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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 922

[Docket No. FV02–922–1 FR]

Apricots Grown in Designated Counties in Washington; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule increases the assessment rate established for the Washington Apricot Marketing Committee (Committee) for the 2002–03 and subsequent fiscal periods from $2.00 to $2.50 per ton of apricots handled. The Committee locally administers the marketing order which regulates the handling of apricots grown in designated counties in Washington. Authorization to assess apricot handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal period began April 1 and ends March 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

EFFECTIVE DATE: August 26, 2002.

FOR FURTHER INFORMATION CONTACT: Teresa Hutchinson, Northwest Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, suite 385, Portland, OR 97204; telephone: (503) 326–2724, Fax: (503) 326–7440; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938.

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

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 132 and Marketing Order No. 922, both as amended (7 CFR part 922), regulating the handling of apricots grown in designated counties in Washington, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, Washington apricot handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as proposed herein will be applicable to all assessable apricots beginning on April 1, 2002, and continue until amended, suspended, or terminated. 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 increases the assessment rate established for the Committee for the 2002–03 and subsequent fiscal periods from $2.00 to $2.50 per ton of apricots handled.

The Washington apricot marketing order provides authority for the Committee, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are growers and handlers of Washington apricots. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 1997–98 and subsequent fiscal periods, the Committee recommended, and USDA approved, an assessment rate that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other information available to USDA.

The Committee met on May 15, 2002, and unanimously recommended 2002–03 expenditures of $11,685 and an assessment rate of $2.50 per ton of apricots. In comparison, last year's budgeted expenditures were $11,230. The recommended rate is $.50 higher than the rate currently in effect. The increase is necessary to offset an increase in salaries and operating expenses, and an anticipated decrease in production due to the adverse effect of cooler temperatures on the size and quality of the 2002 apricot crop.

The major expenditures recommended by the Committee for the 2002–03 fiscal period include $5,892 for salaries, $1,000 for travel, $816 for rent and maintenance, and $540 for office equipment and repair. Budgeted expenses for these items in 2001–2002 were $5,731, $1,000, $792, and $264, respectively.

Washington apricot shipments for 2002 are estimated at 3,650 tons which should provide $9,125 in assessment income. This income, along with approximately $2,540 from the Committee's authorized reserve, should be adequate to cover budgeted expenses. Funds in the reserve (currently $8,257) would be kept within the maximum

permitted by the order. The order permits an operating reserve in an amount not to exceed approximately one fiscal period's operational expenses (§ 922.42).

The assessment rate established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate will be in effect for an indefinite period, the Committee will continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 2002–03 budget and those for subsequent fiscal periods will be reviewed and, as appropriate, approved by USDA.

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 rule 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 the 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 200 producers of apricots in the production area and approximately 30 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000.

Based on a three-year average fresh apricot production of 4,406 tons (Committee records), a three-year average of producer prices of $832 per ton reported by the National Agricultural Statistics Service, and 200 Washington apricot producers, the average annual producer revenue is approximately $18,329. In addition, based on Committee records and 2001 F.O.B. prices ranging from $14.50 to $22.50 per 24-pound container reported by USDA's Market News Service, all of the Washington apricot handlers ship under $5,000,000 worth of apricots. In view of the foregoing, it can be concluded that all of the Washington apricot producers and handlers may be classified as small entities.

This rule increases the assessment rate established for the Committee and collected from handlers for the 2002–03 and subsequent fiscal periods from $2.00 to $2.50 per ton of apricots. The Committee unanimously recommended 2002–03 expenditures of $11,685 and an assessment rate of $2.50 per ton. The increased assessment rate is $.50 higher than the 2001–02 rate. The quantity of assessable apricots for the 2002–03 fiscal period is estimated at 3,650 tons. Income derived from handler assessments (approximately $9,125), along with funds from the Committee's authorized reserve, should be adequate to cover budgeted expenses.

The major expenditures recommended by the Committee for the 2002–03 fiscal period include $5,892 for salaries, $1,000 for travel, $816 for rent and maintenance, and $540 for office equipment and repair. Budgeted expenses for these items in 2001–02 were $5,731, $1,000, $792, and $264, respectively.

