanted contaminants from gaseous effluent streams. These systems have a history of use in industrial settings with the parameters that control their operation being well understood.

As we explained earlier, the synthesis gas product from gasification is not released directly to the atmosphere. Gasification systems are generally designed to be closed to the environment. In gasification systems, the raw synthesis gas exits the reactor at a temperature between 1800 and 3000 degrees Fahrenheit (depending on the design and operating characteristics of the device). Generally, after exiting the reactor, heat value from the gas is extracted in systems designed to produce steam and electricity. The raw synthesis gas is then typically processed in a series of systems designed to remove entrained particulate matter, acid gases (such as hydrochloric acid), and other inorganic compounds. The gas cleanup systems typically include filters or scrubbers for the removal of entrained particles and absorbers for the removal/recovery of sulfur and chlorine. The solids recovered in the filters or scrubbers are frequently put back into the gasification system. The polishing systems that remove the unwanted contaminants from the raw synthesis gas also concentrate these materials to form chemical by-products. The reduced sulfur species are recovered as elemental sulfur, or in some cases, converted to a sulfuric acid by-product. The typical sulfur removal and recovery process used to clean the raw synthesis gas (to yield a high purity fuel) are the same commercially available methods used in other industrial applications such as oil refining and natural gas recovery. Sulfur recoveries of 95% to 99% can typically be achieved using these systems. These systems do include process vents, but the synthesis gas is not released through these vents. After the gas is polished, it is sent for turbine combustion to produce electricity and steam or to produce other chemical products.

Metal species found in the materials fed to the gasification system are controlled both in the reactor phase, and in the cleanup systems used by the device. The low volatility metals are captured in the slag emitted from the reactor, with the higher volatility metals being captured in the cleanup systems, or in the particulate removal systems and acid gas scrubbers. These captured metals can be put back into the reactor or be removed from the system and disposed. Control of metal compounds in gasification systems is discussed more in a later section of today's proposal.

Ultimately, the extent to which contaminant removal systems polish the raw synthesis gas is governed by the fuel specifications for the systems that use the synthesis gas and/or the environmental regulations that apply to those systems. For example, use of synthesis gas in combustion gas turbines can require fairly low levels of alkalis and total entrained particles, thus the gas cleanup system would be tailored for this type of contaminant removal. The turbine system may also have fairly low sulfur oxide(s) emissions standards

applicable to the turbine stack, so the synthesis gas will also have to be cleaned to a level to meet the emission standard. Therefore, the ability of gasification systems to extract useful chemical by-products from hazardous oil-bearing secondary materials is based on the extent the gas must be polished before it is released for its intended commercial application.

D. What Air Emissions Result From Gasification Systems?

As we stated earlier, there are generally no direct emissions to the atmosphere from a gasification system.[4] [5] Emissions to the atmosphere from gasification activities are nearly always the result of using the synthesis gas as a fuel for the production of power or heat generation. As a fuel, the synthesis gas can be burned in simple cycle gas turbines or in steam boilers. However, synthesis gas is typically used in more advanced systems that are designed as combined cycle gas turbine/steam boilers. Combined cycle turbine configurations exploit physical characteristics unique to synthesis gas to produce electricity with greater efficiency than other power generating designs. Alternatively, the synthesis gas can also be used as a feedstock for chemical manufacturing processes including the production of ammonia, methanol, acetic acid, and hydrogen.

Metal and chlorine emissions from the combustion of synthesis gas depend on the composition of the synthesis gas, which is dependent on the effectiveness of the synthesis gas cleanup system. Chlorine control using wet scrubbers to remove HCl has been used successfully for many years and can routinely achieve a removal effectiveness of 99%.[6] Semi-volatile metals are expected to be contained primarily in the filter/scrubber ash. Lower volatility metals are primarily bound in the slag. Mercury, which is not found in significant quantities in petroleum refinery waste, is highly volatile and is expected to be controlled only to a small degree in a gasifier's wet scrubbers. If mercury was present in the hazardous oil-bearing secondary materials generated by the petroleum refining industry and those materials were processed by a gasification system, the mercury would likely be emitted out the stack of the device (i.e., turbine) firing the synthesis gas produced by the gasification system.[7] Potential mercury emissions are not a concern for this proposed conditional exclusion because hazardous oil-bearing secondary materials generated by petroleum refineries are not expected to contain significant quantities of mercury. See Docket Number F–98–PR2A–FFFFF, Identification and Listing of Hazardous Waste; Petroleum Refining Process Wastes.[8]

E. What Solid Wastes are Generated by Gasification Systems?

Gasification systems also generate solid waste residuals which are largely dependent on the design, configuration, and operation of the gasification system. They can include a slag material composed primarily of ash and low and semi volatile metals bound in a glass-like substrate that is released from the reactor component of the gasifier, sour liquors from the cleanup systems that are used to scrub contaminants from the product synthesis, and particulate matter captured in particulate control systems used by the gasification system to remove fine particulate matter from the synthesis gas.[9] The gasification designs we have reviewed either put the liquid streams and particulate matter back into the reactor, remove the contaminants from the scrubbing streams to produce valuable chemical by-products, treat the effluents in devices designed to destroy or reduce the toxicity of the effluents, or send the effluents for disposal.

Analysis conducted as part of research efforts utilizing gasification technologies has shown that composition of the residues in a given gasification system are largely dependent on the composition of the secondary materials fed to the system. Data submitted by Texaco show that the composition of the vitrified slag that is generated by the gasification reactor is mostly inert material that does not exhibit a characteristic of hazardous waste.[10] At this time, we lack the data necessary to determine whether the characteristics of the residues from gasification are due to the dilution effect of the other materials being processed along with petroleum hazardous secondary materials in the device, or is the result of a unique operational or design trait associated with gasification systems.[11] The Agency specifically solicits comment on this issue.

Under today's proposal, we would classify solid waste residues generated during the gasification of excluded material as newly generated, and determine whether they are hazardous based on whether they exhibit a characteristic when they are generated. Should a residue exhibit a characteristic, it would have to be managed in compliance with hazardous waste regulations. (As noted earlier, to assure process legitimacy, we are also proposing that the residues comply with the UTS for chromium, lead, nickel, vanadium, arsenic, and antimony).[12]

[4] Generally, gasification systems are designed and operated to prevent direct releases to the atmosphere when operating to produce synthesis gas; however, some devices incorporate small incinerators that combust effluent discharges from the raw synthesis gas cleanup systems and those devices do release combustion off-gases to the atmosphere. Under today's proposal, devices that utilize incinerators to combust non-gaseous effluents from the gasification process, or raw synthesis gas cleanup systems would be subject to appropriate regulations to control emissions from those sources. For example, if characteristic hazardous waste is removed from the gasification process and sent to an incinerator for destruction, the combustion device is subject to regulation as a hazardous waste incinerator.

[5] Gasification systems are designed with release vents or flares that operate during emergencies or during malfunctioning operations. Flares and release vents are necessary to prevent damage or catastrophic failure of the gasification system in the event of a major malfunction. These types of relief systems are common at facilities that manufacture products using thermal processes. The operation of the flares or release vents is regulated by each facility's Title V Clean Air Act permit.

[6] Removal effectiveness is based on data that was used to support the Hazardous Waste Combustion Phase 1 MACT rule and is based on data from hazardous waste burning incinerators. See Docket Number F–1999–RC2F–FFFFF and the technical support document for: NESHAPS: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors. 64 FR 52828. September 30, l999. Removal effectiveness of systems used by gasification systems were not evaluated for this notice.

[7] *A Comparison of Gasification and Incineration of Hazardous Waste—Final Report.* March 30, 2000. This report was prepared for the U.S. Department of Energy and contrasts incineration and gasification technologies. It also evaluates emissions tests performed on gasification systems processing coal that shows that some mercury is controlled in the gasification process. The report concludes that further tests are necessary to understand the control mechanism and to ensure that the data is not an artifact of poor composite coal sampling.

[8] In a later section of today's proposal, we request comment on options we are considering to revise the synthesis gas specification (found at 40 CFR 261.38(b)) to reduce the allowable concentrations of RCRA metals that can exist in waste-derived synthesis gas excluded from the definition of solid waste. This is because we have determined that the specification does not represent the concentration of metals that realistically exists in synthesis gas derived from hazardous waste.

[9] Data submitted by Texaco in response to the July 1998 NODA suggests that the slag produced by their gasification systems is an inert material that does not leach metals because the glass-like matrix of the material effectively stabilizes the metals. See Docket Number F–98–PR2A–FFFFF.

[10] See: ''Analysis of Residues From Texaco Gasification Process'' which is found in the docket supporting this proposed rule.

[11] Certain gasification systems function because they are designed to take advantage of the heat given off in the limited oxidation reactions, and thus require the introduction of inorganic material to provide thermal inertia for the system. This design characteristic could contribute to the inert quality of the residue material.

[12] EPA's first study of wastes from coal gasification are set forth in the *1990 Report to*

F. Gasification Systems Processing Hazardous Oil-Bearing Secondary Materials From Petroleum Refineries

The gasification of hazardous oil-bearing secondary materials from the petroleum industry is taking place only under very narrow, specialized exemptions. At the present time, we are aware of four gasification operations in the United States that engage in this activity. Three of the gasification systems are operated on-site at petroleum refineries.[13] The fourth is an off-site gasification system owned and operated by the Dakota Gasification Company.[14]

VI. How Do Gasification Systems Differ From Hazardous Waste Treatment Units?

In most cases, gasification systems resemble fuel manufacturing devices more than they resemble RCRA treatment devices. Information submitted to us in response to the July 1998 NODA suggests that the design, operation, and operational characteristics of certain gasification systems are significantly different from those of conventional RCRA treatment devices. This is because gasification systems are not designed and operated to treat waste. Gasification systems manufacture synthesis gas fuel by re-forming the organic compounds that exist in oil-bearing hazardous secondary materials through unique conversion processes that involve thermal disassociation and partial oxidation. The synthesized fuel is primarily composed of hydrogen and carbon monoxide. Gasification systems can also be configured to produce other gaseous or solid compounds for purposes other than as a fuel.

The reformation or conversion processes occurring within gasification systems are continuously monitored and controlled to enhance conversion efficiency. As such, they require feedstock materials to adhere to certain specifications prior to introduction into the system. Feedstock materials must be analyzed to determine BTU value, sulfur concentrations, chlorine concentration, and ash content. The analytical information on the feed material is needed in order to control the processes that convert the organic components of the feedstock material into valuable products (including synthesis gas fuel).

Gasification processes likewise limit and control oxygen levels to ensure the process reactions convert organic material to the synthesis gas product, and to prevent the complete (or unwanted) oxidation of the gaseous compounds that constitute synthesis gas. In contrast to gasification systems, thermal waste treatment devices (such as incinerators and certain industrial furnaces) process materials through ''complete oxidation processes'' to reduce the volume and toxicity of the waste materials. When referring to ''complete oxidation processes'' that occur in thermal treatment devices, what we mean is that the oxidation of specific compounds in the waste material is not controlled to any extent other than that what is needed to fully oxidize and destroy the waste materials.

Gasification systems also differ significantly from thermal waste treatment devices in terms of releases to the environment. As explained more fully below, gasification systems are not designed to and ordinarily do not release gases directly to the environment. Gasification systems are generally designed to be closed to the environment. The gases evolved in the partial oxidation or reactor phase are processed in polishing systems following the reactor that strip the gas of sulfur, chlorine, and particulate matter. These polishing systems recover some of these materials to form additional products such as elemental sulfur, sulfuric acid, or hydrochloric acid. [15]

Following the polishing processes, the synthesis gas can be used in a number of ways: (1) Immediately as a fuel in a combustion turbine; (2) as a chemical intermediate in a chemical manufacturing process; or (3) stored for product use later. In contrast, thermal treatment devices (e.g., incinerators and industrial furnaces) are designed to release combustion off-gases to the environment as a consequence of normal operation.[16] The resultant gases, which are primarily carbon dioxide and water, are rarely used in a manner similar to that of the gasification system.[17]

Gasification systems differ significantly from hazardous waste treatment units. As such, we are today proposing that full RCRA oversight may not be warranted for the gasification of hazardous oil-bearing secondary materials from the petroleum refining industry, as long as we place conditions on the activity so that it can be distinguished from hazardous waste treatment activities.

VII. Detailed Discussion of Today's Proposal

Today, we are proposing to conditionally exclude hazardous oil-bearing secondary materials generated by the petroleum refining industry (SIC 2911) from the definition of solid waste when the materials are destined to be processed in a gasification system to produce synthesis gas fuel and other non-fuel chemical by-products.[18] To

Congress on Special Wastes from Mineral Processing. (See specifically Chapter 5.) In that report, EPA determined that ash from coal gasification was Bevill exempt as a result of the Bevill rul that was promulgated on June 13, 1991 (54 FR 27307). All other solid wastes generated at gasification plants, other than coal gasification ash, are subject to RCRA as newly generated wastes, and to subtitle C if they exhibit a characteristic of hazardous waste. Coal gasification ash retains its Bevill exempt status as long as the gasification facility uses feedstock that is comprised of greater than 50 percent virgin feedstock (i.e. coal). See 54 FR at 36619, September 1, 1989.

[13] See letter from Mr. James Childress, Executive Director, Gasification Technologies Council to Ms. Elaine Eby, USEPA. Re: Operational Gasification Systems Processing Hazardous Oil-Bearing Secondary Materials. January 2002.

[14] The Dakota Gasification Facility, located in Belluah, North Dakota, is a commercial operation that was constructed and designed with the assistance of the DOE to promote the use of gasification of coal for the production of fuels. This facility is currently processing hazardous oil-bearing secondary material from a BP Amoco refinery located in North Dakota under a RCRA treatment study approved by the State.

[15] The markets for these non-fuel by-products were not evaluated for this proposal, but many of the by-products do have marketable value. Non-gaseous by-products that are used in a production process to produce other products are not regulated by this proposal and are generally excluded from regulation under 40 CFR 261.2(e)(1)(i). In some systems the stripped contaminants are fed back to the gasification reactor.

[16] However, we note that certain types of industrial furnaces are designed to treat hazardous waste and extract sulfur compounds or halogen acids from the effluent gas stream prior to release to the atmosphere. These systems are generally operated to release the gases directly to the atmosphere after the desired compounds are extracted from the combustion off-gas.

[17] In addition to the operational differences between gasification systems and thermal waste treatment systems, it would appear that gasification systems currently in operation are being used in the chemical and petroleum refining industries to convert non-waste feedstocks into synthesis gas fuel or chemical intermediates required for specialty chemical manufacturing. These systems are relatively expensive to construct and operate and require a fairly large and consistent supply of carbon-based feedstock (e.g., coal, natural gas, petroleum coke, etc.) to produce synthesis gas that has economic value. The units, at least as presently operated, are integral components of these manufacturing operations. The fact that these devices can be operated in a manner to process materials historically classified as hazardous waste does not discount the fact that they are designed and operated to produce a product that is valuable as a fuel or chemical and that this appears to be their primary function.

[18] The proposed exclusion applies only to hazardous oil-bearing secondary materials from SIC classification 2911. While the Agency understands that some petroleum refineries may be integrated with other industrial processes exhibiting other SIC classifications, this exclusion is only for secondary materials generated by the production processes under the 2911 classification. However, the Agency solicits comment on whether the exclusion should be expanded to other hazardous secondary

Continued

ensure that each gasification system processing materials excluded under today's proposal is engaged in a manufacturing activity, we are proposing that the exclusion be subject to a set of conditions. The conditions specify that: (1) The system processing the hazardous oil-bearing secondary material meets the proposed definition of a gasification system; (2) the synthesis gas product from the gasification system meets the fuel specifications promulgated in the ''synthesis gas rule,'' [19] which is a regulatory benchmark for classifying synthesis gas produced from hazardous waste as a fuel rather than as hazardous waste (see 40 CFR 261.38(b)); (3) the materials (both co-products and solid waste residuals) generated by the gasification system that are placed on the land do not exceed the nonwastewater Universal Treatment Standards (UTS) for 6 metals present in listed wastes generated by the petroleum refining industry; and (4) the excluded hazardous oil-bearing secondary materials are not speculatively accumulated nor placed on the land prior to insertion into the gasification system. Provided these conditions are met, the hazardous oil-bearing secondary materials from petroleum refineries would not be solid wastes. Similarly, the fuels or chemical by-products manufactured from these excluded materials would also be excluded.

The exclusion would apply to materials processed in a gasification system operating either on site or off-site of a petroleum refinery. While this does differ from existing exclusions in that it would apply whether or not the gasification system is located at the site of the petroleum refinery, we believe it is appropriate to extend the on-site exclusion to off-site fuel manufacturing processes because gasification systems operate in exactly the same manner whether they are used to process materials into fuels on-site or off-site of a petroleum refinery (i.e., gasification systems operate as fuel manufacturing devices at any location they are operating).[20]

A. What Are the Conditions of the Exclusion?

Today's proposed exclusion includes four conditions to ensure that each gasification system processing the excluded material is engaged in a legitimate manufacturing activity that converts the valuable components of the hazardous oil-bearing secondary materials into fuels, and into non-fuel chemical by-products, that do not contain high levels of non-contributing toxic components. Today's notice proposes to exclude hazardous oil-bearing secondary materials generated by the petroleum refining industry from the definition of solid waste if the materials are processed in a gasification system and used in a manner consistent with the conditions of the exclusion. The consequence of this exclusion would be that hazardous oil-bearing secondary materials are excluded from the definition of solid waste, at the point of generation, provided: (1) The system meets the definition of a gasification system; (2) the system generates a synthesis gas fuel that meets the specifications of exempted synthesis gas; (3) the materials generated by the gasification system are not placed on the land if they exceed the nonwastewater UTS for chromium, lead, nickel, vanadium, arsenic, and antimony (found at 40 CFR 268.48); and (4) the excluded materials are not placed on the land or speculatively accumulated prior to insertion into the gasification system.

1. Definition of a Gasification System

During our review of the operation and performance of available gasification technologies, we determined that it is necessary to define the types of devices that can process (i.e., gasify) hazardous oil-bearing secondary materials into a synthesis gas that we believe is a legitimate fuel. This is because there are a large number of devices operating in the United States that could claim to be a type of gasification system, but do not gasify materials in the same manner, or to the same extent, as the gasification systems we considered for this proposal. These other devices may be waste treatment devices, or recycling devices that process solid waste. Therefore, this first condition defines the types of systems that may process excluded hazardous oil-bearing secondary material under this exclusion in order to distinguish the gasification process from waste treatment, including incineration.

As explained earlier, most combustion devices (e.g., incinerators) convert organic material into hydrogen and carbon monoxide gases at some point during ideal combustion processes (i.e., complete oxidation of organic material to water and carbon dioxide). Gasification systems preferentially convert the organic material into a synthesis gas primarily composed of carbon monoxide and hydrogen by limiting the oxidation reactions. Gasification systems generally accomplish this by regulating the organic material and oxygen being fed to the reactor based on feedback from continuous monitoring of temperature, pressure, and products of oxidation. These continuously monitored parameters control the extent that organic material is oxidized, and concentrates the metals found in the feed into a slag emitted from the reactor as a solid waste. Therefore, to limit the exclusion to gasification systems that operate as fuel manufacturing devices, as well as to distinguish gasification systems from treatment devices such as incinerators, cement kilns, and thermal desorbers, we are proposing and solicit comment on the following definition of a gasification system.

Gasification system means an enclosed thermal device and associated gas cleaning system or systems that does not meet the definition of an incinerator or industrial furnace (found at §§ 260.10), and that: (1) Limits oxygen concentrations in the enclosed thermal device to prevent the full oxidization of thermally disassociated gaseous compounds; (2) utilizes a gas cleanup system or systems designed to remove contaminants from the partially oxidized gas that do not contribute to its fuel value; (3) slags inorganic feed materials at temperatures above 2000;° F; (4) produces a synthesis gas; and (5) is equipped with monitoring devices that ensure the quality of the synthesis gas produced by the gasification system.

Under this first condition, you would be required to ensure that your gasification system meets the definition above, in order for the hazardous oil-bearing secondary materials from the petroleum industry to be eligible for the exclusion. The purpose of this condition

materials from other industrial operations (with other SIC classifications) when these operations are integrated with industrial processes under the primary SIC classification of 2911.

[19] For purposes of this preamble discussion, we are using the term, ''Synthesis Gas Rule'' to refer to the rulemaking that provided for the ''Syngas Fuel Exclusion'' (40 CFR 261.(b)). The entire rule can be found in 63 FR 33782, June 19,1998. Hazardous Waste Combustors; Revised Standards; Final Rule—Part 1: RCRA Comparable Fuel Exclusion; Permit Modification for Hazardous Waste Combustion Units: Notification of Intent to Comply; Waste Minimization and Pollution Prevention Criteria for Compliance Extensions.

[20] Gasification systems operating off-site of petroleum refineries may continue to process the materials they currently gasify in addition to the materials we are proposing to exclude without affecting the regulatory status of their device with respect to RCRA regulation. However, if gasification systems are processing hazardous wastes (i.e., hazardous materials identified or listed as hazardous wastes, in addition to the petroleum industry secondary materials we are proposing to exclude), then such devices would of course continue to be subject to RCRA jurisdiction under the current proposal.

is to ensure that the exclusion applies only to gasification systems designed, operated, monitored, and controlled in a manner that promotes the removal or conversion of toxic compounds found in the hazardous oil-bearing secondary materials, as well as generating a synthesis gas fuel. The rationale supporting this condition is consistent with the rationale we used in excluding recovered oil from the definition of solid waste. See 63 FR at 42113.

2. Synthesis Gas Fuel Specification

The second condition of this proposed exclusion defines the chemical and physical specifications of a legitimate synthesis gas fuel product. This condition ensures that each gasification system using the exclusion is engaged in a legitimate fuel manufacturing activity. It does this by requiring you to ensure that the synthesis gas produced from the gasification of excluded materials meet the specifications for the exclusion of hazardous waste derived synthesis gas found at 40 CFR 261.38(b). It is appropriate to apply the ''Synthesis Gas Rule'' specifications to synthesis gas produced from hazardous oil-bearing secondary materials, because we believe that synthesis gas manufactured from this material should not contain hazardous constituents and other non-contributing contaminates at concentrations greater than synthesis gas derived from hazardous waste. We recognize that some gasification systems are designed and operated to produce a synthesis gas that may not meet the constituent levels specified by the Synthesis Gas Rule because the gas is specifically manufactured for use in a specialized chemical manufacturing process. Therefore, the specification would apply only to synthesis gas actually used as a fuel. See the preamble discussion on ''Parameters for the Synthesis Gas Fuel Exclusion'' found at 63 FR 33791, June 19, 1998.

Under this proposal, hazardous oil-bearing secondary materials would be excluded from the definition of solid waste at the point they are generated, as long as they are processed in a gasification system that meets our proposed definition, and handled in accordance with the other conditions. Since RCRA regulations do not apply to the excluded materials, the synthesis gas product is also not subject to RCRA regulations, as long as the synthesis gas produced by the gasification system meets as a fuel the specification levels of the synthesis gas exclusion.Of course, units burning the synthesis gas fuel are themselves potentially subject to regulation under other statutes, notably the Clean Air Act. Today's proposal would not affect any such regulation.

3. Land Placement of Products, Co-Products, and Solid Waste Residuals

The third condition of the proposed exclusion applies to co-products and residues generated by the gasification system that are recycled by being applied to the land. This condition would require that materials that are applied to the land must meet the nonwastewater Universal Treatment Standards (UTS) (40 CFR 268.48) for the following toxic metals: antimony, arsenic, chromium, lead, nickel, and vanadium. It is believed that these metals will partition with the ash into the slag residue generated by the process. These metals do not contribute to the gaseous fuel or to the gasification process. We suspect that the metal concentration in the residue will be comparable to or substantially less than the concentration of metals in the slag from gasifiers that process petroleum coke or coal exclusively. Data submitted by BP Amoco show that the metals in oil-bearing secondary materials do not substantially increase the total metal concentration normally found in the residue generated by the Dakota gasification facility when it is processing coal exclusively. [21]

This third condition ensures that co-products or residues generated by the gasification process do not contain toxic metals with a potential for leaching greater than allowed by the requirements of the land disposal restrictions. This condition is similar to conditions established for hazardous waste-derived products that are used in a manner constituting disposal (see 40 CFR 266.20), but we chose only to apply the UTS limits for the metals which are known to exist in petroleum refinery waste.[22]

This condition ensures legitimacy by applying the same land disposal provisions to the co-products or residuals that would have existed had the material not been excluded from the definition of solid waste, and so would eliminate an incentive to claim to be performing ''gasification'' for the real purpose of avoiding treatment of metals in treatment residues that ultimately are placed on the land. The condition similarly would serve to ensure that the gasification of excluded oil-bearing hazardous secondary materials is not just a means of discarding waste components in the materials (which are otherwise listed hazardous wastes) by the eventual unrestricted placement of those components on the land. Finally, the proposed condition is needed to assure that the gasification system is operated for the production purpose claimed. As explained earlier, part of the operating premise of gasification is that it preferentially converts organic matter in secondary materials into fuels (or intermediates) while removing metals from raw synthesis gas and trapping those metals in an inert matrix. The proposed condition provides a means of quantifying this premise.

4. Speculative Accumulation and Storage of Excluded Materials

The fourth condition of the proposed exclusion specifies that excluded hazardous oil-bearing secondary materials may not be placed on the land, or speculatively accumulated prior to insertion into a gasification system. This condition further defines gasification of excluded oil-bearing materials as a manufacturing activity because it requires that the excluded materials are handled as a valuable feed to the gasification system. We know of no gasification system (or for that matter, any refinery) which stores these materials on the land, and to do so would indicate that the materials are being handled as waste, not feedstock (since physical integrity of the ostensibly-valuable feed materials could no longer be assured, and there would be large-scale losses of the oil-bearing secondary materials due to the land placement). Thus, the physical characteristics of hazardous oil-bearing secondary materials from the petroleum industry should preclude storing the material in anything other than tanks or containers. This is because the material is generally comprised of tar-like oily substances that are not amenable for land storage.

The proposed condition prohibiting speculative accumulation of the excluded oil-bearing secondary materials before they are inserted into the gasification system ensures that legitimate quantities of the waste material are being recycled rather than being stored to avoid regulation. We feel that this condition also is necessary to assure that recycling actually occurs, and that materials are not discarded by being stored for extended periods. Furthermore, this condition is consistent with the condition that we

[21] Data submitted by Amoco Refining Inc, which show that petroleum secondary materials make a minor contribution to the total concentration of metals routinely found in ash from the Dakota Gasification facility.

[22] This condition is also similar to a condition we included in the exclusion for other petroleum oil-bearing secondary materials. There, we applied the FO37 listing to non-fuel residuals that are produced when oil-bearing wastes are reinserted into petroleum distillation and refining processes. See 63 FR at 42128.

adopted for excluded oil-bearing residuals returned to refinery processes. See 60 FR 57752.

B. What Are the Proposed Recordkeeping and Reporting Requirements?

There are no specific recordkeeping and reporting requirements associated with this proposal. However, we are seeking comment whether any records and reporting are necessary in addition to the current documentation requirement associated with 40 CFR 261.2(f) for materials that would be excluded from the definition of solid waste under today's notice. 40 CFR 261.2(f) does not contain specific record keeping requirements but it does require the respondent to bear the burden of showing, through appropriate documentation, that the excluded material is being processed in a manner that meets the conditions in the claimed exclusion. We offer this information as a reminder and are not reopening this provision for comment.

In today's notice, we are proposing to exclude hazardous oil-bearing secondary materials generated from the petroleum refinery industry (SIC 2911) that are destined for gasification whether or not the gasification system is located at a refinery. We note that allowing the secondary petroleum streams to go to facilities outside the petroleum refining industry is somewhat different than the structure of 40 CFR 261.4(a)(12)(i), which the Agency has used as a model for today's proposal. 40 CFR 261.4(a)(12)(i) excludes from RCRA jurisdiction, under certain conditions, oil-bearing secondary materials generated by petroleum refineries when the materials are re-inserted into the petroleum refining process (either at the refinery generating the secondary material or at another off-site petroleum refinery, as long as the materials are shipped directly). 40 CFR 261.4(a)(12)(i) does not specify recordkeeping requirements, except 40 CFR 261.2(f) applies to respondents claiming the exclusion.

In today's proposal, however, we believe that excluding materials processed in gasification systems operating independent (or off-site) of petroleum refineries is appropriate because gasification is a process employed by petroleum refineries to upgrade low value organic material into fuels, and the purpose and operation of the system remains the same whether the system is operated at the same location the oil-bearing materials are generated or elsewhere. Since today's proposal would be somewhat more expansive than the exclusion at 40 CFR 261.4(a)(12)(i), we are requesting comment on whether further clarification of recordkeeping and reporting requirements is necessary in addition to the 40 CFR 261.2(f) documentation requirement to ensure that excluded materials are appropriately processed. The purpose of recordkeeping, recording and documentation would be to: (1) Ensure that the excluded materials are indeed fed to a gasification facility; (2) the materials are handled appropriately prior to introduction to the gasification system; (3) the synthesis gas fuel ultimately produced meets the synthesis gas specifications; (4) the inorganic residues produced by the gasification system that are placed on the land do not exceed the nonwastewater UTS for metals found in the input refinery material fed to the gasification system; and (5) the residue does not exhibit a hazardous waste characteristic under subpart C, part 261. One proposed rule, ''Requirements for Zinc Fertilizers Made From Recycled Hazardous Secondary Materials'' (See 65 FR 70954, November 28, 2000) provides an example of additional recordkeeping and reporting requirements that could be used to verify that the conditions of an exclusion are met.

EPA is interested in obtaining comments on what specific records would be necessary to document whether: (1) The synthesis gas generated from a gasification system, using excluded secondary materials, meets the synthesis gas fuel specification under 40 CFR 261.38(b); (2) the residue generated from the gasification system meets the UTS levels in 40 CFR 268.48 for specific inorganic metals; and (3) the residue generated from the gasification system fails to exhibit a hazardous waste characteristic as defined in part 261, subpart C. We are also interested in receiving comments that explain the different types of information petroleum refinery operators currently keep to demonstrate compliance with other solid waste exclusions (such as 40 CFR 261.(a)(12)(i)) that rely on 40 CFR 261.2(f) to demonstrate compliance with the conditions of the exclusions and whether such information is routinely maintained as a type of industry practice.

C. How Do We Ensure Excluded Material Is Processed in a Gasification System?

As with other exclusions and exemptions from the definition of solid waste, the person claiming the exclusion must be able to produce whatever documentation is necessary to demonstrate that the material is excluded from regulation (see § 261.2(f)). EPA recommends that to make this demonstration, petroleum refineries document the amount of secondary material excluded, and the location that these materials are processed in a gasification system, as well as maintaining documentation to demonstrate compliance with the enumerated conditions of today's proposed exclusion.

D. Are We Concerned About Volatile Metals in the Excluded Material?

We are aware that certain metals, which can be found in low concentrations in petroleum refining secondary materials, can be processed by a gasification system and end up in the product synthesis gas. The metals of most concern, based on their inherent properties, are lead and mercury; however, based on data we received from the petroleum refining industry, we do not believe that synthesis gas manufactured from oil-bearing materials will contain sufficient concentrations of these metals to create an emissions hazard if the fuel is burned for energy recovery. Nevertheless, because there is a potential for volatile metals to partition to the synthesis gas product, we are proposing that the synthesis gas must meet the specifications of 40 CFR 261.38(b) if used as a fuel, which limits the concentration of those metals to levels we deemed appropriate for hazardous waste-derived synthesis gas excluded from RCRA regulation. As explained earlier, the fuel specification serves as a means to ensure that the process produces a fuel product rather than a means to dispose of waste.

E. Are We Concerned About Dioxin Emissions From the Processing of Excluded Material?

In contrast to devices that burn organic compounds, gasification systems are designed to promote the thermal decomposition of organic-containing compounds and limit the formation of compounds with a greater molecular weight than methane. This design characteristic limits the formation of dioxin pre-cursors in the high temperature reactor. Formation in the PM control units is controlled by the lack of dioxin precursors, the lack of particulate matter, and the lack of a favorable temperature profile. Analytical data submitted by Texaco and Dow support the contention that dioxin is not generated during synthesis gas production. The reader is referred to the docket for additional information.

In addition to the theoretical arguments and analytical data supporting the contention that synthesis

gas does not contain dioxin, we also limit the amount of dioxin that can exist in synthesis gas fuel directly through the application of the synthesis gas fuel specification found at 40 CFR 261.38(b). The synthesis gas specifications that apply as a condition of the exclusion do not allow significant concentrations of dioxin to be present in the product gas. These factors, as well as analytical results that show low concentrations of dioxin in the produced synthesis gas, lead us to conclude that controls to limit the formation of dioxin in the synthesis gas are unnecessary to propose. Additionally, we recognize that the down stream applications of the synthesis gas will also control the levels of dioxin that may be released to the atmosphere or to other products manufactured from the synthesis gas. Specifically, we believe that any dioxin compounds that exist (at low concentrations) in the synthesis gas will be appropriately controlled under the applicable MACT rules if the synthesis gas is burned to produce electricity in a gas turbine. Therefore, we believe that concerns regarding dioxin formation are adequately addressed in today's proposal and we are not proposing any additional requirements to specifically limit dioxin emissions as a result of downstream uses of the synthesis gas fuel.

VIII. Other Hazardous Secondary Materials That Could Also Be Conditionally Excluded When Processed in a Gasification System

Today's proposed exclusion from the definition of solid waste is based largely on two central themes. First, gasification is a legitimate manufacturing process for processing secondary materials in an efficient and environmentally protective manner and is better viewed as a manufacturing activity rather than waste recycling. Second, hazardous oil bearing secondary materials from the petroleum refining industry (SIC 2911) are especially appropriate for use in such units. With respect to these points, EPA is soliciting comment on expanding the exclusion to allow for other hazardous secondary materials to be conditionally excluded from the definition of solid waste if they are processed in a gasification system.

A. What Are the Environmental Benefits of a Broader Exclusion?

The gasification of hazardous waste can be viewed as an innovative extension of the conventional fuels gasification technology for synthesis gas. The gasification of hazardous secondary materials (i.e., hazardous waste), in this manufacturing application, has the potential to significantly reduce pollution to the environment by allowing for the continued processing of hydrocarbon materials that would otherwise be treated and/or land disposed. [23] The downstream uses of the products generated by the gasification process also have environmental benefit. When the synthesis gas is burned for energy recovery it displaces fossil fuels that would be used for the same energy production. Plus, it displaces the energy used to liberate, transport, and prepare the fossil fuels for use, as well as the pollution that results from removing, transporting and processing the fossil fuels. When synthesis gas is used as a feedstock for the manufacture of chemicals such as acetic acid, acetic anhydride, oxoalcohols, butanol, methanol, ammonia, and hydrogen, it displaces other feedstock that take energy to produce and prepare for manufacturing. Furthermore, when other non-fuel co-products are manufactured in the gasification system, e.g., elemental sulfur, sulfuric acid, chlorine, hydrochloric acid and ammonia, the co-products displace similar products manufactured conventionally. This reduces pollution to the environment associated with the conventional manufacturing processes that do not use secondary materials as a component of the feed.

B. What Is the Regulatory Status of a Gasification System?

Under existing regulations, hazardous secondary materials that are processed in a gasification system to produce synthesis gas and is used or re-used in an industrial process to manufacture legitimate products are not subject to RCRA jurisdiction through the provisions of 40 CFR 261.2(e)(1)(i). This provision excludes materials from the definition of solid waste if the materials are ''used or re-used as ingredients in an industrial process to make a product, provided the materials are not being reclaimed.'' As a result, gasification systems that manufacture synthesis gas, used exclusively in other on-going manufacturing processes, are currently not subject to RCRA jurisdiction because the materials being processed by the system are never solid wastes. Conversely, hazardous secondary materials that are processed in a gasification system to produce synthesis gas that is used as a fuel remain regulated by RCRA in accordance with 40 CFR 261.2(c)(2) and the applicable regulatory provisions in §§ 261.6 and 266.100 et seq. See 63 FR at 33791 (June 19, 1998); see also § 261.2(e)(2)(ii), which says that the exclusion for secondary materials being used or reused does not apply to secondary materials that are burned for energy recovery, used to produce fuels, or contained in fuels. Thus, gasification systems that produce synthesis gas used as a fuel are subject to RCRA jurisdiction because the materials being processed are solid wastes (assuming that the secondary materials being processed are also hazardous wastes).

In the past, we have stated that gasification systems processing hazardous waste materials are exempt from RCRA permitting because they are engaged in recycling (assuming that legitimate recycling is occurring).[24] Designating gasification systems as recycling units exempts them from RCRA permitting, but it does not exclude the material being processed from RCRA regulation. This results in the synthesis gas fuel being designated as a waste-derived fuel and would require that all parties comply with the regulations that apply to the generation, transportation, storage and handling of the hazardous waste materials.

The hazardous waste-derived synthesis gas fuel can be excluded from regulation under the provisions of the synthesis gas exclusion found at 40 CFR 261.38(b). This section provides an exclusion from the definition of solid waste for synthesis gas fuels that meet the composition specifications of the provision. This exclusion applies at the point the fuel is produced. We recognize that this results in a situation where under one use, the product synthesis gas (*i.e.*, as a chemical intermediate), is excluded, but under a different use (i.e., as a fuel) the product synthesis gas is regulated. This is problematic considering the fact that the synthesis gas product remains the same whether it's used as an ingredient in an industrial process or as fuel, and the device itself is unregulated by RCRA in either case. Furthermore, available information suggests that chemical industry gasification systems may not be dedicated to only one use for the synthesis gas, i.e., gasification systems may produce synthesis gas both for the manufacture of chemical products and as a fuel.[25] See the ''Comment Response

[23] U.S. Environmental Protection Agency. *Texaco Gasification Process—Innovative Technology Evaluation Report.* July 1995. EPA/540/R–94/514.

[24] See OSWER Directives 9441.1995(18), and 9432.1996(01).

[25] See letter from Mr. Dan Pearson, Executive Director, Texas Natural Resource Conservation Commission to Mr. Randall A. Jones, Director, Regulatory Affairs, Molten Metals Technology, Re:

Continued

Document'' in Docket Number F–98–RCSF–FFFFF for additional information on this point.

C. What Are the Conditions of the Broader Exclusion?

In today's notice, we are also requesting comment on a proposed expansion of the conditional exclusion from the definition of solid waste (discussed earlier in today's notice) to additional hazardous secondary materials.[26] Under this alternative proposal, one exclusion, under a set of expanded conditions, could be promulgated for hazardous secondary materials, including those from the petroleum industry, destined for processing in a gasification system to produce synthesis gas fuel and other chemical products. We believe that because of the unique properties of synthesis gas and the operational capabilities of gasification systems, as well as its environmental benefits, it is appropriate to suggest and solicit comment on broadening the exclusion in this way.

To expand the exclusion to address additional hazardous secondary materials, three modifications to the current proposal could be made. First, in the third condition of the proposed exclusion, i.e., land placement of products, co-products, and solid waste residuals, the number of hazardous inorganic constituents required to meet UTS would increase from six to fifteen. The addition of nine hazardous inorganic constituents, captures the entire suite of inorganic constituents regulated by RCRA in 40 CFR 268.48 and further ensures that the co-products or residues generated by the gasification system do not contain any toxic inorganics with a potential for leaching greater than allowed by the requirements of the land disposal restrictions. These additional constituents are all toxic metals, except for cyanide.

As mentioned previously, we have data showing metals will partition with the ash into the slag residue generated by the gasification process and be effectively immobilized. As we have discussed earlier, these metal constituents do not contribute to the gaseous fuel or to the gasification process. We are also proposing to add cyanide (both total and amenable) to the array of hazardous inorganic constituents being regulated. It is believed that cyanide will effectively dissociate in the gasification process contributing to the production of the synthesis gas. As such, there should not be any measurable quantities of cyanide in the co-products or residuals. The expansion of this condition to include all the RCRA toxic inorganics ensures that the gasification system is being operated for the production purpose claimed. As previously discussed, part of the operating premise of gasification is that it preferentially converts organic matter in secondary materials into fuels (or intermediates) while removing metals from raw synthesis gas and immobilizing those metals in an inert matrix. This condition is a means of quantifying this premise.

The second modification would be the addition of a fifth condition. This condition would require each hazardous secondary material processed in a gasification system to contain greater than 20% by weight total organic carbon (TOC). The addition of this condition ensures that every secondary material processed in a gasification system contributes to the manufacture of the synthesis gas and so eliminates an incentive to claim to be performing ''gasification'' for the real purpose of avoiding hazardous waste treatment. The 20% TOC threshold approximates the lowest value material known to be effectively processed in a gasification system for synthesis fuel production. The 20% TOC threshold represents the level which we believe is reasonable both economically and technologically to ensure legitimate manufacturing by the gasification system. The Agency recognizes that by including such a condition, it could restrict certain hazardous secondary material from being processed in a gasification system under the exclusion. However, without a complete understanding of these activities and knowledge of the types of hazardous secondary materials that could be processed through such an operation, we believe that with this broader exclusion, a TOC threshold of 20% is a necessary condition to ensure that legitimate manufacturing activities are taking place. Unlike hazardous oil-bearing secondary materials from the petroleum refining industry, little information exists that provides a comprehensive assessment of gasification's performance on other RCRA hazardous waste. (See: *A Comparison of Gasification and Incineration of Hazardous Waste—Final Report.* United States Department of Energy. DCN 99.803931.02. March 30, 2000). However, the Agency specifically solicits comment on the appropriateness of requiring each hazardous secondary material to have a 20% by weight TOC content. In addition, the Agency also requests comment on alternative indicators, other than TOC, that could be used to ensure that hazardous secondary materials are used legitimately in gasification systems to manufacture synthesis gas fuel and other products.