The assessment rate increase is necessary to offset increases in salaries and operating expenses, and an anticipated decrease in production due to the adverse effect of cooler temperatures on the size and quality of the 2002 apricot crop. As of March 31, 2002, the Committee's reserve was $8,257. At the previous assessment rate of $2.00 per ton and an estimated 2002 apricot production of 3,650 tons, the projected reserve on March 31, 2003, would have been $3,872. The Committee believed that such a level of reserve would not have been adequate should there have been another reduced crop. At the rate of $2.50 per ton (assessment income of $9,125) and expenditures of $11,685, the Committee may need to draw up to $2,540 from its reserve. If reserve funds in this amount are needed, the projected reserve will be approximately $5,697 on March 31, 2003, which the Committee determined to be acceptable.

The Committee considered alternate levels of assessment but determined that increasing the assessment rate to $2.50 per ton is adequate to maintain the reserve at an acceptable level. The Committee decided that an assessment rate between $2.00 per ton and $2.50 per ton would not have maintained the reserve at an adequate level. Prior to arriving at this rate of assessment, the Committee considered information from various sources, such as the Committee's Finance and Executive Committees.

A review of historical information and preliminary information pertaining to the upcoming fiscal period indicates that the producer price for the 2002–03 fiscal period could range between $800 and $850 per ton of apricots. Therefore, the estimated assessment revenue for the 2002–03 as a percentage of total producer revenue could range between 0.31 and 0.29 percent.

This action increases the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs are offset by the benefits derived by the operation of the order. In addition, the Committee's meeting was widely publicized throughout the Washington apricot industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the May 15, 2002, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

This rule imposes no additional reporting or recordkeeping requirements on either small or large Washington apricot handlers. 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.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A proposed rule concerning this action was published in the **Federal Register** on July 1, 2002 (67 FR 44095). Washington apricot handlers were also notified of the increased assessment rate. Finally, the proposal was made available through the Internet by the Office of the Federal Register and USDA. A 30-day comment period ending July 31, 2002, was provided for interested persons to respond to the proposal. No comments were 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 Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The 2002–03 fiscal period began on April 1, 2002, and the order requires that the rate of assessment for each fiscal period apply to all assessable apricots handled during such fiscal period; (2) the Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; and (3) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years.

List of Subjects in 7 CFR Part 922

Apricots, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 922 is amended as follows:

PART 922—APRICOTS GROWN IN DESIGNATED COUNTIES IN WASHINGTON

1. The authority citation for 7 CFR part 922 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 922.235 is revised to read as follows:

§ 922.235 Assessment rate.

On and after April 1, 2002, an assessment rate of $2.50 per ton is established for the Washington Apricot Marketing Committee.

Dated: August 19, 2002.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 02–21538 Filed 8–22–02; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 925

[Docket No. FV02–925–2 FIR]

Grapes Grown in a Designated Area of Southeastern California; Revision to Container and Pack Requirements

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 which revised the container and pack requirements currently prescribed under the California grape marketing order (order). The order regulates the handling of grapes grown in a designated area of Southeastern California and is administered locally by the California Desert Grape Administrative Committee (Committee). This rule continues in effect the addition of four new containers (38L, 38M, CP, and CP1) to the list of containers authorized for use by grape handlers regulated under the grape order. This rule continues to allow reusable plastic containers (RPCs) in shipping grapes, and continues in effect revisions to lot stamping requirements for RPCs, revisions exempting master containers containing individual consumer packages from the minimum net weight requirements specified under the order, and revisions to marking and minimum net weight requirements for clarity. This rule is expected to help handlers compete more effectively in the marketplace, better meet the needs of buyers, and to improve producer returns.

EFFECTIVE DATE: September 23, 2002.

FOR FURTHER INFORMATION CONTACT: Rose Aguayo, 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) 720–8938.

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

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 925 (7 CFR part 925), as amended, regulating the handling of 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.''

USDA is issuing this rule in conformance with Executive Order 12866.

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

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

This rule continues in effect language in § 925.304 of the order's rules and regulations which added four new containers (38L, 38M, CP, and CP1) to the list of containers authorized for use by grape handlers regulated under the grape order, allowed RPCs in shipping grapes, revised the lot stamping requirements for RPCs, and exempted master containers containing individual consumer packages from the minimum net weight requirements specified under the order. This rule is expected to help handlers compete more effectively in the marketplace, better meet the needs of buyers, and to improve producer returns. The Committee unanimously recommended these changes at its February 12, 2002, meeting and clarified via a fax vote on February 21, 2002.

Addition of Four New Containers and Usage of RPCs

Section 925.52(a)(4) of the grape order provides authority to regulate size, capacity, weight, dimensions, marking, materials, and pack of containers, which may be used in the handling of grapes.

Prior to publication of the interim final rule (67 FR 20607, April 26, 2002), § 925.304(b)(1) of the order's rules and regulations outlined container and pack requirements for grapes and required such grapes to be packed in containers which were new and clean and which otherwise met the requirements of §§ 1380.14, 1380.19(n), 1436.37, and 1436.38 of Title 3: California Code of Regulations (CA Code of Regulations).

Additionally, prior to publication of the above-mentioned interim final rule, §§ 925.304(b)(1)(i) through (b)(1)(iii) of the order's rules and regulations authorized ten containers (28, 38J, 38K, 38Q, 38R, 38S, 38T, 38U, 38V, and a 5 kilo) for use by grape handlers, and also authorized the Committee to approve other types of containers for experimental or research purposes.

Section 925.304(f) states that certain container and pack requirements cited in this regulation are specified in the Code of Regulations and are incorporated by reference and that a notice of any change in these materials will be published in the **Federal Register**.

Container requirements prescribed under the California grape order were revised in January 1998 (63 FR 655, January 7, 1998). In March 1998, the 38L grape lug was added to the CA Code of Regulations, but had not yet been added to the list of approved containers under the Federal order. The 38L grape lug is defined as any container with an inside depth of 7⅝ inches, an outside width of 13 11/16 inches, and an outside length of 16 inches.

Since that time, many retailers had asked handlers to pack grapes in specific RPCs, corrugated lugs, and master containers that are not authorized as containers under § 925.304(b)(1)(i). There are several manufacturers of these containers, and each manufacturer's container dimensions vary slightly. During previous seasons, handlers applied for and obtained Committee approval to use these containers on an experimental basis.

Prior to February 2002, the Grape and Tree Fruit League (League) petitioned the California Department of Food and Agriculture (CDFA) to add the 38M grape lug to the list of standardized containers in the CA Code of Regulations. Standard containers represent container types that are recognized by the industry and adopted by the retail trade. The CDFA expected the 38M grape lug to be standardized in the CA Code of Regulations by May 2002. The 38M grape lug was standardized in the CA Code of Regulations on May 29, 2002.

At its February 12, 2002, meeting, the Committee unanimously recommended and USDA approved adding most of the containers previously approved as experimental containers, including the 38M grape lug, to the list of containers authorized under the order's rules and regulations. In reviewing container dimensions, the Committee concluded that the depth, width, and length dimensions for the 38L, 38M, CP, and CP1 grape lugs encompass the dimensions for the containers previously approved by the Committee for experimental purposes. Therefore, the Committee unanimously recommended, through a fax vote on February 21, 2002, and USDA approved adding the following four containers to the list of ten containers authorized in the order's rules and regulations (67 FR 20607, April 26, 2002):

Container	Depth inside	Width outside	Length outside
38L Grape Lug	7⅝	13 11/16	16
38M Grape Lug	4¼–5¾	15⅜–16	23½–24
CP Grape Lug	3 15/16–4¾	15¾–15 9/16	23½–23¾
CP1 Grape Lug	4¾–5	19½–20	23¾–24

These containers may be constructed of several different materials (*e.g.,* plastic or fiberboard) but should conform to the range of dimensions listed above.

These containers are an integral part of the marketing efforts used by many handlers to meet market demands. Some of these containers are RPCs. Retailers have requested that fruit be shipped in RPCs, as it can be cooled quickly in these containers. This, in turn, helps ensure that the grapes are fresh when they arrive at destination. The use of RPCs may result in substantial savings to retailers for storage and disposal as retailers return RPCs to a central area for cleaning and redistribution. Cost savings may accrue to handlers, as well, since they do not have to buy new containers for each shipment.