The third or final modification to the exclusion would be a prohibition on the use of any mercury-containing hazardous secondary material into the gasification system for the manufacturing of synthesis gas. As discussed previously in the preamble (See section V. D—What Air Emissions Result From Gasification Systems?), the Agency is concerned with the potential for highly volatile metals, in particular mercury, to be emitted out the stack of devices (i.e., turbines) firing synthesis gas produced by a gasification system. As discussed earlier, this is not a concern, for the petroleum refining exclusion being proposed today, because hazardous oil-bearing secondary materials from the petroleum refining industry are not expected to contain significant quantities of mercury. However, the Agency is concerned that the specification for the synthesis gas exclusion (see 40 CFR 261.38(b)) which requires that the synthesis gas contain less than 1 part per million by volume of each RCRA metal, including mercury, may not represent the concentration of metals that realistically exists in synthesis gas derived from hazardous waste.[27] To that end, the Agency proposes a sixth condition to the broader exclusion—a prohibition on the use of hazardous secondary materials containing mercury. This prohibition would exclude, from processing in a gasification system, any hazardous waste which exhibits the characteristic of mercury and any hazardous waste for which mercury was a basis for listing under 40 CFR part 261, appendix VII.

Proposed Catalytic Extraction Processing (CEP) Facility—Bay City, Texas. February 27, 1996.

[26] Information available to the Agency suggests that there are other secondary materials amenable to gasification. For example, municipal waste and sewage sludge, contaminated soil, tires, and coal ash may be gasified to produce synthesis gas and other valuable products. Used oil, is another example of a material that the Agency believes can be processed in a gasification system to produce synthesis gas (i.e., fuel). The reader is referred to the docket supporting this proposal for additional information.

[27] The Agency conducted a preliminary analysis on determining how much mercury can potentially be emitted from synthesis gas that is combusted in a turbine if the synthesis gas contains mercury at the 1ppmv specification level. It was determined that approximately 1.04 tons of mercury could potentially be released from the use of 1 trillion BTU of synthesis gas at the specification levels. If you would compare this to coal for a similar 1 trillion BTU with a concentration of 0.1ppmw of mercury, 0.004 tons of mercury could be potentially released.

This would include the RCRA hazardous wastes D009, K071, K106, F039, U151, P065 and P092. The Agency also solicits comment on expanding this prohibition to include other highly volatile metals.

With these modifications, a broader exclusion is being suggested, which the Agency believes should ensure that the processing of excluded material(s) in a gasification system is a legitimate fuel manufacturing activity that converts components of hazardous carbonaceous material into fuel and into non-fuel chemical by-products without containing high levels of non-contributing toxic components. As such, the option discussed here conditionally excludes hazardous secondary materials from the definition of solid waste, at the point they are generated, when processed in a gasification system provided: (1) Each hazardous secondary material processed in the system contains greater than 20% by weight total organic carbon; (2) the system does not process any hazardous waste which exhibits the characteristic of mercury and any hazardous waste for which mercury is a basis for listing under 40 CFR part 261, appendix VII as hazardous secondary materials; (3) the system meets the definition of a gasification system; (4) the system generates a synthesis gas fuel that meets the specifications of exempted synthesis gas; (5) the materials generated by the gasification system are not placed on the land if they exceed the nonwastewater UTS for antimony, arsenic, barium, beryllium, cadmium, chromium (total), cyanides (total), cyanides (amenable), lead, mercury, nickel, selenium, silver, thallium, and vanadium; and (6) the excluded materials are not placed on the land or speculatively accumulated prior to insertion into the gasification system.

While the Agency requests comment on all aspects of this proposed rulemaking, we are specifically soliciting comment, information, and data on:

- The performance of gasification on other hazardous secondary materials (that are currently hazardous waste) known to contain low concentrations of metals, e.g., hazardous secondary materials that are generated outside SIC 2911, such as spent potliner from the primary aluminum industry (K088).
- The performance of gasification on certain hazardous secondary materials that contain high concentrations of non-contributing components (namely metals or halides).
- Potential partitioning of metals to the product synthesis gas and their subsequent release during the combustion of the synthesis gas in turbines to produce electricity or steam.[28]
- Whether the Agency should develop a set of general criteria for the types of hazardous secondary materials that would be appropriate for gasification, and what those criteria might be.[29]
- Whether the Agency should require specific design and operating conditions for all components of the gasification systems, including the gas cleanup or polishing systems and the secondary product recovery systems and what they would be.
- The market for building and operating gasification systems in the future, including future capacity for gasification.
- The market for synthesis gas and other products from gasification, including non-fuel products recovered in the process.

Finally, we recognize that in order to achieve the benefits of gasification, secondary materials must be safely transported and handled prior to delivery at the gasification facility, and actually delivered for use as a feedstock to the facilities. We note that a number of factors work towards safe delivery, including Department of Transportation regulations for hazardous materials, and the threat of legal liabilities under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) for spilled or disposed hazardous materials. Further, there are currently only a very few gasification facilities that have indicated any interest in accepting hazardous secondary materials, and they have indicated they must have contracts for acceptance of materials, including technical specifications that limit the types of materials that the particular unit may accept as a feedstock. Also, as explained in more detail in the next section, current regulation requires a person claiming an exclusion to produce appropriate documentation to show he or she actually meets the terms of the exclusion, which may mean, for example, producing contracts with a gasification facility, records of shipment and delivery of materials to the gasification system.

The RCRA hazardous waste universe is broad with over 18,000 large quantity generators and many more small quantity generators. Concerns have been raised that generators, perhaps working with waste brokers, may falsely claim to be sending material to gasification systems for processing as a feedstock, when, in fact, they are simply trying to evade regulation. Therefore, the Agency is specifically seeking comment (as we note in the next section) on whether some sort of mechanism, beyond current regulations, should be imposed to ensure that these secondary materials arrive at the gasification facility and are used as feedstock. Also, we request comment on whether an exclusion should apply when brokers are involved, and if so, whether the exclusion should apply in that case beginning only when the material is shipped from the broker to the gasification facility (i.e., the broker would be regulated under the RCRA rules).

In any event, should improper management occur, despite the factors described above, the exclusion proposed today would not apply and parties would be subject to enforcement action, possibly leading to criminal penalties. We seek comment on the checks and balances described above and whether they adequately address the concerns over possible improper use of the exclusion.

D. What Are the Proposed Recordkeeping and Reporting Requirements for This Broader Exclusion?

As with the petroleum refining conditional exclusion previously discussed in this preamble, there are no specific recordkeeping and reporting requirements specifically associated with this broader conditional exclusion. However, we are seeking comment as to whether any records and/or reporting are necessary in addition to the current documentation requirement associated with 40 CFR 261.2(f) for materials that would be excluded from the definition of solid waste. 40 CFR 261.2(f) does not contain specific recordkeeping requirements but it does require the respondent to bear the burden of showing, through appropriate documentation, that the excluded material is being processed in a manner that meets the conditions in the claimed exclusion. We offer this information again as a reminder and are not reopening this provision for comment.

[28] To address this issue, we are requesting comment on a number of approaches to revise the synthesis gas specifications found at 40 CFR 261.38(b). In particular, the Agency is interested in soliciting comment on the specifications for highly volatile metals. The approaches we are considering can be found in the docket of today's proposal entitled Options to Revise the Synthesis Gas Specification. We specifically request comment on this document.

[29] States could then develop procedures for identifying specific waste streams that are excluded, using either rulemaking procedures or a variance process. A variance process might be similar to the provisions already found at 40 CFR 260.31 for certain exclusions from the definition of solid waste.

In this broader exclusion, we are proposing to exclude hazardous secondary materials, meeting certain conditions, from the definition of solid waste whether the gasification system is located on-site or off-site. We again note that allowing the secondary streams to go to facilities off-site is somewhat different than the structure of 40 CFR 261.4(a)(12)(i), which the Agency has used as a model for today's proposal. 40 CFR 261.4(a)(12)(i) does not specify recordkeeping requirements, except 40 CFR 261.2(f) applies to respondents claiming the exclusion.

In this broader exclusion, however, we believe that excluding materials processed in gasification systems operating independent (or off-site) is appropriate because gasification is a process employed by industry to manufacture synthesis gas. The purpose and operation of the system remains the same whether the system is operated at the same location that the secondary materials are generated or elsewhere. As with the petroleum refining conditional exclusion being proposed today, we are again requesting comment on whether further clarification of recordkeeping and reporting requirements is necessary in addition to the 40 CFR 261.2(f) documentation requirement to ensure that excluded materials are appropriately processed. The purpose of recordkeeping, recording and documentation would be to ensure: (1) That the excluded materials are indeed fed to a gasification facility; (2) each hazardous secondary materials has a TOC content of at least 20%; (3) no mercury-containing hazardous wastes are processed in the gasification system; (4) the materials are handled appropriately prior to introduction to the gasification system; (5) the synthesis gas fuel ultimately produced meets the synthesis gas specifications; (6) the inorganic residues produced by the gasification system that are placed on the land do not exceed the nonwastewater UTS for the inorganic constituents found in 40 CFR 268.48; and (7) the residue does not exhibit a hazardous waste characteristic under subpart C, part 261. As mentioned previously, the proposed rule, ''Requirements for Zinc Fertilizers Made From Recycled Hazardous Secondary Materials'' (See 65 FR 70954, November 28, 2000) provides an example of additional recordkeeping and reporting requirements that could be used to verify that the conditions of an exclusion are met.

EPA is interested in obtaining comments on what specific records would be necessary to document whether: (1) The synthesis gas generated from a gasification system, using excluded secondary materials, meets the synthesis gas fuel specification under 40 CFR 261.38(b); (2) the residue generated from the gasification system meets the UTS levels in 40 CFR 268.48 for specific inorganic metals; and (3) the residue generated from the gasification system fails to exhibit a hazardous waste characteristic as defined in part 261, subpart C. We are also interested in receiving comments that explain the different types of information industry operators currently keep to demonstrate compliance with other solid waste exclusions (such as 40 CFR 261.(a)(12)(i)) that rely on 40 CFR 261.2(f) to demonstrate compliance with the conditions of the exclusions and whether such information is routinely maintained as a type of industry practice.

IX. State Authorization

A. Statutory Authority

Under section 3006 of RCRA, EPA may authorize qualified States to administer the RCRA hazardous waste program within the State. See 40 CFR part 271 for the overall standards and requirements for authorization. Following authorization, the State requirements authorized by EPA apply in lieu of equivalent Federal requirements and become Federally enforceable as requirements of RCRA. EPA maintains independent authority to bring enforcement actions under RCRA sections 3007, 3008, 3013, and 7003. Authorized States also have independent authority to bring enforcement actions under State law. A State may receive authorization by following the approval process described under 40 CFR part part 271.

After a State receives initial authorization, new Federal requirements promulgated under RCRA authority existing prior to the 1984 Hazardous and Solid Waste Amendments (HSWA) do not apply in that State until the State adopts and receives authorization for equivalent State requirements. The State must adopt such requirements to maintain authorization.

In contrast, under RCRA section 3006(g) (42 U.S.C. 6926(g)), new Federal requirements and prohibitions imposed pursuant to HSWA provisions take effect in authorized States at the same time that they take effect in unauthorized States. Although authorized States are still required to update their hazardous waste programs to remain equivalent to the Federal program, EPA carries out HSWA requirements and prohibitions in authorized States, including the issuance of new permits implementing those requirements, until EPA authorizes the State to do so. Authorized States are required to modify their programs only when EPA promulgates Federal requirements that are more stringent or broader in scope than existing Federal requirements. RCRA section 3009 allows the States to impose standards more stringent than those in the Federal program. See also 40 CFR 271.1(i). Therefore, authorized States are not required to adopt Federal regulations, both HSWA and non-HSWA, that are considered less stringent.

B. Effect on State Authorization

Today's proposal would be promulgated pursuant to non-HSWA authority, and contains provisions that are less stringent than the current Federal program. The conditional exclusion for hazardous waste processed in a gasification system would be less stringent. Consequently, States would not be required to adopt the proposed exclusion as a condition of authorization of their hazardous waste programs.

X. Administrative Assessments

A. Executive Order 12866

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

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is a ''significant regulatory action'' because of novel legal or policy issues. As such, this action was submitted for OMB review. Changes made in response to OMB suggestions or

recommendations will be documented in the public record.

Implementation of this rule may result in considerable positive economic impacts and positive net benefits. Benefits derive from cost savings and resource conservation, and potential environmental quality improvements. There are no costs associated with this rulemaking, outside of the costs of regulatory development.

Economic Impacts

The proposal discusses limiting the exclusion to facilities in the petroleum refining industry, defined under the Census Bureaus's Standard Industrial Classification code 2911. This industry includes the production of petroleum products through distillation, fractionation, and/or cracking of crude oil and unfinished petroleum derivatives. Total 1999 employment in the sector was 63,500 and the value of products estimated at $170 billion.

Data submitted to EPA in Biennial Reports shows 172 refineries generated between 7 and 10 million tons of hazardous waste in 1997. These refineries are currently treating and disposing of their wastes in compliance with RCRA Subtitle C requirements for management, treatment, and disposal. We estimate that approximately 20–25% of this waste is being recycled to petroleum cokers. Some waste is land disposed. Much of the remaining waste is currently used for fuel (at an average cost of $75 per ton) or incinerated (which may cost between $320 and $730 for liquids, sludges, and solids that are not severely contaminated). Disposal of treatment residuals adds another $60–130 per ton to waste management costs. The American Petroleum Institute has estimated that refineries spent a total of $210 million in 1999 for waste management.

Significant uncertainties make it difficult to estimate the impacts of this rulemaking. Because so few facilities are gasifying hazardous wastes, there is not a robust body of data on the operational characteristics of the devices with these feedstocks. We do not have good information on the proportion of these secondary materials that could efficiently serve as supplements to the primary feedstocks of coal and petroleum coke, nor do we have a clear idea of the types of wastes that might be amenable to the process; therefore we are requesting comment on these issue with this proposal.

In addition, we believe that an exclusion for all refinery wastes would foster competition in the market for these secondary materials. Since these materials are replacing (to some extent) other feedstocks for the gasification system, tipping fees for these materials could be charged. We have not attempted to model this market, nor determine supply and demand or prices. It is clear, however, that revenue streams from tipping fees would be bounded by current management costs.

EPA is aware of four refineries who are currently gasifying some residuals; all refineries are eligible to take advantage of this exclusion. It does seem likely that other refiners would be interested in reducing their waste management costs by sending wastes to gasification systems, whether to on-site captive facilities or to off-site gasification facilities. Similarly, these units should be eager to gain tipping fees for feedstocks. Therefore, transportation costs and the technical specification requirements for gasification feedstocks are likely to be the chief limiting factors in moving petroleum wastes into these systems. Within those constraints, this proposal could lead to a substantial reduction in that $210 million spent by refineries on waste management. Concomitantly, gasifiers would receive economic gains, with losses to the hazardous waste treatment and disposal industry.

Costs and Benefits

Costs associated with this rule are expected to be minimal, including time to read the rule, residual (i.e., slag) testing and other tasks to meet the conditions. Losses to the hazardous waste treatment and disposal industry are expected to constitute transfers to generators and gasification owner/operators; although these may be significant impacts, they are not true economic costs. Therefore, the direction of social benefits from this proposal can only be positive. These uncertainties and assumptions, therefore, do not affect the Agency's assessment of positive net benefits stemming from this rule; they only affect the magnitude of that net benefit.

Benefits From This Rule Are Likely To Include

Cost savings: Savings in treatment and disposal costs for wastes. The magnitude of these savings is difficult to project, but the upper bound would be the $210 million that refineries are currently spending on waste management. Depending on how markets and prices develop, this rule could also result in reduced costs of electricity, and reduced costs for chemical intermediates that gasification systems produce. In addition, both generators of refinery wastes and Federal/state RCRA regulating agencies are expected to save administrative burden and costs because of this regulatory change.

Resource conservation benefits: We project that this rule will facilitate gasifiers in substituting secondary materials (formerly disposed as wastes) for coal. To the extent that this rule induces power generators to burn synthesis gas instead of coal, there is the potential for additional resource conservation benefits. Potential environmental benefits exist if that substitution takes place, since synthesis gas is a much cleaner fuel than coal and produces less harmful emissions.

More detail on costs and benefits of the rulemaking are provided in the memorandum entitled, *Regulatory Impacts of Proposed Exclusions of Petroleum Refinery Wastes,* which accompanies this proposal.

B. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et. seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant *adverse* economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives ''which minimize any significant economic impact of the proposed rule on small entities.'' 5 U.S.C. 603 and 604. Thus, an agency may certify that a rule will not have a

significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule. This proposal is de-regulatory in nature. The primary industry affected by this rule is the petroleum refining industry, and it will not cause adverse effects to this industry. We have therefore concluded that today's proposed rule will relieve regulatory burden for all small entities. We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

C. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal Agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA must prepare a written analysis, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. If a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives. Under section 205, EPA must adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule, unless the Administrator publishes with the final rule an explanation why that alternative was not adopted. The provisions of section 205 do not apply when they are inconsistent with applicable law.

Today's proposed rule contains no Federal mandates (under the regulatory provisions of Title II of UMRA) for State, local, or tribal governments or the private sector. This is because today's proposed rule is de-regulatory and imposes no enforceable duty on any State, local or tribal governments or the private sector. Thus, today's rule is not subject to the requirements of sections 202, 204 and 205 of UMRA.

Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements. EPA has determined that this rule will not significantly or uniquely affect small governments. This is because today's proposed rule is de-regulatory and imposes no enforceable duty on any State, local or tribal governments or the private sector. Today's rule is not, therefore, subject to the requirements of section 203 of UMRA.

D. Federalism—Applicability of Executive Order 13132

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

This proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This is because today's proposed rule is de-regulatory and imposes no enforceable duty on any State, local or tribal governments or the private sector. Thus, Executive Order 13132 does not apply to this rule.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on this proposed rule from State and local officials.

E. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

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

This proposed rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. This is because today's proposed rule is de-regulatory and imposes no enforceable duty on any State, local or tribal governments or the private sector. Thus, Executive Order 13175 does not apply to this rule.

In the spirit of Executive Order 13175, and consistent with EPA policy to promote communications between EPA and tribal governments, EPA specifically solicits additional comment on this proposed rule from tribal officials.

F. Executive Order 13045: Protection of Children from Environmental Risks and Safety Risks

The Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997) applies to any rule that EPA determines (1) is ''economically significant'' as defined under Executive Order 12866, and (2) the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children; and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives. This proposed rule is not subject to the Executive Order because it is not economically significant as defined in Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. The public is invited to submit or identify peer-reviewed studies and data, of which the agency may not be aware.

G. National Technology Transfer and Advancement Act of 1995

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, section 12(d) (15 U.S.C. 272

note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. The proposed rulemaking involves technical standards. Therefore, the Agency conducted a search to identify potentially applicable voluntary consensus standards. However, we identified no such standards. Therefore, EPA proposes to use the constituent specification limits of the synthesis gas exclusion found at 40 CFR 261.38(b) to establish the legitimacy of the fuel, and the universal treatment standards for chromium, lead, nickel, vanadium, arsenic, and antimony to establish the legitimacy of products placed on the land.

EPA welcomes comments on this aspect of the proposed rulemaking and, specifically, invites the public to identify potentially-applicable voluntary consensus standards and to explain why such standards should be used in this regulation.

H. Executive Order 12898

EPA is committed to addressing environmental justice concerns and is assuming a leadership role in environmental justice initiatives to enhance environmental quality for all populations in the United States. The Agency's goals are to ensure that no segment of the population, regardless of race, color, national origin, or income bears disproportionately high and adverse human health or environmental impacts as a result of EPA's policies, programs, and activities, and that all people live in safe and healthful environments. In response to Executive Order 12898 and to concerns voiced by many groups outside the Agency, EPA's Office of Solid Waste and Emergency Response formed an Environmental Justice Task Force to analyze the array of environmental justice issues specific to waste programs and to develop an overall strategy to identify and address these issues (OSWER Directive No. 9200.3–17).