Prior to issuance of an interim final rule (67 FR 20607, April 26, 2002), Section 925.304(b)(1) of the rules and regulations required grapes to be packed in new and clean containers. Containers, other than RPCs, are intended to be used once and discarded. RPCs are typically delivered to the retailer, emptied, and returned to the clearinghouse for cleaning and redistribution. As RPCs are reusable, the Committee recommended that the rules and regulations be revised to allow RPCs to be reused, provided such containers are cleaned. Allowing RPCs to be reused is expected to reduce the burden on handlers, as they will not have to apply and obtain Committee approval annually to utilize them.

Adding these four containers to the order's rules and regulations and allowing RPCs to be reused will enable handlers to meet their customer requirements this season. This action will help the industry in providing consumers with high quality grapes, promoting buyer satisfaction, and improving producer returns. This action will not impact the grape import requirements.

Lot Stamping Requirements

Section 925.55 of the order requires inspection and certification of grapes, handled by handlers. Prior to publication of an interim final rule (67 FR 20607, April 26, 2002), § 925.304(b)(4) of the grape order's rules and regulations required containers of grapes to be plainly marked with the lot stamp number corresponding to the lot inspection conducted by an authorized inspector, and specified that such requirement shall not apply to containers in the center tier of a 3 box by 3 box pallet configuration.

During the 2001 season, the Committee approved the use of RPCs for experimental purposes. RPCs are made of plastic and retailers send these reusable containers to a central clearinghouse after use for cleaning and sanitizing. Because RPCs are reusable, these plastic containers do not support markings that are permanently affixed to the container. All markings must be printed on cards which slip into tabs on

the front or sides of the containers. The cards are easily inserted and removed, and further contribute to the efficient use of the container. Because of their unique portability, the industry and inspection service are concerned that the cards on pallets of inspected containers could easily be moved to pallets of uninspected containers.

The industry experimented last season with round adhesive labels on RPCs. The lot stamp number was stamped on the round adhesive label and the label was placed on the RPCs. However, it was difficult to remove the adhesive label in the wash cycle. Additionally, handlers found that workers needed to affix the adhesive label to the RPCs, and inspectors needed to stamp the lot stamp number on the adhesive labels, outside of cold storage facilities. During July 2001, temperatures in the production area reached 100 to 118 degrees Fahrenheit. Committee members estimated that for each hour that grapes were outside of cold storage after harvest, a day's shelf life was lost. Handler members calculated that affixing adhesive labels to RPCs cost the grape industry approximately $0.10 per grape lug in materials and labor. The inspection service and the Committee have presented their concerns to the manufacturers of these types of grape lugs. One manufacturer has indicated a willingness to address the problem by offering an area on the principal display panel where the container markings will adhere to the box. However, the manufacturer believes that this change may not be feasible in the near future.

To address the additional time and cost of affixing adhesive labels to containers, the Committee unanimously recommended and the USDA approved the stamping of lot stamp numbers on two USDA-approved pallet tags, with each pallet tag affixed to opposite sides of each pallet of containers (67 FR 20607, April 26, 2002). The pallets will be wrapped with clear plastic immediately after inspection, ensuring the tags cannot be easily removed, although the tags remain visible beneath the wrap. The Committee estimated that affixing lot stamp numbers to pallet tags would reduce handler costs by $950,000, make handler operations more efficient, and will provide consumers with high quality grapes. Additionally, each lot will be traceable through the lot stamp, since the lot stamp number on the pallet tag corresponds to the lot stamp number annotated on the inspection certificate. This action will not affect imports.

Minimum Net Weight Requirements

Section 925.52(a)(4) of the grape order provides authority to fix the size, capacity, weight, dimensions, markings, materials, and pack of the container, which may be used in the handling of grapes.

Section 925.304(b)(2) of the order's rules and regulations specifies that the minimum net weight of grapes in any container, except for containers containing grapes packed in sawdust, cork, excelsior or similar packing material or packed in bags or wrapped in plastic or paper, and experimental containers, shall be 20 pounds based on the average net weight of grapes in a representative sample of containers.

Prior to publication of an interim final rule (67 FR 20607, April 26, 2002), § 925.340(b)(2) further specified that containers of grapes packed in bags or wrapped in plastic or paper prior to being placed in these containers shall meet a minimum net weight requirement of 18 pounds.

Several years ago, the California Table Grape Commission (Commission) funded a 3-year research project designed to determine if current practices were getting the product to the retailer and ultimately the consumer in the best possible condition. A study of grape packaging was conducted by Dr. Harry Shorey of the University of California at Davis and the University of California at Kearney Agricultural Center at Parlier. The study concluded that the California grape industry should modify container dimensions so that containers will fit better on the standard 48 x 40-inch pallets, and that the container minimum net weights should be reduced to 18 and 20 pounds. Based on these conclusions, the Committee recommended and USDA approved reducing the minimum net weight requirements in March 1996 to enhance the deliverability of grapes (61 FR 11129, March 19, 1996).

Since that time, grape handlers have packed grapes in 18 and 20-pound containers and marked such containers as 18 and 20 pounds. The minimum net weight of grapes in 20-pound containers is based on the average net weight of grapes in a representative sample of containers. The minimum net weight of grapes in 18-pound containers also is based on the average net weight of grapes in a representative sample of containers. The language in § 925.304(b)(2) was changed by an interim final rule (67 FR 20607, April 26, 2002), to specifically provide that containers containing grapes packed in bags or wrapped in plastic or paper prior to being placed in these containers must meet a minimum net weight requirement of 18 pounds based on an average net weight of grapes in a representative sample of containers.

Approximately 95 percent of all grapes shipped during the 2001 season were shipped in 18-pound containers. Grapes normally lose moisture during shipment. To address mislabeling concerns, it is common practice in the industry to pack containers of grapes slightly over the minimum net weight required to allow for shrink, and to mark these containers as 18 or 20 pounds, respectively. Last season, some containers were packed with slightly more than 21 pounds and marked as 21 pounds. Marking containers other than 18 or 20 pounds caused confusion in the marketplace and impacted handler assessments and statistical reporting. Thus, the Committee unanimously recommended at its February 12, 2002, meeting, that containers packed with slightly more than 18 or 20 pounds shall be marked as 18 and 20 pounds, respectively. To address this issue, the text of the interim final rule (67 FR 20607, April 26, 2002) provided that containers other than master containers containing individual consumer packages are to be marked with the minimum net weight of 18 or 20 pounds, as appropriate.

Recently, retailers have requested master containers containing individual consumer packages that weigh a total of 24 pounds, 16 pounds, or 10 pounds. An individual consumer package is a package that is customarily produced and distributed for sale to individuals for their personal consumption.

The Committee discussed the best means of allowing handlers to meet orders for master containers containing individual consumer packages that had different minimum net weight requirements. The Committee estimated that approximately 2 percent of the crop is shipped in master containers containing individual consumer packages and unanimously recommended and USDA approved revising § 925.304(b)(2) to exempt master containers containing individual consumer packages from the minimum net weight requirements of 18 or 20 pounds (67 FR 20607, April 26, 2002). These changes will enable handlers to compete more effectively in the marketplace and to better meet the needs of buyers. These revisions do not impact the grape import regulation.

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 the 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 80 producers of grapes in the production area and approximately 26 handlers subject to regulation under the order. Small agricultural producers are defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000.

Last year, about 69 percent of the handlers could be considered small businesses under SBA's definition and about 31 percent could be considered large businesses. It is estimated that about 88 percent of the producers have annual receipts of less than $750,000. Therefore, the majority of handlers and producers of grapes may be classified as small entities.

This rule continues in effect language in § 925.304 of the order's rules and regulations which added four new containers (38L, 38M, CP, and CP1) to the list of containers authorized for use by grape handlers regulated under the grape order, which covers grapes grown in a designated area of Southeastern California. This rule continues to allow handlers to ship grapes in RPCs, continues in effect the revised the lot stamping requirements for RPCs, and continues to exempt master containers containing individual consumer packages from the minimum net weight requirements specified under the order. Additionally, this rule continues to clarify marking requirements for 18 and 20 pound containers and continues in effect the removal of obsolete language in §§ 925.304(a) and 925.304(b)(iii) that was applicable to the period June 1, 1998, through August 15, 1998.

The order regulates the handling of grapes grown in California and is administered locally by the Committee. This rule is expected to help handlers compete more effectively in the marketplace, better meet the needs of buyers, and to improve producer returns. The Committee unanimously recommended these changes. Authority for these actions is provided in §§ 925.52 and 925.55 of the order.