Today's proposed rule pertains to hazardous oil-bearing secondary materials processed in a gasification system to produce valuable products. It is not certain whether the environmental problems addressed by this rule could disproportionately affect minority or low-income communities. Today's proposed rule is intended to reduce risks of excluded hazardous secondary materials as proposed, and to benefit all populations. As such, this rule is not expected to cause any disproportionately high and adverse impacts to minority or low-income communities versus non-minority or affluent communities.

The wastes proposed for exclusion will be subject to protective conditions regardless of where they are generated and regardless of where they may be managed. Although the Agency understands that this proposed exclusion, if finalized, may affect where these wastes are managed in the future, the Agency's decision to conditionally exclude these materials is independent of any decisions regarding the location of waste generators and the siting of waste gasification facilities. Today's proposed rule will reduce loadings of oil-bearing wastes to the soil, and reduce emissions to the atmosphere. EPA believes that these provisions of the proposal will benefit all populations in the United States, including low-income and minority communities.

We encourage all stakeholders including members of the environmental justice community and members of the regulated community to provide comments or further information related to potential environmental justice concerns or impacts, including information and data on facilities that have evaluated potential ecological and human health impacts (taking into account subsistence patterns and sensitive populations) to minority or low-income communities.

I. Executive Order 13211 (Energy Effects)

This proposal is not a ''significant energy action'' as defined in Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. We have concluded that this proposal will not have any adverse energy effects. It is a de-regulatory proposal that will primarily affect the petroleum refinery industry (SIC classification 2911). If adopted, the proposal will promote the practice of petroleum refineries processing their hazardous oil-bearing secondary material (materials historically classified as hazardous waste) in gasification systems to produce synthesis gas fuel. Synthesis gas fuel is an alternative fuel composed primarily of hydrogen and carbon monoxide. When used to produce electricity in combined cycle turbines, its use allows power generators to produce electricity more efficiently than other forms of fossil fuel based electricity production.

J. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et. seq. There are no information collection requirements for this proposed rule that require an ICR. Furthermore, there are no paperwork requirements for entities affected by this proposal. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

List of Subjects

40 CFR Part 260

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Reporting and recordkeeping requirements.

40 CFR Part 261

Environmental protection, Hazardous waste, Recycling, Reporting and recordkeeping requirements.

Dated: March 19, 2002.

Christine Todd Whitman,

Administrator.

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

PART 260—HAZARDOUS WASTE MANAGEMENT SYSTEM

1. The authority citation for part 260 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921–6927, 6930, 6934, 6935, 6937–6939, and 6974.

2. Section 260.10 is amended by adding a new definition for ''gasification system'' in alphabetical order to read as follows:

§ 260.10 Definitions.

* * * * *

Gasification system means an enclosed thermal device and associated gas cleaning system or systems that does not meet the definition of an incinerator or industrial furnace (found at §§ 260.10), and that:

(1) Limits oxygen concentrations in the enclosed thermal device to prevent the full oxidization of thermally disassociated gaseous compounds;

(2) Utilizes a gas cleanup system or systems designed to remove contaminants from the partially oxidized gas that do not contribute to its fuel value;

(3) Slags inorganic feed materials at temperatures above 2000°F ;

(4) Produces a synthesis gas; and

(5) Is equipped with monitoring devices that ensure the quality of the synthesis gas produced by the gasification system.

* * * * *

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, and 6938.

2. Section 261.4 is amended by adding paragraph (a)(12)(iii) to read as follows:

§ 261.4 Exclusions.

(a) * * *

(12) * * *

(iii)(A) Hazardous oil-bearing secondary materials (i.e., sludges, byproducts, or spent materials) that are generated at a petroleum refinery (SIC 2911) and inserted into a gasification system (defined in § 260.10 of this chapter) to produce a synthesis gas used as an ingredient in chemical manufacture or as a fuel, subject to the conditions of paragraph (a)(12)(iii)(B) of this section.

(B) Conditions.

(*1*) Synthesis gas used as a fuel must meet the specifications of § 261.38(b) of this part;

(*2*) The hazardous oil-bearing secondary material must not be placed on the land prior to insertion in the gasification system;

(*3*) The hazardous oil-bearing secondary material must not be speculatively accumulated prior to insertion in the gasification system, unless a variance has been granted under § 260.31(a) of this chapter; and

(*4*) Any materials (by-products, sludges, ''frits'', bottoms) generated by the gasification system that are excluded under paragraph (a)(12)(iii) that are placed on the land must meet the non-wastewater Universal Treatment Standards for chromium, lead, nickel, vanadium, arsenic, and antimony found at § 268.48 of this chapter.

[FR Doc. 02–7097 Filed 3–22–02; 8:45 am]

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Federal Register

Monday,
March 25, 2002

Part II

Environmental Protection Agency

40 CFR Parts 260 and 261

Regulation of Hazardous Oil-Bearing Secondary Materials From the Petroleum Refining Industry and Other Hazardous Secondary Materials Processed in a Gasification System To Produce Synthesis Gas; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 260 and 261

[FRL–7162–8]

RIN 2050–AE78

Regulation of Hazardous Oil-Bearing Secondary Materials From the Petroleum Refining Industry and Other Hazardous Secondary Materials Processed in a Gasification System To Produce Synthesis Gas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing revisions to the RCRA hazardous waste program to allow a conditional exclusion from the definition of solid waste. This exclusion would be for hazardous oil-bearing secondary materials generated by the petroleum refinery industry when these materials are processed in a gasification system to produce synthesis gas fuel and other non-fuel chemical by-products. We are proposing this exclusion to put the gasification of these hazardous oil-bearing secondary materials on the same regulatory footing (i.e., excluded) as other hazardous secondary materials returned to a petroleum refining process. If adopted, this proposal will establish a more consistent regulatory framework for this practice, potentially enhancing the use of this technology, as well as establishing conditions on the practice to assure the legitimacy of this fuel manufacturing activity.

We are also soliciting comment on a proposal that would extend the conditional exclusion to other hazardous secondary materials generated by industries (other than the petroleum refining industry).

DATES: EPA will accept public comment on this proposed rule until June 24, 2002. Comments postmarked after the close of the comment period will be stamped ''late'' and may or may not be considered by the Agency.

ADDRESSES: Commenters should submit an original and two copies of their comments referencing Docket Number F–2002–RPRP–FFFFF to: (1) If using regular U. S. Postal Service mail: RCRA Docket Information Center, Office of Solid Waste (5305G), U.S. Environmental Protection Agency Headquarters (EPA–HQ), 1200 Pennsylvania Avenue, NW., Washington, DC 20460–0002, or (2) If using special delivery, such as overnight express service: RCRA Docket Information Center (RIC), Crystal Gateway One, 1235 Jefferson Davis Highway, First Floor, Arlington, VA 22202. The official record (i.e., public docket) for this proposed rulemaking is F–2001–RPRP–FFFFF. In addition to this official record, two additional dockets have material supporting this proposal. They are: F–98–PR2A–FFFFF and F–98–RCSF–FFFFF.

Public comments and supporting materials are available for viewing in the RCRA Docket Information Center (RIC), located at Crystal Gateway I, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays. To review docket materials, it is recommended that the public make an appointment by calling 703–603–9230. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost $0.15/page. The index and some supporting materials are available electronically. See the ''Supplementary Information'' section for information on accessing them.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline at 1–800–424–9346 or TDD 1–800–553–7672 (hearing impaired). In the Washington, DC, metropolitan area, call 703–412–9810 or TDD 703–412–3323. The RCRA Hotline is open Monday-Friday, 9 am to 6 pm, Eastern Standard Time. For more detailed information on specific aspects of this proposed rulemaking, contact Elaine Eby at 703–308–8449 or *eby.elaine@epa.gov,* or write her at the Office of Solid Waste, 5302W, U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460–0002.

SUPPLEMENTARY INFORMATION:

Electronic Comment Submission

You may submit comments electronically through the Internet to: rcra-docket@epa.gov. You should identify comments in electronic format with the docket number F–2002–RPRP—FFFFF. All electronic comments must be submitted as an ASCII (text) file avoiding the use of special characters and any form of encryption. If possible, EPA's Office of Solid Waste (OSW) would also like to receive an additional copy of the comments on disk in WordPerfect 6.1 file format.

Commenters should not submit electronically any confidential business information (CBI). An original and two copies of CBI must be submitted under separate cover to: RCRA CBI Document Control Officer, Office of Solid Waste (5305W), U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460–0002.

Availability of the Proposal on the Internet

Please follow these instructions to access the proposal: From the World Wide Web (WWW) type *http://www.epa.gov/epaoswer/hazwaste/gas.htm.*

The official record for this action will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into paper form and place them in the official record, which will also include all comments submitted directly in writing. The official record is the paper record maintained at the RIC listed in the **ADDRESSES** section at the beginning of this document.

EPA responses to comments, whether the comments are written or electronic, will be published in a notice in the **Federal Register** or in a response to comments document placed in the official record for this proposed rulemaking. EPA will not immediately reply to commenters electronically other than to seek clarification of electronic comments that may be garbled in transmission or during conversion to paper form, as discussed above.

How Can I Influence EPA's Thinking on This Proposed Rule?

In developing this proposal, we tried to address the concerns of all our stakeholders. Your comments will help us improve this rule. We invite you to provide different views on options we propose, new approaches we haven't considered, new data, how this rule may effect you, or other relevant information. We welcome your views on all aspects of this proposed rule, but we request comments in particular on the items we have specifically identified throughout the proposal. Your comments will be most effective if you follow the suggestions below:

- Explain your views as clearly as possible and why you feel that way.
- Provide solid technical and cost data to support your views.
- If you estimate potential costs, explain how you arrived at the estimate.
- Tell us which parts you support, as well as those you disagree with.
- Provide specific examples to illustrate your concerns.
- Offer specific alternatives.
- Refer your comments to specific sections of the proposal, such as the units or page numbers of the preamble, or the regulatory sections.
- Make sure to submit your comments by the deadline in this document.

• Be sure to include the name, date, and docket number with your comments.

The Agency will consider the public comments during development of the final rule related to this action. The Agency urges commenters submitting data in support of their views to include evidence that appropriate quality assurance/quality control (QA/QC) procedures were followed in generating the data. Data the Agency cannot verify through QA/QC documentation may be given less consideration or disregarded in developing regulatory options for the final rule.

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I. Statutory Authority

These regulations are proposed under the authority of sections 3001, 3002, 3003, and 3004 of the Solid Waste Disposal Act of 1970, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), 42 U.S.C. 6921, 6922, 6923 and 6924.

II. Summary of Today's Proposal

The Environmental Protection Agency (EPA or the Agency) is today proposing a conditional exclusion from the definition of solid waste. This exclusion will apply to hazardous oil-bearing secondary materials (i.e., sludges, byproducts, or spent materials) generated by the petroleum refining industry (Standard Industrial Classification (SIC) 2911) when processed, either on-site or off-site, in a gasification system to produce synthesis gas fuel and other non-fuel chemical by-products. We are proposing that the exclusion be subject to a set of conditions that specify the following: (1) The system meets the definition of a gasification system; (2) the system generates a synthesis gas fuel that meets the specifications of exempted synthesis gas; (3) the materials generated by the gasification system must not be placed on the land if they exceed the nonwastewater Universal Treatment Standards (UTS) for chromium, lead, nickel, vanadium, arsenic, and antimony (found at 40 CFR 268.48); and (4) the excluded materials must not be placed on the land or speculatively accumulated prior to insertion into the gasification system.

We are also soliciting comment on a proposed option to broaden today's conditional exclusion to other generated hazardous secondary materials.

III. Why Are We Proposing This Exclusion?

We are proposing this exclusion to put gasification of hazardous oil-bearing secondary materials (i.e., sludges, byproducts, or spent materials) on the same regulatory footing, i.e., excluded—as other secondary materials returned to a petroleum refining process. We believe that such operations are better viewed as an aspect of petroleum production rather than as hazardous waste management. (See 63 FR 42110, August 6, 1998) At the present time, gasification systems processing these materials are exempt from RCRA permitting, as recycling units. While the operation itself (i.e., gasification) is exempt, there are numerous RCRA requirements that still apply to the overall operation (e.g., storage and handling). The Agency believes that gasification systems processing hazardous oil-bearing secondary materials from petroleum refineries operate as fuel manufacturing devices whether the operation takes place at a petroleum refinery or elsewhere. As such, we believe that these additional requirements present an unnecessary impediment to a fuel manufacturing activity.[1] We are therefore proposing to revise the current regulations that apply to this activity to better reflect our current way of thinking.

Today's proposal supplements the current exclusions applicable to the petroleum refining industry (found at 40 CFR 261.4(a)(12)). In fact, we are proposing this exclusion for many of the same reasons that we excluded hazardous oil-bearing secondary materials recycled through coking and quench coking processes in the petroleum refining industry. See August 6, 1998, Petroleum Listing Final Rule (see 63 FR 42110).[2] In that rule, we

[1] In a May 25, 1995 letter from Michael Shapiro, Director of the Office of Solid Waste to William Spratlin, Director, EPA Region VII Air, RCRA, and Toxics Division, we explained that our regulations classify gasification devices operating at petroleum refineries to convert waste materials into fuels as recycling devices exempt from RCRA permitting. OSWER Directive 9441.1995(18).

[2] On July 15, 1998, we published in the **Federal Register** (see 63 FR 38139) a Notice Of Data Availability (NODA). In the NODA, we requested comment on extending a then-proposed and now final solid waste exclusion applying to certain recycling activities performed at petroleum refineries (See 63 FR 42110, August 6, 1998). The Agency requested comment as to whether the exclusion should also apply to the recycling of hazardous oil-bearing secondary materials in a gasification system operating at a petroleum refinery. As a result of the comments received on the NODA, the Agency proceeded with investigating whether gasification of oil-bearing hazardous secondary materials from the petroleum industry is better regulated as a recycling waste-management activity or whether it should be excluded as a fuel manufacturing activity. The gasification industry has argued that the current regulatory process does not make sense because secondary materials from the petroleum refining

Continued

determined that hazardous oil-bearing secondary materials returned to a petroleum refinery fuel production process need not be regarded as RCRA solid wastes, even though a fuel is ultimately produced. See 63 FR at 42127–42128. Instead, the insertion of petroleum refining residuals back into the refining process can be viewed as a production process that involves the recovery of fuel value from crude oil, which is the basic raw material used in petroleum refining.

In the case of gasification, we are proposing this exclusion because we have determined that the situation is analogous. Gasification of hazardous oil-bearing secondary materials from petroleum refineries involves the recovery of organic components from the residuals of crude oil refining to produce a gaseous fuel, which can be viewed as part of a fuel production process. Particular indicia that this is a production process are the high cost of construction a gasification unit and the exacting product specification that apply to the final product. Furthermore, the gasification process appears to provide a better and more efficient means to recover fuels from oil-bearing materials than provided by quench coking, which we already determined to be a valid process in refining operations (see 63 FR 42114).

If adopted, this exclusion will provide a more consistent regulatory framework for petroleum refineries that wish to include gasification as part of their refining configuration. We also believe it will promote the use of a fuel manufacturing process that produces marketable fuels and chemicals from materials that were otherwise destined for waste treatment, disposal, or a less environmentally benign recycling activity.

IV. What Are the Environmental Benefits of This Proposal?

There are numerous environmental benefits associated with today's proposal. First, if promulgated, the exclusion will reduce the total amount of hazardous waste sent for disposal by petroleum refineries. Based on data from the 1997 Biennial Reporting System (BRS) database, petroleum refineries operating in the United States generate approximately 130 million tons of RCRA hazardous waste annually with at least 7–10 million tons managed in RCRA units.[3] Although equal volumes of these same materials would be generated under this proposal, a large fraction of the waste materials generated by petroleum refineries would be processed into synthesis gas and other co-products reducing the amount of waste materials sent for traditional RCRA treatment and disposal.

If adopted, today's proposal also likely provides additional benefits to the environment because of the unique features of gasification, including: (1) Increased efficiency in the production of electricity; (2) reduction in emissions of acid rain causing pollutants; (3) reduction in particulate matter and pollutants implicated in global warming; (4) increased resource conservation; (5) displacement of virgin materials used in the chemical manufacturing industry by chemicals produced from gasification; and (6) reduction in energy usage and pollution from reductions in the acquisition, transportation, and preparation of virgin materials used in electricity production, petroleum refining and chemical manufacturing industries.

V. Background and Overview

A. How Have Gasification Devices Been Used in the Past?

Gasification devices have a long history of use in the United States for the production of fuels. The use of gasification processes to produce useable quantities of fuel began in the mid 1800's when manufactured gas plants converted coal into hydrogen gas and methane to power city street lamps. Following the widespread use of electricity to power city lights, the operation of manufactured gas plants largely ended. Use of gasification systems to produce fuel from coal or other organic sources increased briefly during the years surrounding and during World War II as the international community experienced a shortage of fuels derived from oil. Following the end of World War II, the use of gasification declined rapidly as more effective techniques to produce fuels from crude oil were developed and crude oil was once again plentiful. In the 1970's, gasification technologies were resurrected to deal with fuel shortages. During this time, the United States Department of Energy (DOE) financed research in gasification technologies that resulted in commercial ventures designed to use the technology to produce higher value fuels from low value coal. Over the last 10 to 15 years, private industry and the DOE have continued their investigation of gasification as a clean coal energy alternative, and have developed better methods to extract fuel value from organic containing materials, as well as developing more efficient turbines to utilize the clean burning fuel.

In recent years, the oil refining and chemical manufacturing industries have configured gasification systems to produce base chemical products and fuels. Presently, gasification systems operate around the world in a number of different configurations. In the United States, gasification systems have been designed to gasify coal, municipal solid waste, tires, petroleum coke, biomass, and oil-bearing hazardous secondary materials into synthesis gas for the production of electricity or use as a feedstock to produce more complex chemical products. Data on the use of gasification to process hazardous waste is limited. Information that does exist, has largely been confined to configurations where the systems produce specialty chemical intermediates from virgin materials, or where the devices produce a fuel from historically waste-like materials that can be burned for energy recovery (e.g., gasification of petroleum refinery secondary materials).

There are two reasons gasification has been used relatively infrequently to process hazardous wastes. First, gasification systems are expensive and generally cost more to construct and operate than conventional process devices utilized by fuel and chemical manufacturers. Second, current regulations (albeit relatively minimal for the gasification of hazardous oil-bearing secondary materials from the petroleum industry) limit operators processing these materials from using them in the most cost effective manner. However, because of increased emphasis on the use of more efficient systems, there is renewed interest in using gasification as a possible method to reduce the volume

industry should not be defined as solid wastes if they are to be processed in a gasification system. Nor is the operation of the gasification system, pursuant to the exemption for recycling processes in 40 CFR 261.6(c)(1), altogether satisfactory to the industry. This is because the resulting synthesis gas fuel remains classified as a hazardous waste fuel (see 40 CFR 261.2(c)(2) (fuels produced from secondary materials are normally themselves wastes) and 40 CFR 261.3(c)(2)(so-called derived from rule, which, as relevant here, states that fuels derived from listed wastes remain hazardous waste-derived fuels)), unless it meets the specification for hazardous constituents set out in 40 CFR 261.38 of the rules. The gasification industry maintains that this regulatory framework discourages the use of gasification as a means to recycle hazardous oil-bearing secondary materials from the petroleum refining industry. Representatives of the petroleum refining industry have suggested that an exclusion from the definition of solid waste for secondary materials processed in a gasification system is a more appropriate classification under RCRA, and would greatly enhance the use of this technology in the industry. Proponents of gasification technologies likewise maintain that petroleum refineries would be more likely to recycle their solid waste if the regulatory status of the devices and the gasification system were clearly identified to be a part of the fuel manufacturing process.

[3] See Regulatory Impacts of Proposed Exclusions of Petroleum Refinery Wastes.

of wastes disposed, and thereby reduce the associated treatment costs of those wastes, while producing valuable commodities from the process.

B. How Do Gasification Systems Operate?

In general, gasification systems are designed to react carbon containing materials and steam at high temperatures under partial oxidation conditions to produce a synthesis gas fuel composed mainly of carbon monoxide and hydrogen. However, all gasification systems do not operate in exactly the same manner. Gasification systems can be designed to operate at high or low pressures, reducing conditions, using dry or wet feed systems, but they are all operated in a manner that limits the complete oxidation of hydrogen and carbon monoxide to water and carbon dioxide. Some gasification systems derive a portion of the energy—in the form of heat—from the partial oxidation of the materials being fed to the system. When the feed materials are partially oxidized, heat is given off. The heat helps sustain the process by promoting the disassociation of other molecular species in the reactor freeing the molecular species for limited oxidation. In gasification systems, this process promotes the formation of hydrogen and carbon monoxide species which are the base compounds in synthesis gas fuel. Using organic materials as both fuel and raw material for the gasification process is one of the reasons the system operates with increased efficiency when compared to traditional power plants that use coal or petroleum coke as their fuel.

Gasification systems generally include two basic components. The first is the high temperature reactor or gasifier and the second is a gas cleanup or polishing system used to remove various contaminants from the raw (un-polished) synthesis gas fuel. The two systems work in conjunction to produce a high purity synthesis gas that can be used directly as a fuel for power production, or used to produce chemicals or fuels in other manufacturing processes. Operators of gasification systems monitor and control the operation to ensure that it is producing a high quality synthesis gas. They monitor and limit parameters such as the BTU value, sulfur content, chloride content, and ash content of the materials fed to the reactor (gasifier). They also continuously monitor and regulate the amount of oxygen fed to the reactor, the temperature of the reactor, and the composition of the raw synthesis gas produced by the reactor. In the synthesis gas cleanup stage, operators monitor and regulate various other parameters that maintain the removal efficiency of the cleanup system. The result of these parameter specifications and attendant monitoring is production of a synthesis gas that meets the desired specifications.

Gasification systems, similar to many of the more traditional fuel production units found at petroleum refineries, are expensive, highly engineered systems that must be carefully operated to produce marketable fuels and co-products in a cost-effective manner. Both traditional petroleum refining processes (e.g., distillation, catalytic cracking, fractionation, thermal cracking, etc.) and gasification systems operate under conditions in which the feed, temperature, and pressure are closely controlled to optimize the production of marketable fuels or fuel components. Owners/Operators of both gasification systems and traditional refinery process units must analyze and characterize the feed materials, in addition to controlling the operation of the unit. Operational control of the gasification system is necessary to optimize the conversion processes occurring in the reaction chamber and to regulate the performance of the gas polishing systems.

C. How Do Gasification Systems Remove Contaminants From Raw Synthesis Gas?

In a gasification system, the gas cleanup or polishing component will be configured and monitored to operate with varying degrees of performance. The operation of the gas cleanup component is determined by the composition of the raw synthesis gas and the product specifications for the fuel and chemicals generated. Generally, the systems operate with sufficient effectiveness to produce a synthesis gas that contains low contaminant levels of sulfur, nitrogen, ash, and metals. The systems used to remove contaminants are generally the same types of systems used in other industrial settings to produce commercial grade chemical compounds or to remove unwanted contaminants from gaseous effluent streams. These systems have a history of use in industrial settings with the parameters that control their operation being well understood.

As we explained earlier, the synthesis gas product from gasification is not released directly to the atmosphere. Gasification systems are generally designed to be closed to the environment. In gasification systems, the raw synthesis gas exits the reactor at a temperature between 1800 and 3000 degrees Fahrenheit (depending on the design and operating characteristics of the device). Generally, after exiting the reactor, heat value from the gas is extracted in systems designed to produce steam and electricity. The raw synthesis gas is then typically processed in a series of systems designed to remove entrained particulate matter, acid gases (such as hydrochloric acid), and other inorganic compounds. The gas cleanup systems typically include filters or scrubbers for the removal of entrained particles and absorbers for the removal/recovery of sulfur and chlorine. The solids recovered in the filters or scrubbers are frequently put back into the gasification system. The polishing systems that remove the unwanted contaminants from the raw synthesis gas also concentrate these materials to form chemical by-products. The reduced sulfur species are recovered as elemental sulfur, or in some cases, converted to a sulfuric acid by-product. The typical sulfur removal and recovery process used to clean the raw synthesis gas (to yield a high purity fuel) are the same commercially available methods used in other industrial applications such as oil refining and natural gas recovery. Sulfur recoveries of 95% to 99% can typically be achieved using these systems. These systems do include process vents, but the synthesis gas is not released through these vents. After the gas is polished, it is sent for turbine combustion to produce electricity and steam or to produce other chemical products.

Metal species found in the materials fed to the gasification system are controlled both in the reactor phase, and in the cleanup systems used by the device. The low volatility metals are captured in the slag emitted from the reactor, with the higher volatility metals being captured in the cleanup systems, or in the particulate removal systems and acid gas scrubbers. These captured metals can be put back into the reactor or be removed from the system and disposed. Control of metal compounds in gasification systems is discussed more in a later section of today's proposal.

Ultimately, the extent to which contaminant removal systems polish the raw synthesis gas is governed by the fuel specifications for the systems that use the synthesis gas and/or the environmental regulations that apply to those systems. For example, use of synthesis gas in combustion gas turbines can require fairly low levels of alkalis and total entrained particles, thus the gas cleanup system would be tailored for this type of contaminant removal. The turbine system may also have fairly low sulfur oxide(s) emissions standards

applicable to the turbine stack, so the synthesis gas will also have to be cleaned to a level to meet the emission standard. Therefore, the ability of gasification systems to extract useful chemical by-products from hazardous oil-bearing secondary materials is based on the extent the gas must be polished before it is released for its intended commercial application.

D. What Air Emissions Result From Gasification Systems?

As we stated earlier, there are generally no direct emissions to the atmosphere from a gasification system.[4] [5] Emissions to the atmosphere from gasification activities are nearly always the result of using the synthesis gas as a fuel for the production of power or heat generation. As a fuel, the synthesis gas can be burned in simple cycle gas turbines or in steam boilers. However, synthesis gas is typically used in more advanced systems that are designed as combined cycle gas turbine/steam boilers. Combined cycle turbine configurations exploit physical characteristics unique to synthesis gas to produce electricity with greater efficiency than other power generating designs. Alternatively, the synthesis gas can also be used as a feedstock for chemical manufacturing processes including the production of ammonia, methanol, acetic acid, and hydrogen.

Metal and chlorine emissions from the combustion of synthesis gas depend on the composition of the synthesis gas, which is dependent on the effectiveness of the synthesis gas cleanup system. Chlorine control using wet scrubbers to remove HCl has been used successfully for many years and can routinely achieve a removal effectiveness of 99%.[6] Semi-volatile metals are expected to be contained primarily in the filter/scrubber ash. Lower volatility metals are primarily bound in the slag. Mercury, which is not found in significant quantities in petroleum refinery waste, is highly volatile and is expected to be controlled only to a small degree in a gasifier's wet scrubbers. If mercury was present in the hazardous oil-bearing secondary materials generated by the petroleum refining industry and those materials were processed by a gasification system, the mercury would likely be emitted out the stack of the device (i.e., turbine) firing the synthesis gas produced by the gasification system.[7] Potential mercury emissions are not a concern for this proposed conditional exclusion because hazardous oil-bearing secondary materials generated by petroleum refineries are not expected to contain significant quantities of mercury. See Docket Number F–98–PR2A–FFFFF, Identification and Listing of Hazardous Waste; Petroleum Refining Process Wastes.[8]

E. What Solid Wastes are Generated by Gasification Systems?

Gasification systems also generate solid waste residuals which are largely dependent on the design, configuration, and operation of the gasification system. They can include a slag material composed primarily of ash and low and semi volatile metals bound in a glass-like substrate that is released from the reactor component of the gasifier, sour liquors from the cleanup systems that are used to scrub contaminants from the product synthesis, and particulate matter captured in particulate control systems used by the gasification system to remove fine particulate matter from the synthesis gas.[9] The gasification designs we have reviewed either put the liquid streams and particulate matter back into the reactor, remove the contaminants from the scrubbing streams to produce valuable chemical by-products, treat the effluents in devices designed to destroy or reduce the toxicity of the effluents, or send the effluents for disposal.

Analysis conducted as part of research efforts utilizing gasification technologies has shown that composition of the residues in a given gasification system are largely dependent on the composition of the secondary materials fed to the system. Data submitted by Texaco show that the composition of the vitrified slag that is generated by the gasification reactor is mostly inert material that does not exhibit a characteristic of hazardous waste.[10] At this time, we lack the data necessary to determine whether the characteristics of the residues from gasification are due to the dilution effect of the other materials being processed along with petroleum hazardous secondary materials in the device, or is the result of a unique operational or design trait associated with gasification systems.[11] The Agency specifically solicits comment on this issue.

Under today's proposal, we would classify solid waste residues generated during the gasification of excluded material as newly generated, and determine whether they are hazardous based on whether they exhibit a characteristic when they are generated. Should a residue exhibit a characteristic, it would have to be managed in compliance with hazardous waste regulations. (As noted earlier, to assure process legitimacy, we are also proposing that the residues comply with the UTS for chromium, lead, nickel, vanadium, arsenic, and antimony).[12]

[4] Generally, gasification systems are designed and operated to prevent direct releases to the atmosphere when operating to produce synthesis gas; however, some devices incorporate small incinerators that combust effluent discharges from the raw synthesis gas cleanup systems and those devices do release combustion off-gases to the atmosphere. Under today's proposal, devices that utilize incinerators to combust non-gaseous effluents from the gasification process, or raw synthesis gas cleanup systems would be subject to appropriate regulations to control emissions from those sources. For example, if characteristic hazardous waste is removed from the gasification process and sent to an incinerator for destruction, the combustion device is subject to regulation as a hazardous waste incinerator.

[5] Gasification systems are designed with release vents or flares that operate during emergencies or during malfunctioning operations. Flares and release vents are necessary to prevent damage or catastrophic failure of the gasification system in the event of a major malfunction. These types of relief systems are common at facilities that manufacture products using thermal processes. The operation of the flares or release vents is regulated by each facility's Title V Clean Air Act permit.

[6] Removal effectiveness is based on data that was used to support the Hazardous Waste Combustion Phase 1 MACT rule and is based on data from hazardous waste burning incinerators. See Docket Number F–1999–RC2F–FFFFF and the technical support document for: NESHAPS: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors. 64 FR 52828. September 30, l999. Removal effectiveness of systems used by gasification systems were not evaluated for this notice.

[7] *A Comparison of Gasification and Incineration of Hazardous Waste—Final Report.* March 30, 2000. This report was prepared for the U.S. Department of Energy and contrasts incineration and gasification technologies. It also evaluates emissions tests performed on gasification systems processing coal that shows that some mercury is controlled in the gasification process. The report concludes that further tests are necessary to understand the control mechanism and to ensure that the data is not an artifact of poor composite coal sampling.

[8] In a later section of today's proposal, we request comment on options we are considering to revise the synthesis gas specification (found at 40 CFR 261.38(b)) to reduce the allowable concentrations of RCRA metals that can exist in waste-derived synthesis gas excluded from the definition of solid waste. This is because we have determined that the specification does not represent the concentration of metals that realistically exists in synthesis gas derived from hazardous waste.

[9] Data submitted by Texaco in response to the July 1998 NODA suggests that the slag produced by their gasification systems is an inert material that does not leach metals because the glass-like matrix of the material effectively stabilizes the metals. See Docket Number F–98–PR2A–FFFFF.

[10] See: ''Analysis of Residues From Texaco Gasification Process'' which is found in the docket supporting this proposed rule.

[11] Certain gasification systems function because they are designed to take advantage of the heat given off in the limited oxidation reactions, and thus require the introduction of inorganic material to provide thermal inertia for the system. This design characteristic could contribute to the inert quality of the residue material.

[12] EPA's first study of wastes from coal gasification are set forth in the *1990 Report to*

F. Gasification Systems Processing Hazardous Oil-Bearing Secondary Materials From Petroleum Refineries

The gasification of hazardous oil-bearing secondary materials from the petroleum industry is taking place only under very narrow, specialized exemptions. At the present time, we are aware of four gasification operations in the United States that engage in this activity. Three of the gasification systems are operated on-site at petroleum refineries.[13] The fourth is an off-site gasification system owned and operated by the Dakota Gasification Company.[14]

VI. How Do Gasification Systems Differ From Hazardous Waste Treatment Units?

In most cases, gasification systems resemble fuel manufacturing devices more than they resemble RCRA treatment devices. Information submitted to us in response to the July 1998 NODA suggests that the design, operation, and operational characteristics of certain gasification systems are significantly different from those of conventional RCRA treatment devices. This is because gasification systems are not designed and operated to treat waste. Gasification systems manufacture synthesis gas fuel by re-forming the organic compounds that exist in oil-bearing hazardous secondary materials through unique conversion processes that involve thermal disassociation and partial oxidation. The synthesized fuel is primarily composed of hydrogen and carbon monoxide. Gasification systems can also be configured to produce other gaseous or solid compounds for purposes other than as a fuel.

The reformation or conversion processes occurring within gasification systems are continuously monitored and controlled to enhance conversion efficiency. As such, they require feedstock materials to adhere to certain specifications prior to introduction into the system. Feedstock materials must be analyzed to determine BTU value, sulfur concentrations, chlorine concentration, and ash content. The analytical information on the feed material is needed in order to control the processes that convert the organic components of the feedstock material into valuable products (including synthesis gas fuel).

Gasification processes likewise limit and control oxygen levels to ensure the process reactions convert organic material to the synthesis gas product, and to prevent the complete (or unwanted) oxidation of the gaseous compounds that constitute synthesis gas. In contrast to gasification systems, thermal waste treatment devices (such as incinerators and certain industrial furnaces) process materials through ''complete oxidation processes'' to reduce the volume and toxicity of the waste materials. When referring to ''complete oxidation processes'' that occur in thermal treatment devices, what we mean is that the oxidation of specific compounds in the waste material is not controlled to any extent other than that what is needed to fully oxidize and destroy the waste materials.

Gasification systems also differ significantly from thermal waste treatment devices in terms of releases to the environment. As explained more fully below, gasification systems are not designed to and ordinarily do not release gases directly to the environment. Gasification systems are generally designed to be closed to the environment. The gases evolved in the partial oxidation or reactor phase are processed in polishing systems following the reactor that strip the gas of sulfur, chlorine, and particulate matter. These polishing systems recover some of these materials to form additional products such as elemental sulfur, sulfuric acid, or hydrochloric acid. [15]

Following the polishing processes, the synthesis gas can be used in a number of ways: (1) Immediately as a fuel in a combustion turbine; (2) as a chemical intermediate in a chemical manufacturing process; or (3) stored for product use later. In contrast, thermal treatment devices (e.g., incinerators and industrial furnaces) are designed to release combustion off-gases to the environment as a consequence of normal operation.[16] The resultant gases, which are primarily carbon dioxide and water, are rarely used in a manner similar to that of the gasification system.[17]

Gasification systems differ significantly from hazardous waste treatment units. As such, we are today proposing that full RCRA oversight may not be warranted for the gasification of hazardous oil-bearing secondary materials from the petroleum refining industry, as long as we place conditions on the activity so that it can be distinguished from hazardous waste treatment activities.

VII. Detailed Discussion of Today's Proposal

Today, we are proposing to conditionally exclude hazardous oil-bearing secondary materials generated by the petroleum refining industry (SIC 2911) from the definition of solid waste when the materials are destined to be processed in a gasification system to produce synthesis gas fuel and other non-fuel chemical by-products.[18] To

Congress on Special Wastes from Mineral Processing. (See specifically Chapter 5.) In that report, EPA determined that ash from coal gasification was Bevill exempt as a result of the Bevill rul that was promulgated on June 13, 1991 (54 FR 27307). All other solid wastes generated at gasification plants, other than coal gasification ash, are subject to RCRA as newly generated wastes, and to subtitle C if they exhibit a characteristic of hazardous waste. Coal gasification ash retains its Bevill exempt status as long as the gasification facility uses feedstock that is comprised of greater than 50 percent virgin feedstock (i.e. coal). See 54 FR at 36619, September 1, 1989.

[13] See letter from Mr. James Childress, Executive Director, Gasification Technologies Council to Ms. Elaine Eby, USEPA. Re: Operational Gasification Systems Processing Hazardous Oil-Bearing Secondary Materials. January 2002.

[14] The Dakota Gasification Facility, located in Belluah, North Dakota, is a commercial operation that was constructed and designed with the assistance of the DOE to promote the use of gasification of coal for the production of fuels. This facility is currently processing hazardous oil-bearing secondary material from a BP Amoco refinery located in North Dakota under a RCRA treatment study approved by the State.

[15] The markets for these non-fuel by-products were not evaluated for this proposal, but many of the by-products do have marketable value. Non-gaseous by-products that are used in a production process to produce other products are not regulated by this proposal and are generally excluded from regulation under 40 CFR 261.2(e)(1)(i). In some systems the stripped contaminants are fed back to the gasification reactor.

[16] However, we note that certain types of industrial furnaces are designed to treat hazardous waste and extract sulfur compounds or halogen acids from the effluent gas stream prior to release to the atmosphere. These systems are generally operated to release the gases directly to the atmosphere after the desired compounds are extracted from the combustion off-gas.

[17] In addition to the operational differences between gasification systems and thermal waste treatment systems, it would appear that gasification systems currently in operation are being used in the chemical and petroleum refining industries to convert non-waste feedstocks into synthesis gas fuel or chemical intermediates required for specialty chemical manufacturing. These systems are relatively expensive to construct and operate and require a fairly large and consistent supply of carbon-based feedstock (e.g., coal, natural gas, petroleum coke, etc.) to produce synthesis gas that has economic value. The units, at least as presently operated, are integral components of these manufacturing operations. The fact that these devices can be operated in a manner to process materials historically classified as hazardous waste does not discount the fact that they are designed and operated to produce a product that is valuable as a fuel or chemical and that this appears to be their primary function.

[18] The proposed exclusion applies only to hazardous oil-bearing secondary materials from SIC classification 2911. While the Agency understands that some petroleum refineries may be integrated with other industrial processes exhibiting other SIC classifications, this exclusion is only for secondary materials generated by the production processes under the 2911 classification. However, the Agency solicits comment on whether the exclusion should be expanded to other hazardous secondary

Continued

ensure that each gasification system processing materials excluded under today's proposal is engaged in a manufacturing activity, we are proposing that the exclusion be subject to a set of conditions. The conditions specify that: (1) The system processing the hazardous oil-bearing secondary material meets the proposed definition of a gasification system; (2) the synthesis gas product from the gasification system meets the fuel specifications promulgated in the ''synthesis gas rule,'' [19] which is a regulatory benchmark for classifying synthesis gas produced from hazardous waste as a fuel rather than as hazardous waste (see 40 CFR 261.38(b)); (3) the materials (both co-products and solid waste residuals) generated by the gasification system that are placed on the land do not exceed the nonwastewater Universal Treatment Standards (UTS) for 6 metals present in listed wastes generated by the petroleum refining industry; and (4) the excluded hazardous oil-bearing secondary materials are not speculatively accumulated nor placed on the land prior to insertion into the gasification system. Provided these conditions are met, the hazardous oil-bearing secondary materials from petroleum refineries would not be solid wastes. Similarly, the fuels or chemical by-products manufactured from these excluded materials would also be excluded.

The exclusion would apply to materials processed in a gasification system operating either on site or off-site of a petroleum refinery. While this does differ from existing exclusions in that it would apply whether or not the gasification system is located at the site of the petroleum refinery, we believe it is appropriate to extend the on-site exclusion to off-site fuel manufacturing processes because gasification systems operate in exactly the same manner whether they are used to process materials into fuels on-site or off-site of a petroleum refinery (i.e., gasification systems operate as fuel manufacturing devices at any location they are operating).[20]

A. What Are the Conditions of the Exclusion?

Today's proposed exclusion includes four conditions to ensure that each gasification system processing the excluded material is engaged in a legitimate manufacturing activity that converts the valuable components of the hazardous oil-bearing secondary materials into fuels, and into non-fuel chemical by-products, that do not contain high levels of non-contributing toxic components. Today's notice proposes to exclude hazardous oil-bearing secondary materials generated by the petroleum refining industry from the definition of solid waste if the materials are processed in a gasification system and used in a manner consistent with the conditions of the exclusion. The consequence of this exclusion would be that hazardous oil-bearing secondary materials are excluded from the definition of solid waste, at the point of generation, provided: (1) The system meets the definition of a gasification system; (2) the system generates a synthesis gas fuel that meets the specifications of exempted synthesis gas; (3) the materials generated by the gasification system are not placed on the land if they exceed the nonwastewater UTS for chromium, lead, nickel, vanadium, arsenic, and antimony (found at 40 CFR 268.48); and (4) the excluded materials are not placed on the land or speculatively accumulated prior to insertion into the gasification system.

1. Definition of a Gasification System

During our review of the operation and performance of available gasification technologies, we determined that it is necessary to define the types of devices that can process (i.e., gasify) hazardous oil-bearing secondary materials into a synthesis gas that we believe is a legitimate fuel. This is because there are a large number of devices operating in the United States that could claim to be a type of gasification system, but do not gasify materials in the same manner, or to the same extent, as the gasification systems we considered for this proposal. These other devices may be waste treatment devices, or recycling devices that process solid waste. Therefore, this first condition defines the types of systems that may process excluded hazardous oil-bearing secondary material under this exclusion in order to distinguish the gasification process from waste treatment, including incineration.