Addition of Four New Containers and Usage of RPCs

Prior to publication of an interim final rule (67 FR 20607, April 26, 2002), § 925.304(b)(1) of the order's rules and regulations outlined container and pack requirements for grapes and required grapes be packed in containers which were new and clean and which otherwise met the requirements of §§ 1380.14, 1380.19(n), 1436.37, and 1436.38 of CA Code of Regulations.

Prior to publication of an interim final rule, (67 FR 20607, April 26, 2002) §§ 925.304(b)(1)(i) through (b)(1)(iii) of the order's rules and regulations authorized ten containers for use by grape handlers, and also authorized the Committee to approve other types of containers for experimental or research purposes.

Section 925.304(f) states that certain container and pack requirements cited in this regulation are specified in the Code of Regulations and are incorporated by reference and that a notice of any change in these materials will be published in the **Federal Register**.

Container requirements prescribed under the California grape order were revised in January 1998 (63 FR 655, January 7, 1998). In March 1998, the 38L grape lug was added to the CA Code of Regulations, but had not yet been added to the list of approved containers under the order. The 38L grape lug is defined as any container with an inside depth of 7⅝ inches, an outside width of 13 11/16 inches, and an outside length of 16 inches.

Since that time, many retailers have asked handlers to pack grapes in specific RPCs, corrugated lugs, and master containers that are not authorized as containers under § 925.304(b)(1)(i). There are several manufacturers of these containers, and each manufacturer's container dimensions vary slightly. During previous seasons, handlers applied for and obtained Committee approval to use these containers on an experimental basis.

Prior to the Committee's February 12, 2002, meeting, the League had petitioned the CDFA to add the 38M grape lug to its list of standardized containers in the CA Code of Regulations. Standard containers represent container types that are recognized by the industry and adopted by the retail trade.

The range of dimensions allowed for the 38M grape lug encompasses the dimensions of many of the containers used experimentally during previous seasons, including some RPCs. The CDFA expected to standardize the 38M grape lug in the Code of Regulations by May 2002. The 38M grape lug was standardized in the Code of Regulations effective May 29, 2002.

At its February 12, 2002, meeting, the Committee unanimously recommended adding most of the containers previously approved as experimental containers during the 2001 season, including the 38M grape lug, to the list of containers authorized under the order's rules and regulations. In reviewing container dimensions, the Committee concluded that the 38L, 38M, CP, and CP1 grape lugs' depth, width, and length dimensions will encompass the containers previously approved by the Committee for experimental purposes. Therefore, the Committee unanimously recommended, through a fax vote on February 21, 2002, and USDA approved adding the following four containers to the list of ten containers authorized in the order's rules and regulations (67 FR 20607, April 26, 2002):

Container	Depth inside	Width outside	Length outside
38L Grape Lug	7⅝	13 11/16	16
38M Grape Lug	4¼–5¾	15⅜–16	23½–24
CP Grape Lug	3 15/16–4¾	15¾–15 9/16	23½–23¾
CP1 Grape Lug	4¾–5	19½–20	23¾–24

These containers may be constructed of several different materials (*e.g.,* plastic or fiberboard) but should conform to the range of dimensions listed above.

The Committee discussed alternatives to this change, including making no changes to the list of containers authorized under the grape order's rules and regulations. The Committee determined that the 38L, 38M, CP, and

CP1 grape lugs should be added to the rules and regulations as these containers are an integral part of the marketing efforts used by many handlers to meet market demands. Some of these containers are RPCs. Retailers have requested that fruit be shipped in RPCs, as it can be cooled quickly in them, helping to ensure freshness. The use of RPCs may result in substantial savings to retailers for storage and disposal as retailers return RPCs to a central area for cleaning and redistribution. Cost savings may accrue to handlers, as well, since they do not have to buy new containers for each shipment.

Prior to publication of an interim final rule (67 FR 20607, April 26, 2002), Section 925.304(b)(1) of the rules and regulations required such grapes to be packed in new and clean containers. Containers, other than RPCs, are intended to be used once and discarded. RPCs are typically delivered to the retailer, emptied, and returned to the clearinghouse for cleaning and redistribution. As RPCs are reusable, the Committee recommended that the rules and regulations be revised to allow RPCs to be reused, provided such containers are cleaned. Allowing cleaned RPCs to be reused is expected to help handlers better meet buyer needs.