As explained earlier, most combustion devices (e.g., incinerators) convert organic material into hydrogen and carbon monoxide gases at some point during ideal combustion processes (i.e., complete oxidation of organic material to water and carbon dioxide). Gasification systems preferentially convert the organic material into a synthesis gas primarily composed of carbon monoxide and hydrogen by limiting the oxidation reactions. Gasification systems generally accomplish this by regulating the organic material and oxygen being fed to the reactor based on feedback from continuous monitoring of temperature, pressure, and products of oxidation. These continuously monitored parameters control the extent that organic material is oxidized, and concentrates the metals found in the feed into a slag emitted from the reactor as a solid waste. Therefore, to limit the exclusion to gasification systems that operate as fuel manufacturing devices, as well as to distinguish gasification systems from treatment devices such as incinerators, cement kilns, and thermal desorbers, we are proposing and solicit comment on the following definition of a gasification system.

Gasification system means an enclosed thermal device and associated gas cleaning system or systems that does not meet the definition of an incinerator or industrial furnace (found at §§ 260.10), and that: (1) Limits oxygen concentrations in the enclosed thermal device to prevent the full oxidization of thermally disassociated gaseous compounds; (2) utilizes a gas cleanup system or systems designed to remove contaminants from the partially oxidized gas that do not contribute to its fuel value; (3) slags inorganic feed materials at temperatures above 2000;° F; (4) produces a synthesis gas; and (5) is equipped with monitoring devices that ensure the quality of the synthesis gas produced by the gasification system.

Under this first condition, you would be required to ensure that your gasification system meets the definition above, in order for the hazardous oil-bearing secondary materials from the petroleum industry to be eligible for the exclusion. The purpose of this condition

materials from other industrial operations (with other SIC classifications) when these operations are integrated with industrial processes under the primary SIC classification of 2911.

[19] For purposes of this preamble discussion, we are using the term, ''Synthesis Gas Rule'' to refer to the rulemaking that provided for the ''Syngas Fuel Exclusion'' (40 CFR 261.(b)). The entire rule can be found in 63 FR 33782, June 19,1998. Hazardous Waste Combustors; Revised Standards; Final Rule—Part 1: RCRA Comparable Fuel Exclusion; Permit Modification for Hazardous Waste Combustion Units: Notification of Intent to Comply; Waste Minimization and Pollution Prevention Criteria for Compliance Extensions.

[20] Gasification systems operating off-site of petroleum refineries may continue to process the materials they currently gasify in addition to the materials we are proposing to exclude without affecting the regulatory status of their device with respect to RCRA regulation. However, if gasification systems are processing hazardous wastes (i.e., hazardous materials identified or listed as hazardous wastes, in addition to the petroleum industry secondary materials we are proposing to exclude), then such devices would of course continue to be subject to RCRA jurisdiction under the current proposal.

is to ensure that the exclusion applies only to gasification systems designed, operated, monitored, and controlled in a manner that promotes the removal or conversion of toxic compounds found in the hazardous oil-bearing secondary materials, as well as generating a synthesis gas fuel. The rationale supporting this condition is consistent with the rationale we used in excluding recovered oil from the definition of solid waste. See 63 FR at 42113.

2. Synthesis Gas Fuel Specification

The second condition of this proposed exclusion defines the chemical and physical specifications of a legitimate synthesis gas fuel product. This condition ensures that each gasification system using the exclusion is engaged in a legitimate fuel manufacturing activity. It does this by requiring you to ensure that the synthesis gas produced from the gasification of excluded materials meet the specifications for the exclusion of hazardous waste derived synthesis gas found at 40 CFR 261.38(b). It is appropriate to apply the ''Synthesis Gas Rule'' specifications to synthesis gas produced from hazardous oil-bearing secondary materials, because we believe that synthesis gas manufactured from this material should not contain hazardous constituents and other non-contributing contaminates at concentrations greater than synthesis gas derived from hazardous waste. We recognize that some gasification systems are designed and operated to produce a synthesis gas that may not meet the constituent levels specified by the Synthesis Gas Rule because the gas is specifically manufactured for use in a specialized chemical manufacturing process. Therefore, the specification would apply only to synthesis gas actually used as a fuel. See the preamble discussion on ''Parameters for the Synthesis Gas Fuel Exclusion'' found at 63 FR 33791, June 19, 1998.

Under this proposal, hazardous oil-bearing secondary materials would be excluded from the definition of solid waste at the point they are generated, as long as they are processed in a gasification system that meets our proposed definition, and handled in accordance with the other conditions. Since RCRA regulations do not apply to the excluded materials, the synthesis gas product is also not subject to RCRA regulations, as long as the synthesis gas produced by the gasification system meets as a fuel the specification levels of the synthesis gas exclusion.Of course, units burning the synthesis gas fuel are themselves potentially subject to regulation under other statutes, notably the Clean Air Act. Today's proposal would not affect any such regulation.

3. Land Placement of Products, Co-Products, and Solid Waste Residuals

The third condition of the proposed exclusion applies to co-products and residues generated by the gasification system that are recycled by being applied to the land. This condition would require that materials that are applied to the land must meet the nonwastewater Universal Treatment Standards (UTS) (40 CFR 268.48) for the following toxic metals: antimony, arsenic, chromium, lead, nickel, and vanadium. It is believed that these metals will partition with the ash into the slag residue generated by the process. These metals do not contribute to the gaseous fuel or to the gasification process. We suspect that the metal concentration in the residue will be comparable to or substantially less than the concentration of metals in the slag from gasifiers that process petroleum coke or coal exclusively. Data submitted by BP Amoco show that the metals in oil-bearing secondary materials do not substantially increase the total metal concentration normally found in the residue generated by the Dakota gasification facility when it is processing coal exclusively. [21]

This third condition ensures that co-products or residues generated by the gasification process do not contain toxic metals with a potential for leaching greater than allowed by the requirements of the land disposal restrictions. This condition is similar to conditions established for hazardous waste-derived products that are used in a manner constituting disposal (see 40 CFR 266.20), but we chose only to apply the UTS limits for the metals which are known to exist in petroleum refinery waste.[22]

This condition ensures legitimacy by applying the same land disposal provisions to the co-products or residuals that would have existed had the material not been excluded from the definition of solid waste, and so would eliminate an incentive to claim to be performing ''gasification'' for the real purpose of avoiding treatment of metals in treatment residues that ultimately are placed on the land. The condition similarly would serve to ensure that the gasification of excluded oil-bearing hazardous secondary materials is not just a means of discarding waste components in the materials (which are otherwise listed hazardous wastes) by the eventual unrestricted placement of those components on the land. Finally, the proposed condition is needed to assure that the gasification system is operated for the production purpose claimed. As explained earlier, part of the operating premise of gasification is that it preferentially converts organic matter in secondary materials into fuels (or intermediates) while removing metals from raw synthesis gas and trapping those metals in an inert matrix. The proposed condition provides a means of quantifying this premise.

4. Speculative Accumulation and Storage of Excluded Materials

The fourth condition of the proposed exclusion specifies that excluded hazardous oil-bearing secondary materials may not be placed on the land, or speculatively accumulated prior to insertion into a gasification system. This condition further defines gasification of excluded oil-bearing materials as a manufacturing activity because it requires that the excluded materials are handled as a valuable feed to the gasification system. We know of no gasification system (or for that matter, any refinery) which stores these materials on the land, and to do so would indicate that the materials are being handled as waste, not feedstock (since physical integrity of the ostensibly-valuable feed materials could no longer be assured, and there would be large-scale losses of the oil-bearing secondary materials due to the land placement). Thus, the physical characteristics of hazardous oil-bearing secondary materials from the petroleum industry should preclude storing the material in anything other than tanks or containers. This is because the material is generally comprised of tar-like oily substances that are not amenable for land storage.

The proposed condition prohibiting speculative accumulation of the excluded oil-bearing secondary materials before they are inserted into the gasification system ensures that legitimate quantities of the waste material are being recycled rather than being stored to avoid regulation. We feel that this condition also is necessary to assure that recycling actually occurs, and that materials are not discarded by being stored for extended periods. Furthermore, this condition is consistent with the condition that we

[21] Data submitted by Amoco Refining Inc, which show that petroleum secondary materials make a minor contribution to the total concentration of metals routinely found in ash from the Dakota Gasification facility.

[22] This condition is also similar to a condition we included in the exclusion for other petroleum oil-bearing secondary materials. There, we applied the FO37 listing to non-fuel residuals that are produced when oil-bearing wastes are reinserted into petroleum distillation and refining processes. See 63 FR at 42128.

adopted for excluded oil-bearing residuals returned to refinery processes. See 60 FR 57752.

B. What Are the Proposed Recordkeeping and Reporting Requirements?

There are no specific recordkeeping and reporting requirements associated with this proposal. However, we are seeking comment whether any records and reporting are necessary in addition to the current documentation requirement associated with 40 CFR 261.2(f) for materials that would be excluded from the definition of solid waste under today's notice. 40 CFR 261.2(f) does not contain specific record keeping requirements but it does require the respondent to bear the burden of showing, through appropriate documentation, that the excluded material is being processed in a manner that meets the conditions in the claimed exclusion. We offer this information as a reminder and are not reopening this provision for comment.

In today's notice, we are proposing to exclude hazardous oil-bearing secondary materials generated from the petroleum refinery industry (SIC 2911) that are destined for gasification whether or not the gasification system is located at a refinery. We note that allowing the secondary petroleum streams to go to facilities outside the petroleum refining industry is somewhat different than the structure of 40 CFR 261.4(a)(12)(i), which the Agency has used as a model for today's proposal. 40 CFR 261.4(a)(12)(i) excludes from RCRA jurisdiction, under certain conditions, oil-bearing secondary materials generated by petroleum refineries when the materials are re-inserted into the petroleum refining process (either at the refinery generating the secondary material or at another off-site petroleum refinery, as long as the materials are shipped directly). 40 CFR 261.4(a)(12)(i) does not specify recordkeeping requirements, except 40 CFR 261.2(f) applies to respondents claiming the exclusion.

In today's proposal, however, we believe that excluding materials processed in gasification systems operating independent (or off-site) of petroleum refineries is appropriate because gasification is a process employed by petroleum refineries to upgrade low value organic material into fuels, and the purpose and operation of the system remains the same whether the system is operated at the same location the oil-bearing materials are generated or elsewhere. Since today's proposal would be somewhat more expansive than the exclusion at 40 CFR 261.4(a)(12)(i), we are requesting comment on whether further clarification of recordkeeping and reporting requirements is necessary in addition to the 40 CFR 261.2(f) documentation requirement to ensure that excluded materials are appropriately processed. The purpose of recordkeeping, recording and documentation would be to: (1) Ensure that the excluded materials are indeed fed to a gasification facility; (2) the materials are handled appropriately prior to introduction to the gasification system; (3) the synthesis gas fuel ultimately produced meets the synthesis gas specifications; (4) the inorganic residues produced by the gasification system that are placed on the land do not exceed the nonwastewater UTS for metals found in the input refinery material fed to the gasification system; and (5) the residue does not exhibit a hazardous waste characteristic under subpart C, part 261. One proposed rule, ''Requirements for Zinc Fertilizers Made From Recycled Hazardous Secondary Materials'' (See 65 FR 70954, November 28, 2000) provides an example of additional recordkeeping and reporting requirements that could be used to verify that the conditions of an exclusion are met.

EPA is interested in obtaining comments on what specific records would be necessary to document whether: (1) The synthesis gas generated from a gasification system, using excluded secondary materials, meets the synthesis gas fuel specification under 40 CFR 261.38(b); (2) the residue generated from the gasification system meets the UTS levels in 40 CFR 268.48 for specific inorganic metals; and (3) the residue generated from the gasification system fails to exhibit a hazardous waste characteristic as defined in part 261, subpart C. We are also interested in receiving comments that explain the different types of information petroleum refinery operators currently keep to demonstrate compliance with other solid waste exclusions (such as 40 CFR 261.(a)(12)(i)) that rely on 40 CFR 261.2(f) to demonstrate compliance with the conditions of the exclusions and whether such information is routinely maintained as a type of industry practice.

C. How Do We Ensure Excluded Material Is Processed in a Gasification System?

As with other exclusions and exemptions from the definition of solid waste, the person claiming the exclusion must be able to produce whatever documentation is necessary to demonstrate that the material is excluded from regulation (see § 261.2(f)). EPA recommends that to make this demonstration, petroleum refineries document the amount of secondary material excluded, and the location that these materials are processed in a gasification system, as well as maintaining documentation to demonstrate compliance with the enumerated conditions of today's proposed exclusion.

D. Are We Concerned About Volatile Metals in the Excluded Material?

We are aware that certain metals, which can be found in low concentrations in petroleum refining secondary materials, can be processed by a gasification system and end up in the product synthesis gas. The metals of most concern, based on their inherent properties, are lead and mercury; however, based on data we received from the petroleum refining industry, we do not believe that synthesis gas manufactured from oil-bearing materials will contain sufficient concentrations of these metals to create an emissions hazard if the fuel is burned for energy recovery. Nevertheless, because there is a potential for volatile metals to partition to the synthesis gas product, we are proposing that the synthesis gas must meet the specifications of 40 CFR 261.38(b) if used as a fuel, which limits the concentration of those metals to levels we deemed appropriate for hazardous waste-derived synthesis gas excluded from RCRA regulation. As explained earlier, the fuel specification serves as a means to ensure that the process produces a fuel product rather than a means to dispose of waste.

E. Are We Concerned About Dioxin Emissions From the Processing of Excluded Material?

In contrast to devices that burn organic compounds, gasification systems are designed to promote the thermal decomposition of organic-containing compounds and limit the formation of compounds with a greater molecular weight than methane. This design characteristic limits the formation of dioxin pre-cursors in the high temperature reactor. Formation in the PM control units is controlled by the lack of dioxin precursors, the lack of particulate matter, and the lack of a favorable temperature profile. Analytical data submitted by Texaco and Dow support the contention that dioxin is not generated during synthesis gas production. The reader is referred to the docket for additional information.

In addition to the theoretical arguments and analytical data supporting the contention that synthesis

gas does not contain dioxin, we also limit the amount of dioxin that can exist in synthesis gas fuel directly through the application of the synthesis gas fuel specification found at 40 CFR 261.38(b). The synthesis gas specifications that apply as a condition of the exclusion do not allow significant concentrations of dioxin to be present in the product gas. These factors, as well as analytical results that show low concentrations of dioxin in the produced synthesis gas, lead us to conclude that controls to limit the formation of dioxin in the synthesis gas are unnecessary to propose. Additionally, we recognize that the down stream applications of the synthesis gas will also control the levels of dioxin that may be released to the atmosphere or to other products manufactured from the synthesis gas. Specifically, we believe that any dioxin compounds that exist (at low concentrations) in the synthesis gas will be appropriately controlled under the applicable MACT rules if the synthesis gas is burned to produce electricity in a gas turbine. Therefore, we believe that concerns regarding dioxin formation are adequately addressed in today's proposal and we are not proposing any additional requirements to specifically limit dioxin emissions as a result of downstream uses of the synthesis gas fuel.

VIII. Other Hazardous Secondary Materials That Could Also Be Conditionally Excluded When Processed in a Gasification System

Today's proposed exclusion from the definition of solid waste is based largely on two central themes. First, gasification is a legitimate manufacturing process for processing secondary materials in an efficient and environmentally protective manner and is better viewed as a manufacturing activity rather than waste recycling. Second, hazardous oil bearing secondary materials from the petroleum refining industry (SIC 2911) are especially appropriate for use in such units. With respect to these points, EPA is soliciting comment on expanding the exclusion to allow for other hazardous secondary materials to be conditionally excluded from the definition of solid waste if they are processed in a gasification system.

A. What Are the Environmental Benefits of a Broader Exclusion?

The gasification of hazardous waste can be viewed as an innovative extension of the conventional fuels gasification technology for synthesis gas. The gasification of hazardous secondary materials (i.e., hazardous waste), in this manufacturing application, has the potential to significantly reduce pollution to the environment by allowing for the continued processing of hydrocarbon materials that would otherwise be treated and/or land disposed. [23] The downstream uses of the products generated by the gasification process also have environmental benefit. When the synthesis gas is burned for energy recovery it displaces fossil fuels that would be used for the same energy production. Plus, it displaces the energy used to liberate, transport, and prepare the fossil fuels for use, as well as the pollution that results from removing, transporting and processing the fossil fuels. When synthesis gas is used as a feedstock for the manufacture of chemicals such as acetic acid, acetic anhydride, oxoalcohols, butanol, methanol, ammonia, and hydrogen, it displaces other feedstock that take energy to produce and prepare for manufacturing. Furthermore, when other non-fuel co-products are manufactured in the gasification system, e.g., elemental sulfur, sulfuric acid, chlorine, hydrochloric acid and ammonia, the co-products displace similar products manufactured conventionally. This reduces pollution to the environment associated with the conventional manufacturing processes that do not use secondary materials as a component of the feed.

B. What Is the Regulatory Status of a Gasification System?

Under existing regulations, hazardous secondary materials that are processed in a gasification system to produce synthesis gas and is used or re-used in an industrial process to manufacture legitimate products are not subject to RCRA jurisdiction through the provisions of 40 CFR 261.2(e)(1)(i). This provision excludes materials from the definition of solid waste if the materials are ''used or re-used as ingredients in an industrial process to make a product, provided the materials are not being reclaimed.'' As a result, gasification systems that manufacture synthesis gas, used exclusively in other on-going manufacturing processes, are currently not subject to RCRA jurisdiction because the materials being processed by the system are never solid wastes. Conversely, hazardous secondary materials that are processed in a gasification system to produce synthesis gas that is used as a fuel remain regulated by RCRA in accordance with 40 CFR 261.2(c)(2) and the applicable regulatory provisions in §§ 261.6 and 266.100 et seq. See 63 FR at 33791 (June 19, 1998); see also § 261.2(e)(2)(ii), which says that the exclusion for secondary materials being used or reused does not apply to secondary materials that are burned for energy recovery, used to produce fuels, or contained in fuels. Thus, gasification systems that produce synthesis gas used as a fuel are subject to RCRA jurisdiction because the materials being processed are solid wastes (assuming that the secondary materials being processed are also hazardous wastes).

In the past, we have stated that gasification systems processing hazardous waste materials are exempt from RCRA permitting because they are engaged in recycling (assuming that legitimate recycling is occurring).[24] Designating gasification systems as recycling units exempts them from RCRA permitting, but it does not exclude the material being processed from RCRA regulation. This results in the synthesis gas fuel being designated as a waste-derived fuel and would require that all parties comply with the regulations that apply to the generation, transportation, storage and handling of the hazardous waste materials.

The hazardous waste-derived synthesis gas fuel can be excluded from regulation under the provisions of the synthesis gas exclusion found at 40 CFR 261.38(b). This section provides an exclusion from the definition of solid waste for synthesis gas fuels that meet the composition specifications of the provision. This exclusion applies at the point the fuel is produced. We recognize that this results in a situation where under one use, the product synthesis gas (*i.e.*, as a chemical intermediate), is excluded, but under a different use (i.e., as a fuel) the product synthesis gas is regulated. This is problematic considering the fact that the synthesis gas product remains the same whether it's used as an ingredient in an industrial process or as fuel, and the device itself is unregulated by RCRA in either case. Furthermore, available information suggests that chemical industry gasification systems may not be dedicated to only one use for the synthesis gas, i.e., gasification systems may produce synthesis gas both for the manufacture of chemical products and as a fuel.[25] See the ''Comment Response

[23] U.S. Environmental Protection Agency. *Texaco Gasification Process—Innovative Technology Evaluation Report.* July 1995. EPA/540/R–94/514.

[24] See OSWER Directives 9441.1995(18), and 9432.1996(01).

[25] See letter from Mr. Dan Pearson, Executive Director, Texas Natural Resource Conservation Commission to Mr. Randall A. Jones, Director, Regulatory Affairs, Molten Metals Technology, Re:

Continued

Document'' in Docket Number F–98–RCSF–FFFFF for additional information on this point.

C. What Are the Conditions of the Broader Exclusion?

In today's notice, we are also requesting comment on a proposed expansion of the conditional exclusion from the definition of solid waste (discussed earlier in today's notice) to additional hazardous secondary materials.[26] Under this alternative proposal, one exclusion, under a set of expanded conditions, could be promulgated for hazardous secondary materials, including those from the petroleum industry, destined for processing in a gasification system to produce synthesis gas fuel and other chemical products. We believe that because of the unique properties of synthesis gas and the operational capabilities of gasification systems, as well as its environmental benefits, it is appropriate to suggest and solicit comment on broadening the exclusion in this way.

To expand the exclusion to address additional hazardous secondary materials, three modifications to the current proposal could be made. First, in the third condition of the proposed exclusion, i.e., land placement of products, co-products, and solid waste residuals, the number of hazardous inorganic constituents required to meet UTS would increase from six to fifteen. The addition of nine hazardous inorganic constituents, captures the entire suite of inorganic constituents regulated by RCRA in 40 CFR 268.48 and further ensures that the co-products or residues generated by the gasification system do not contain any toxic inorganics with a potential for leaching greater than allowed by the requirements of the land disposal restrictions. These additional constituents are all toxic metals, except for cyanide.

As mentioned previously, we have data showing metals will partition with the ash into the slag residue generated by the gasification process and be effectively immobilized. As we have discussed earlier, these metal constituents do not contribute to the gaseous fuel or to the gasification process. We are also proposing to add cyanide (both total and amenable) to the array of hazardous inorganic constituents being regulated. It is believed that cyanide will effectively dissociate in the gasification process contributing to the production of the synthesis gas. As such, there should not be any measurable quantities of cyanide in the co-products or residuals. The expansion of this condition to include all the RCRA toxic inorganics ensures that the gasification system is being operated for the production purpose claimed. As previously discussed, part of the operating premise of gasification is that it preferentially converts organic matter in secondary materials into fuels (or intermediates) while removing metals from raw synthesis gas and immobilizing those metals in an inert matrix. This condition is a means of quantifying this premise.

The second modification would be the addition of a fifth condition. This condition would require each hazardous secondary material processed in a gasification system to contain greater than 20% by weight total organic carbon (TOC). The addition of this condition ensures that every secondary material processed in a gasification system contributes to the manufacture of the synthesis gas and so eliminates an incentive to claim to be performing ''gasification'' for the real purpose of avoiding hazardous waste treatment. The 20% TOC threshold approximates the lowest value material known to be effectively processed in a gasification system for synthesis fuel production. The 20% TOC threshold represents the level which we believe is reasonable both economically and technologically to ensure legitimate manufacturing by the gasification system. The Agency recognizes that by including such a condition, it could restrict certain hazardous secondary material from being processed in a gasification system under the exclusion. However, without a complete understanding of these activities and knowledge of the types of hazardous secondary materials that could be processed through such an operation, we believe that with this broader exclusion, a TOC threshold of 20% is a necessary condition to ensure that legitimate manufacturing activities are taking place. Unlike hazardous oil-bearing secondary materials from the petroleum refining industry, little information exists that provides a comprehensive assessment of gasification's performance on other RCRA hazardous waste. (See: *A Comparison of Gasification and Incineration of Hazardous Waste—Final Report.* United States Department of Energy. DCN 99.803931.02. March 30, 2000). However, the Agency specifically solicits comment on the appropriateness of requiring each hazardous secondary material to have a 20% by weight TOC content. In addition, the Agency also requests comment on alternative indicators, other than TOC, that could be used to ensure that hazardous secondary materials are used legitimately in gasification systems to manufacture synthesis gas fuel and other products.

The third or final modification to the exclusion would be a prohibition on the use of any mercury-containing hazardous secondary material into the gasification system for the manufacturing of synthesis gas. As discussed previously in the preamble (See section V. D—What Air Emissions Result From Gasification Systems?), the Agency is concerned with the potential for highly volatile metals, in particular mercury, to be emitted out the stack of devices (i.e., turbines) firing synthesis gas produced by a gasification system. As discussed earlier, this is not a concern, for the petroleum refining exclusion being proposed today, because hazardous oil-bearing secondary materials from the petroleum refining industry are not expected to contain significant quantities of mercury. However, the Agency is concerned that the specification for the synthesis gas exclusion (see 40 CFR 261.38(b)) which requires that the synthesis gas contain less than 1 part per million by volume of each RCRA metal, including mercury, may not represent the concentration of metals that realistically exists in synthesis gas derived from hazardous waste.[27] To that end, the Agency proposes a sixth condition to the broader exclusion—a prohibition on the use of hazardous secondary materials containing mercury. This prohibition would exclude, from processing in a gasification system, any hazardous waste which exhibits the characteristic of mercury and any hazardous waste for which mercury was a basis for listing under 40 CFR part 261, appendix VII.

Proposed Catalytic Extraction Processing (CEP) Facility—Bay City, Texas. February 27, 1996.

[26] Information available to the Agency suggests that there are other secondary materials amenable to gasification. For example, municipal waste and sewage sludge, contaminated soil, tires, and coal ash may be gasified to produce synthesis gas and other valuable products. Used oil, is another example of a material that the Agency believes can be processed in a gasification system to produce synthesis gas (i.e., fuel). The reader is referred to the docket supporting this proposal for additional information.

[27] The Agency conducted a preliminary analysis on determining how much mercury can potentially be emitted from synthesis gas that is combusted in a turbine if the synthesis gas contains mercury at the 1ppmv specification level. It was determined that approximately 1.04 tons of mercury could potentially be released from the use of 1 trillion BTU of synthesis gas at the specification levels. If you would compare this to coal for a similar 1 trillion BTU with a concentration of 0.1ppmw of mercury, 0.004 tons of mercury could be potentially released.

This would include the RCRA hazardous wastes D009, K071, K106, F039, U151, P065 and P092. The Agency also solicits comment on expanding this prohibition to include other highly volatile metals.

With these modifications, a broader exclusion is being suggested, which the Agency believes should ensure that the processing of excluded material(s) in a gasification system is a legitimate fuel manufacturing activity that converts components of hazardous carbonaceous material into fuel and into non-fuel chemical by-products without containing high levels of non-contributing toxic components. As such, the option discussed here conditionally excludes hazardous secondary materials from the definition of solid waste, at the point they are generated, when processed in a gasification system provided: (1) Each hazardous secondary material processed in the system contains greater than 20% by weight total organic carbon; (2) the system does not process any hazardous waste which exhibits the characteristic of mercury and any hazardous waste for which mercury is a basis for listing under 40 CFR part 261, appendix VII as hazardous secondary materials; (3) the system meets the definition of a gasification system; (4) the system generates a synthesis gas fuel that meets the specifications of exempted synthesis gas; (5) the materials generated by the gasification system are not placed on the land if they exceed the nonwastewater UTS for antimony, arsenic, barium, beryllium, cadmium, chromium (total), cyanides (total), cyanides (amenable), lead, mercury, nickel, selenium, silver, thallium, and vanadium; and (6) the excluded materials are not placed on the land or speculatively accumulated prior to insertion into the gasification system.

While the Agency requests comment on all aspects of this proposed rulemaking, we are specifically soliciting comment, information, and data on:

- The performance of gasification on other hazardous secondary materials (that are currently hazardous waste) known to contain low concentrations of metals, e.g., hazardous secondary materials that are generated outside SIC 2911, such as spent potliner from the primary aluminum industry (K088).
- The performance of gasification on certain hazardous secondary materials that contain high concentrations of non-contributing components (namely metals or halides).
- Potential partitioning of metals to the product synthesis gas and their subsequent release during the combustion of the synthesis gas in turbines to produce electricity or steam.[28]
- Whether the Agency should develop a set of general criteria for the types of hazardous secondary materials that would be appropriate for gasification, and what those criteria might be.[29]
- Whether the Agency should require specific design and operating conditions for all components of the gasification systems, including the gas cleanup or polishing systems and the secondary product recovery systems and what they would be.
- The market for building and operating gasification systems in the future, including future capacity for gasification.
- The market for synthesis gas and other products from gasification, including non-fuel products recovered in the process.

Finally, we recognize that in order to achieve the benefits of gasification, secondary materials must be safely transported and handled prior to delivery at the gasification facility, and actually delivered for use as a feedstock to the facilities. We note that a number of factors work towards safe delivery, including Department of Transportation regulations for hazardous materials, and the threat of legal liabilities under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) for spilled or disposed hazardous materials. Further, there are currently only a very few gasification facilities that have indicated any interest in accepting hazardous secondary materials, and they have indicated they must have contracts for acceptance of materials, including technical specifications that limit the types of materials that the particular unit may accept as a feedstock. Also, as explained in more detail in the next section, current regulation requires a person claiming an exclusion to produce appropriate documentation to show he or she actually meets the terms of the exclusion, which may mean, for example, producing contracts with a gasification facility, records of shipment and delivery of materials to the gasification system.

The RCRA hazardous waste universe is broad with over 18,000 large quantity generators and many more small quantity generators. Concerns have been raised that generators, perhaps working with waste brokers, may falsely claim to be sending material to gasification systems for processing as a feedstock, when, in fact, they are simply trying to evade regulation. Therefore, the Agency is specifically seeking comment (as we note in the next section) on whether some sort of mechanism, beyond current regulations, should be imposed to ensure that these secondary materials arrive at the gasification facility and are used as feedstock. Also, we request comment on whether an exclusion should apply when brokers are involved, and if so, whether the exclusion should apply in that case beginning only when the material is shipped from the broker to the gasification facility (i.e., the broker would be regulated under the RCRA rules).

In any event, should improper management occur, despite the factors described above, the exclusion proposed today would not apply and parties would be subject to enforcement action, possibly leading to criminal penalties. We seek comment on the checks and balances described above and whether they adequately address the concerns over possible improper use of the exclusion.

D. What Are the Proposed Recordkeeping and Reporting Requirements for This Broader Exclusion?

As with the petroleum refining conditional exclusion previously discussed in this preamble, there are no specific recordkeeping and reporting requirements specifically associated with this broader conditional exclusion. However, we are seeking comment as to whether any records and/or reporting are necessary in addition to the current documentation requirement associated with 40 CFR 261.2(f) for materials that would be excluded from the definition of solid waste. 40 CFR 261.2(f) does not contain specific recordkeeping requirements but it does require the respondent to bear the burden of showing, through appropriate documentation, that the excluded material is being processed in a manner that meets the conditions in the claimed exclusion. We offer this information again as a reminder and are not reopening this provision for comment.

[28] To address this issue, we are requesting comment on a number of approaches to revise the synthesis gas specifications found at 40 CFR 261.38(b). In particular, the Agency is interested in soliciting comment on the specifications for highly volatile metals. The approaches we are considering can be found in the docket of today's proposal entitled Options to Revise the Synthesis Gas Specification. We specifically request comment on this document.

[29] States could then develop procedures for identifying specific waste streams that are excluded, using either rulemaking procedures or a variance process. A variance process might be similar to the provisions already found at 40 CFR 260.31 for certain exclusions from the definition of solid waste.

In this broader exclusion, we are proposing to exclude hazardous secondary materials, meeting certain conditions, from the definition of solid waste whether the gasification system is located on-site or off-site. We again note that allowing the secondary streams to go to facilities off-site is somewhat different than the structure of 40 CFR 261.4(a)(12)(i), which the Agency has used as a model for today's proposal. 40 CFR 261.4(a)(12)(i) does not specify recordkeeping requirements, except 40 CFR 261.2(f) applies to respondents claiming the exclusion.

In this broader exclusion, however, we believe that excluding materials processed in gasification systems operating independent (or off-site) is appropriate because gasification is a process employed by industry to manufacture synthesis gas. The purpose and operation of the system remains the same whether the system is operated at the same location that the secondary materials are generated or elsewhere. As with the petroleum refining conditional exclusion being proposed today, we are again requesting comment on whether further clarification of recordkeeping and reporting requirements is necessary in addition to the 40 CFR 261.2(f) documentation requirement to ensure that excluded materials are appropriately processed. The purpose of recordkeeping, recording and documentation would be to ensure: (1) That the excluded materials are indeed fed to a gasification facility; (2) each hazardous secondary materials has a TOC content of at least 20%; (3) no mercury-containing hazardous wastes are processed in the gasification system; (4) the materials are handled appropriately prior to introduction to the gasification system; (5) the synthesis gas fuel ultimately produced meets the synthesis gas specifications; (6) the inorganic residues produced by the gasification system that are placed on the land do not exceed the nonwastewater UTS for the inorganic constituents found in 40 CFR 268.48; and (7) the residue does not exhibit a hazardous waste characteristic under subpart C, part 261. As mentioned previously, the proposed rule, ''Requirements for Zinc Fertilizers Made From Recycled Hazardous Secondary Materials'' (See 65 FR 70954, November 28, 2000) provides an example of additional recordkeeping and reporting requirements that could be used to verify that the conditions of an exclusion are met.

EPA is interested in obtaining comments on what specific records would be necessary to document whether: (1) The synthesis gas generated from a gasification system, using excluded secondary materials, meets the synthesis gas fuel specification under 40 CFR 261.38(b); (2) the residue generated from the gasification system meets the UTS levels in 40 CFR 268.48 for specific inorganic metals; and (3) the residue generated from the gasification system fails to exhibit a hazardous waste characteristic as defined in part 261, subpart C. We are also interested in receiving comments that explain the different types of information industry operators currently keep to demonstrate compliance with other solid waste exclusions (such as 40 CFR 261.(a)(12)(i)) that rely on 40 CFR 261.2(f) to demonstrate compliance with the conditions of the exclusions and whether such information is routinely maintained as a type of industry practice.

IX. State Authorization

A. Statutory Authority

Under section 3006 of RCRA, EPA may authorize qualified States to administer the RCRA hazardous waste program within the State. See 40 CFR part 271 for the overall standards and requirements for authorization. Following authorization, the State requirements authorized by EPA apply in lieu of equivalent Federal requirements and become Federally enforceable as requirements of RCRA. EPA maintains independent authority to bring enforcement actions under RCRA sections 3007, 3008, 3013, and 7003. Authorized States also have independent authority to bring enforcement actions under State law. A State may receive authorization by following the approval process described under 40 CFR part part 271.

After a State receives initial authorization, new Federal requirements promulgated under RCRA authority existing prior to the 1984 Hazardous and Solid Waste Amendments (HSWA) do not apply in that State until the State adopts and receives authorization for equivalent State requirements. The State must adopt such requirements to maintain authorization.

In contrast, under RCRA section 3006(g) (42 U.S.C. 6926(g)), new Federal requirements and prohibitions imposed pursuant to HSWA provisions take effect in authorized States at the same time that they take effect in unauthorized States. Although authorized States are still required to update their hazardous waste programs to remain equivalent to the Federal program, EPA carries out HSWA requirements and prohibitions in authorized States, including the issuance of new permits implementing those requirements, until EPA authorizes the State to do so. Authorized States are required to modify their programs only when EPA promulgates Federal requirements that are more stringent or broader in scope than existing Federal requirements. RCRA section 3009 allows the States to impose standards more stringent than those in the Federal program. See also 40 CFR 271.1(i). Therefore, authorized States are not required to adopt Federal regulations, both HSWA and non-HSWA, that are considered less stringent.

B. Effect on State Authorization

Today's proposal would be promulgated pursuant to non-HSWA authority, and contains provisions that are less stringent than the current Federal program. The conditional exclusion for hazardous waste processed in a gasification system would be less stringent. Consequently, States would not be required to adopt the proposed exclusion as a condition of authorization of their hazardous waste programs.

X. Administrative Assessments

A. Executive Order 12866

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

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is a ''significant regulatory action'' because of novel legal or policy issues. As such, this action was submitted for OMB review. Changes made in response to OMB suggestions or

recommendations will be documented in the public record.

Implementation of this rule may result in considerable positive economic impacts and positive net benefits. Benefits derive from cost savings and resource conservation, and potential environmental quality improvements. There are no costs associated with this rulemaking, outside of the costs of regulatory development.

Economic Impacts

The proposal discusses limiting the exclusion to facilities in the petroleum refining industry, defined under the Census Bureaus's Standard Industrial Classification code 2911. This industry includes the production of petroleum products through distillation, fractionation, and/or cracking of crude oil and unfinished petroleum derivatives. Total 1999 employment in the sector was 63,500 and the value of products estimated at $170 billion.

Data submitted to EPA in Biennial Reports shows 172 refineries generated between 7 and 10 million tons of hazardous waste in 1997. These refineries are currently treating and disposing of their wastes in compliance with RCRA Subtitle C requirements for management, treatment, and disposal. We estimate that approximately 20–25% of this waste is being recycled to petroleum cokers. Some waste is land disposed. Much of the remaining waste is currently used for fuel (at an average cost of $75 per ton) or incinerated (which may cost between $320 and $730 for liquids, sludges, and solids that are not severely contaminated). Disposal of treatment residuals adds another $60–130 per ton to waste management costs. The American Petroleum Institute has estimated that refineries spent a total of $210 million in 1999 for waste management.

Significant uncertainties make it difficult to estimate the impacts of this rulemaking. Because so few facilities are gasifying hazardous wastes, there is not a robust body of data on the operational characteristics of the devices with these feedstocks. We do not have good information on the proportion of these secondary materials that could efficiently serve as supplements to the primary feedstocks of coal and petroleum coke, nor do we have a clear idea of the types of wastes that might be amenable to the process; therefore we are requesting comment on these issue with this proposal.

In addition, we believe that an exclusion for all refinery wastes would foster competition in the market for these secondary materials. Since these materials are replacing (to some extent) other feedstocks for the gasification system, tipping fees for these materials could be charged. We have not attempted to model this market, nor determine supply and demand or prices. It is clear, however, that revenue streams from tipping fees would be bounded by current management costs.

EPA is aware of four refineries who are currently gasifying some residuals; all refineries are eligible to take advantage of this exclusion. It does seem likely that other refiners would be interested in reducing their waste management costs by sending wastes to gasification systems, whether to on-site captive facilities or to off-site gasification facilities. Similarly, these units should be eager to gain tipping fees for feedstocks. Therefore, transportation costs and the technical specification requirements for gasification feedstocks are likely to be the chief limiting factors in moving petroleum wastes into these systems. Within those constraints, this proposal could lead to a substantial reduction in that $210 million spent by refineries on waste management. Concomitantly, gasifiers would receive economic gains, with losses to the hazardous waste treatment and disposal industry.

Costs and Benefits

Costs associated with this rule are expected to be minimal, including time to read the rule, residual (i.e., slag) testing and other tasks to meet the conditions. Losses to the hazardous waste treatment and disposal industry are expected to constitute transfers to generators and gasification owner/operators; although these may be significant impacts, they are not true economic costs. Therefore, the direction of social benefits from this proposal can only be positive. These uncertainties and assumptions, therefore, do not affect the Agency's assessment of positive net benefits stemming from this rule; they only affect the magnitude of that net benefit.

Benefits From This Rule Are Likely To Include

Cost savings: Savings in treatment and disposal costs for wastes. The magnitude of these savings is difficult to project, but the upper bound would be the $210 million that refineries are currently spending on waste management. Depending on how markets and prices develop, this rule could also result in reduced costs of electricity, and reduced costs for chemical intermediates that gasification systems produce. In addition, both generators of refinery wastes and Federal/state RCRA regulating agencies are expected to save administrative burden and costs because of this regulatory change.

Resource conservation benefits: We project that this rule will facilitate gasifiers in substituting secondary materials (formerly disposed as wastes) for coal. To the extent that this rule induces power generators to burn synthesis gas instead of coal, there is the potential for additional resource conservation benefits. Potential environmental benefits exist if that substitution takes place, since synthesis gas is a much cleaner fuel than coal and produces less harmful emissions.

More detail on costs and benefits of the rulemaking are provided in the memorandum entitled, *Regulatory Impacts of Proposed Exclusions of Petroleum Refinery Wastes,* which accompanies this proposal.

B. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et. seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant *adverse* economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives ''which minimize any significant economic impact of the proposed rule on small entities.'' 5 U.S.C. 603 and 604. Thus, an agency may certify that a rule will not have a

significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule. This proposal is de-regulatory in nature. The primary industry affected by this rule is the petroleum refining industry, and it will not cause adverse effects to this industry. We have therefore concluded that today's proposed rule will relieve regulatory burden for all small entities. We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

C. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal Agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA must prepare a written analysis, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. If a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives. Under section 205, EPA must adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule, unless the Administrator publishes with the final rule an explanation why that alternative was not adopted. The provisions of section 205 do not apply when they are inconsistent with applicable law.

Today's proposed rule contains no Federal mandates (under the regulatory provisions of Title II of UMRA) for State, local, or tribal governments or the private sector. This is because today's proposed rule is de-regulatory and imposes no enforceable duty on any State, local or tribal governments or the private sector. Thus, today's rule is not subject to the requirements of sections 202, 204 and 205 of UMRA.

Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements. EPA has determined that this rule will not significantly or uniquely affect small governments. This is because today's proposed rule is de-regulatory and imposes no enforceable duty on any State, local or tribal governments or the private sector. Today's rule is not, therefore, subject to the requirements of section 203 of UMRA.

D. Federalism—Applicability of Executive Order 13132

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

This proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This is because today's proposed rule is de-regulatory and imposes no enforceable duty on any State, local or tribal governments or the private sector. Thus, Executive Order 13132 does not apply to this rule.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on this proposed rule from State and local officials.

E. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

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

This proposed rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. This is because today's proposed rule is de-regulatory and imposes no enforceable duty on any State, local or tribal governments or the private sector. Thus, Executive Order 13175 does not apply to this rule.

In the spirit of Executive Order 13175, and consistent with EPA policy to promote communications between EPA and tribal governments, EPA specifically solicits additional comment on this proposed rule from tribal officials.

F. Executive Order 13045: Protection of Children from Environmental Risks and Safety Risks

The Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997) applies to any rule that EPA determines (1) is ''economically significant'' as defined under Executive Order 12866, and (2) the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children; and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives. This proposed rule is not subject to the Executive Order because it is not economically significant as defined in Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. The public is invited to submit or identify peer-reviewed studies and data, of which the agency may not be aware.

G. National Technology Transfer and Advancement Act of 1995

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, section 12(d) (15 U.S.C. 272

note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. The proposed rulemaking involves technical standards. Therefore, the Agency conducted a search to identify potentially applicable voluntary consensus standards. However, we identified no such standards. Therefore, EPA proposes to use the constituent specification limits of the synthesis gas exclusion found at 40 CFR 261.38(b) to establish the legitimacy of the fuel, and the universal treatment standards for chromium, lead, nickel, vanadium, arsenic, and antimony to establish the legitimacy of products placed on the land.

EPA welcomes comments on this aspect of the proposed rulemaking and, specifically, invites the public to identify potentially-applicable voluntary consensus standards and to explain why such standards should be used in this regulation.

H. Executive Order 12898

EPA is committed to addressing environmental justice concerns and is assuming a leadership role in environmental justice initiatives to enhance environmental quality for all populations in the United States. The Agency's goals are to ensure that no segment of the population, regardless of race, color, national origin, or income bears disproportionately high and adverse human health or environmental impacts as a result of EPA's policies, programs, and activities, and that all people live in safe and healthful environments. In response to Executive Order 12898 and to concerns voiced by many groups outside the Agency, EPA's Office of Solid Waste and Emergency Response formed an Environmental Justice Task Force to analyze the array of environmental justice issues specific to waste programs and to develop an overall strategy to identify and address these issues (OSWER Directive No. 9200.3–17).

Today's proposed rule pertains to hazardous oil-bearing secondary materials processed in a gasification system to produce valuable products. It is not certain whether the environmental problems addressed by this rule could disproportionately affect minority or low-income communities. Today's proposed rule is intended to reduce risks of excluded hazardous secondary materials as proposed, and to benefit all populations. As such, this rule is not expected to cause any disproportionately high and adverse impacts to minority or low-income communities versus non-minority or affluent communities.

The wastes proposed for exclusion will be subject to protective conditions regardless of where they are generated and regardless of where they may be managed. Although the Agency understands that this proposed exclusion, if finalized, may affect where these wastes are managed in the future, the Agency's decision to conditionally exclude these materials is independent of any decisions regarding the location of waste generators and the siting of waste gasification facilities. Today's proposed rule will reduce loadings of oil-bearing wastes to the soil, and reduce emissions to the atmosphere. EPA believes that these provisions of the proposal will benefit all populations in the United States, including low-income and minority communities.

We encourage all stakeholders including members of the environmental justice community and members of the regulated community to provide comments or further information related to potential environmental justice concerns or impacts, including information and data on facilities that have evaluated potential ecological and human health impacts (taking into account subsistence patterns and sensitive populations) to minority or low-income communities.

I. Executive Order 13211 (Energy Effects)

This proposal is not a ''significant energy action'' as defined in Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. We have concluded that this proposal will not have any adverse energy effects. It is a de-regulatory proposal that will primarily affect the petroleum refinery industry (SIC classification 2911). If adopted, the proposal will promote the practice of petroleum refineries processing their hazardous oil-bearing secondary material (materials historically classified as hazardous waste) in gasification systems to produce synthesis gas fuel. Synthesis gas fuel is an alternative fuel composed primarily of hydrogen and carbon monoxide. When used to produce electricity in combined cycle turbines, its use allows power generators to produce electricity more efficiently than other forms of fossil fuel based electricity production.

J. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et. seq. There are no information collection requirements for this proposed rule that require an ICR. Furthermore, there are no paperwork requirements for entities affected by this proposal. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

List of Subjects

40 CFR Part 260

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Reporting and recordkeeping requirements.

40 CFR Part 261

Environmental protection, Hazardous waste, Recycling, Reporting and recordkeeping requirements.

Dated: March 19, 2002.

Christine Todd Whitman,

Administrator.

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

PART 260—HAZARDOUS WASTE MANAGEMENT SYSTEM

1. The authority citation for part 260 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921–6927, 6930, 6934, 6935, 6937–6939, and 6974.

2. Section 260.10 is amended by adding a new definition for ''gasification system'' in alphabetical order to read as follows:

§ 260.10 Definitions.

* * * * *

Gasification system means an enclosed thermal device and associated gas cleaning system or systems that does not meet the definition of an incinerator or industrial furnace (found at §§ 260.10), and that:

(1) Limits oxygen concentrations in the enclosed thermal device to prevent the full oxidization of thermally disassociated gaseous compounds;

(2) Utilizes a gas cleanup system or systems designed to remove contaminants from the partially oxidized gas that do not contribute to its fuel value;

(3) Slags inorganic feed materials at temperatures above 2000°F ;

(4) Produces a synthesis gas; and

(5) Is equipped with monitoring devices that ensure the quality of the synthesis gas produced by the gasification system.

* * * * *

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, and 6938.

2. Section 261.4 is amended by adding paragraph (a)(12)(iii) to read as follows:

§ 261.4 Exclusions.

(a) * * *

(12) * * *

(iii)(A) Hazardous oil-bearing secondary materials (i.e., sludges, byproducts, or spent materials) that are generated at a petroleum refinery (SIC 2911) and inserted into a gasification system (defined in § 260.10 of this chapter) to produce a synthesis gas used as an ingredient in chemical manufacture or as a fuel, subject to the conditions of paragraph (a)(12)(iii)(B) of this section.

(B) Conditions.

(*1*) Synthesis gas used as a fuel must meet the specifications of § 261.38(b) of this part;

(*2*) The hazardous oil-bearing secondary material must not be placed on the land prior to insertion in the gasification system;

(*3*) The hazardous oil-bearing secondary material must not be speculatively accumulated prior to insertion in the gasification system, unless a variance has been granted under § 260.31(a) of this chapter; and

(*4*) Any materials (by-products, sludges, ''frits'', bottoms) generated by the gasification system that are excluded under paragraph (a)(12)(iii) that are placed on the land must meet the non-wastewater Universal Treatment Standards for chromium, lead, nickel, vanadium, arsenic, and antimony found at § 268.48 of this chapter.

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Federal Register

Monday,
March 25, 2002

Part III

Department of the Interior

Bureau of Reclamation

43 CFR Part 426

Acreage Limitation Rules and Regulations—Changes to Addresses for Submitting Appeals; Final Rule

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

43 CFR Part 426

RIN 1006–AA43

Acreage Limitation Rules and Regulations—Changes to Addresses for Submitting Appeals

AGENCY: Bureau of Reclamation, Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Reclamation (Reclamation) is revising its regulations governing acreage limitation appeals to reflect a change of address for submitting appeals to the Commissioner of Reclamation and a change of address for submitting appeals to the Office of Hearings and Appeals (OHA). The change of address for the Commissioner is being made to facilitate the processing of appeals, while the change of address for OHA is needed because that agency is moving to a new building in Arlington, Virginia, effective February 11, 2002.

DATES: This rule is effective on March 25, 2002.

FOR FURTHER INFORMATION CONTACT: Richard Rizzi, Lead Water and Land Regulatory Specialist, Office of Policy, Bureau of Reclamation, P.O. Box 25007, Mail Code D–5200, Denver, Colorado 80225, telephone (303) 445–2900.

SUPPLEMENTARY INFORMATION:

I. Background

In 43 CFR part 426, Reclamation has promulgated regulations implementing certain provisions of Federal reclamation law that address the ownership and leasing of land on Reclamation projects and the pricing of Reclamation irrigation water. Included in those regulations are procedures for appeals of regional directors' final determinations to the Commissioner of Reclamation and for appeals of Commissioner's decisions to the Department of the Interior's Office of Hearings and Appeals.

The Office of the Commissioner has staff located in both Washington, D.C., and Denver, Colorado. The Office of Policy staff in Denver reviews all appeals of final determinations made under the Acreage Limitation Rules and Regulations by regional directors and makes recommendations for action on each appeal. Since the staff at the Denver Office has those responsibilities, it is more efficient for appeals to be sent directly to Denver instead of coming to Washington and then being forwarded to Denver.

OHA consists of a headquarters office, located in Arlington, Virginia, and nine field offices located throughout the country. Since 1970, the headquarters office has been located at 4015 Wilson Boulevard, and that address is included in 43 CFR 426.24(g). Effective February 11, 2002, the OHA headquarters office is being relocated to 801 North Quincy Street, Arlington, Virginia. In anticipation of that move, we are revising the administrative appeals section of the Acreage Limitation Rules and Regulations to reflect OHA's new street address.

II. Procedural Requirements

A. Determination To Issue Final Rule Effective in Less Than 30 Days

We have determined that the public notice and comment provisions of the Administrative Procedure Act, 5 U.S.C. 553(b), do not apply to this rulemaking because the changes being made relate solely to matters of agency organization, procedure, and practice. They therefore satisfy the exemption from notice and comment for rulemaking in 5 U.S.C. 553(b)(A).

We have determined that there is good cause to waive the requirement of publication 30 days in advance of the rule's effective date under 5 U.S.C. 553(d)(3). The timing of OHA's relocation is dictated by the construction schedule for the building to which OHA is moving. The actual move date was confirmed only in the past few weeks. If the changes in this rule were to become effective 30 days after publication, it would cause delays in processing appeals. An immediate effective date means that appeals received after the rule is published will go directly to Denver to be processed more rapidly. Because an immediate effective date benefits the public and because this is an administrative change, there is a good cause for making this rule effective immediately, as allowed by 5 U.S.C. 553(d)(3). We will include the new OHA address in any Commissioner's decision made under 43 CFR 426.24 that we issue after February 10, 2002.

B. Review Under Procedural Statutes and Executive Orders

We have reviewed this final rule under the following statutes and executive orders governing rulemaking procedures: the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1501 *et seq.*; the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*; the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 801 *et seq.*; the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*; the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*; Executive Order 12630 (Takings); Executive Order 12866 (Regulatory Planning and Review); Executive Order 12988 (Civil Justice Reform); Executive Order 13132 (Federalism); Executive Order 13175 (Tribal Consultation); and Executive Order 13211 (Energy Impacts). We have determined that these rule changes do not trigger any of the procedural requirements of those statutes and executive orders because this final rule merely changes the mailing address where appeals of acreage limitation final determinations and Commissioner decisions are to be sent.

List of Subjects in 43 CFR Part 426

Administrative practice and procedure, Irrigation, Reclamation, Reporting and recordkeeping requirements.

Dated: February 6, 2002.

R. Thomas Weimer,

Acting Assistant Secretary—Water and Science.

For the reasons stated in the preamble, Reclamation amends its regulations in 43 CFR part 426 as follows:

PART 426—ACREAGE LIMITATION RULES AND REGULATIONS

1. The authority citation for part 426 continues to read as follows:

Authority: 5 U.S.C. 301; 5 U.S.C. 553; 16 U.S.C. 590z–11; 31 U.S.C. 9701; and 32 Stat. 388 and all acts amendatory thereof or supplementary thereto including, but not limited to, 43 U.S.C. 390aa to 390zz–1, 43 U.S.C. 418, 43 U.S.C. 423 to 425b, 43 U.S.C. 431, 434, 440, 43 U.S.C. 451 to 451k, 43 U.S.C. 462, 43 U.S.C. 485 to 485k, 43 U.S.C. 491 to 505, 43 U.S.C. 511 to 513, and 43 U.S.C. 544.

2. In § 426.24, paragraphs (g)(1) and (g)(2) are revised to read as follows:

§ 426.24 Reclamation decisions and appeals.

* * * * *

(g) * * *

(1) Commissioner, Bureau of Reclamation, Office of Policy, Attention: D–5200, P.O. Box 25007, Denver, Colorado 80225.

(2) Director, Office of Hearings and Appeals, Department of the Interior, 801 North Quincy Street, Arlington, Virginia 22203.

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Monday,
March 25, 2002

Part III

Department of the Interior

Bureau of Reclamation

43 CFR Part 426

Acreage Limitation Rules and Regulations—Changes to Addresses for Submitting Appeals; Final Rule

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

43 CFR Part 426

RIN 1006–AA43

Acreage Limitation Rules and Regulations—Changes to Addresses for Submitting Appeals

AGENCY: Bureau of Reclamation, Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Reclamation (Reclamation) is revising its regulations governing acreage limitation appeals to reflect a change of address for submitting appeals to the Commissioner of Reclamation and a change of address for submitting appeals to the Office of Hearings and Appeals (OHA). The change of address for the Commissioner is being made to facilitate the processing of appeals, while the change of address for OHA is needed because that agency is moving to a new building in Arlington, Virginia, effective February 11, 2002.

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II. Procedural Requirements

A. Determination To Issue Final Rule Effective in Less Than 30 Days

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We have determined that there is good cause to waive the requirement of publication 30 days in advance of the rule's effective date under 5 U.S.C. 553(d)(3). The timing of OHA's relocation is dictated by the construction schedule for the building to which OHA is moving. The actual move date was confirmed only in the past few weeks. If the changes in this rule were to become effective 30 days after publication, it would cause delays in processing appeals. An immediate effective date means that appeals received after the rule is published will go directly to Denver to be processed more rapidly. Because an immediate effective date benefits the public and because this is an administrative change, there is a good cause for making this rule effective immediately, as allowed by 5 U.S.C. 553(d)(3). We will include the new OHA address in any Commissioner's decision made under 43 CFR 426.24 that we issue after February 10, 2002.

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List of Subjects in 43 CFR Part 426

Administrative practice and procedure, Irrigation, Reclamation, Reporting and recordkeeping requirements.

Dated: February 6, 2002.

R. Thomas Weimer,

Acting Assistant Secretary—Water and Science.

For the reasons stated in the preamble, Reclamation amends its regulations in 43 CFR part 426 as follows:

PART 426—ACREAGE LIMITATION RULES AND REGULATIONS

1. The authority citation for part 426 continues to read as follows:

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2. In § 426.24, paragraphs (g)(1) and (g)(2) are revised to read as follows:

§ 426.24 Reclamation decisions and appeals.

* * * * *

(g) * * *

(1) Commissioner, Bureau of Reclamation, Office of Policy, Attention: D–5200, P.O. Box 25007, Denver, Colorado 80225.

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REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT MARCH 25, 2002

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Hass avocado promotion, research, and information order

Correction; published 3-25-02

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Plant-related quarantine, domestic:

Black stem rust; published 2-22-02

AGRICULTURE DEPARTMENT

Farm Service Agency

Program regulations:

Farm loan programs account servicing policies; reduction of amortized shared appreciation recapture amortization rate; published 2-21-02

AGRICULTURE DEPARTMENT

Rural Business-Cooperative Service

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Farm loan programs account servicing policies; reduction of amortized shared appreciation recapture amortization rate; published 2-21-02

AGRICULTURE DEPARTMENT

Rural Housing Service

Program regulations:

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AGRICULTURE DEPARTMENT

Rural Utilities Service

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Agricultural Marketing Service

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Agricultural Marketing 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 ''PLUS'' (Public Laws Update Service) on 202–523–6641. This list is also available online at *http://www.nara.gov/fedreg/plawcurr.html*.

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S. 1857/P.L. 107–153

To encourage the negotiated settlement of tribal claims. (Mar. 19, 2002; 116 Stat. 79)

Last List March 19, 2002

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150–189	(869–044–00153–5)	52.00	July 1, 2001
190–259	(869–044–00154–3)	34.00	July 1, 2001
260–265	(869–044–00155–1)	45.00	July 1, 2001
266–299	(869–044–00156–0)	45.00	July 1, 2001
300–399	(869–044–00157–8)	41.00	July 1, 2001
400–424	(869–044–00158–6)	51.00	July 1, 2001
425–699	(869–044–00159–4)	55.00	July 1, 2001
700–789	(869–044–00160–8)	55.00	July 1, 2001
790–End	(869–044–00161–6)	44.00	July 1, 2001
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–044–00162–4)	22.00	July 1, 2001
101	(869–044–00163–2)	45.00	July 1, 2001
102–200	(869–044–00164–1)	33.00	July 1, 2001
201–End	(869–044–00165–9)	24.00	July 1, 2001
42 Parts:			
1–399	(869–044–00166–7)	51.00	Oct. 1, 2001
400–429	(869–044–00167–5)	59.00	Oct. 1, 2001
430–End	(869–044–00168–3)	58.00	Oct. 1, 2001
43 Parts:			
1–999	(869–044–00169–1)	45.00	Oct. 1, 2001
1000–end	(869–044–00170–5)	56.00	Oct. 1, 2001
44	(869–044–00171–3)	45.00	Oct. 1, 2001
45 Parts:			
1–199	(869–044–00172–1)	53.00	Oct. 1, 2001
200–499	(869–044–00173–0)	31.00	Oct. 1, 2001
500–1199	(869–044–00174–8)	45.00	Oct. 1, 2001
1200–End	(869–044–00175–6)	55.00	Oct. 1, 2001
46 Parts:			
1–40	(869–044–00176–4)	43.00	Oct. 1, 2001
41–69	(869–044–00177–2)	35.00	Oct. 1, 2001
70–89	(869–044–00178–1)	13.00	Oct. 1, 2001
90–139	(869–044–00179–9)	41.00	Oct. 1, 2001
140–155	(869–044–00180–2)	24.00	Oct. 1, 2001
156–165	(869–044–00181–1)	31.00	Oct. 1, 2001
166–199	(869–044–00182–9)	42.00	Oct. 1, 2001
200–499	(869–044–00183–7)	36.00	Oct. 1, 2001
500–End	(869–044–00184–5)	23.00	Oct. 1, 2001
47 Parts:			
0–19	(869–044–00185–3)	55.00	Oct. 1, 2001
20–39	(869–044–00186–1)	43.00	Oct. 1, 2001
40–69	(869–044–00187–0)	36.00	Oct. 1, 2001
70–79	(869–044–00188–8)	58.00	Oct. 1, 2001
80–End	(869–044–00189–6)	55.00	Oct. 1, 2001
48 Chapters:			
1 (Parts 1–51)	(869–044–00190–0)	60.00	Oct. 1, 2001
1 (Parts 52–99)	(869–044–00191–8)	45.00	Oct. 1, 2001
2 (Parts 201–299)	(869–044–00192–6)	53.00	Oct. 1, 2001
3–6	(869–044–00193–4)	31.00	Oct. 1, 2001
7–14	(869–044–00194–2)	51.00	Oct. 1, 2001
15–28	(869–044–00195–1)	53.00	Oct. 1, 2001
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49 Parts:			
1–99	(869–044–00197–7)	55.00	Oct. 1, 2001
100–185	(869–044–00198–5)	60.00	Oct. 1, 2001
186–199	(869–044–00199–3)	18.00	Oct. 1, 2001
200–399	(869–044–00200–1)	60.00	Oct. 1, 2001
400–999	(869–044–00201–9)	58.00	Oct. 1, 2001
1000–1199	(869–044–00202–7)	26.00	Oct. 1, 2001

Title	Stock Number	Price	Revision Date
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50 Parts:			
1–199	(869–044–00204–3)	63.00	Oct. 1, 2001
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600–End	(869–044–00206–0)	55.00	Oct. 1, 2001
CFR Index and Findings Aids	(869–044–00047–4)	56.00	Jan. 1, 2001
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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2000, through January 1, 2001. The CFR volume issued as of January 1, 2000 should be retained.

[5] No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2001. The CFR volume issued as of April 1, 2000 should be retained.

[6] No amendments to this volume were promulgated during the period July 1, 2000, through July 1, 2001. The CFR volume issued as of July 1, 2000 should be retained.

[7] No amendments to this volume were promulgated during the period January 1, 2001, through January 1, 2002. The CFR volume issued as of January 1, 2001 should be retained..