Adding these four containers to the rules and regulations will enable handlers to meet their customer requirements this season. This action will continue to help the industry in providing consumers with high quality grapes, promoting buyer satisfaction, and improving producer returns. This action will not impact the grape import requirements.

Lot Stamping Requirements

Prior to publication of an interim final rule (67 FR 20607, April 26, 2002), Section 925.304(b)(4) of the grape order's rules and regulations required containers of grapes to be plainly marked with the lot stamp number corresponding to the lot inspection conducted by an authorized inspector, and specified that such requirement shall not apply to containers in the center tier in a 3 box by 3 box pallet configuration.

During the 2001 season, the Committee approved usage of RPCs for experimental purposes. RPCs are made of plastic and retailers send these reusable containers to a central clearinghouse after use for cleaning and sanitizing. Because RPCs are reusable, these plastic containers do not support markings that are permanently affixed to the container. All markings must be printed on cards, which slip into tabs on the front or sides of the containers. The cards are easily inserted and removed, and further contribute to the efficient use of the container. Because of their unique portability, the industry and inspection service are concerned that the cards on pallets of inspected containers could easily be moved to pallets of uninspected containers.

The industry experimented last season with round adhesive labels on RPCs. The lot stamp number was stamped on the round adhesive label and the label was placed on the RPCs. However, manufacturers found that it was difficult to remove in the wash cycle. Additionally, handlers found that workers need to affix the adhesive label to the RPCs, and inspectors needed to stamp the lot stamp number on the adhesive labels, outside of cold storage facilities. During July 2001, temperatures in the production area reached 100 to 118 degrees Fahrenheit. Committee members estimated that for each hour that grapes were outside of cold storage after harvest, a day's shelf life was lost. Handler members calculated that affixing adhesive labels to RPCs cost the grape industry approximately $0.10 per grape lug in materials and labor. The inspection service and the Committee have presented their concerns to the manufacturers of these types of grape lugs. One manufacturer has indicated a willingness to address the problem by offering an area on the principle display panel where the container markings will adhere to the box, which will meet the needs of the industries, the inspection service, and the manufacturer. However, the manufacturer believes that this change may not be feasible in the near future.

To address the additional time and cost of affixing adhesive labels to containers, the Committee unanimously recommended the stamping of lot stamp numbers be on two USDA-approved pallet tags, with each pallet tag affixed to opposite sides of each pallet of containers. The pallets will be wrapped with clear plastic immediately after inspection ensuring the tags cannot be easily removed, although the tags remain visible beneath the wrap. The Committee estimated that affixing lot stamp numbers to pallet tags would reduce handler costs by $950,000, make handler operations more efficient, and will provide consumers with high quality grapes. Additionally, each lot will be traceable through the lot stamp, since the lot stamp number on the pallet tag corresponds to the lot stamp number annotated on the inspection certificate.

The Committee discussed alternatives to this change, including making no changes to the lot stamp-numbering requirement. The Committee believes that relaxing the lot stamp numbering requirement under the rules and regulations will result in better quality grapes being shipped to consumers, a reduction in handler costs, and improved producer returns. Thus, the Committee recommended and USDA approved revising § 925.304(b)(4) to require the number be stamped on two USDA-approved pallet tags for RPCs, and that the pallet tags be placed on opposite sides of each pallet (67 FR 20607, April 26, 2002). This action will not affect imports.

Minimum Net Weight Requirements

Section 925.304(b)(2) of the order's rules and regulations specifies that the minimum net weight of grapes in any container, except for containers containing grapes packed in sawdust, cork, excelsior or similar packing material or packed in bags or wrapped in plastic or paper. It specifies that approved experimental containers shall be 20 pounds based on the average net weight of grapes in a representative sample of containers.

Prior to publication of an interim final rule (67 FR 20607, April 26, 2002), § 925.340(b)(2) further specified that containers of grapes packed in bags or wrapped in plastic or paper prior to being placed in these containers shall meet a minimum net weight requirement of 18 pounds.

Several years ago, the Commission funded a 3-year research project designed to determine if current practices were getting the product to the retailer and ultimately the consumer in the best possible condition. A study of grape packaging was conducted by Dr. Harry Shorey of the University of California at Davis and the University of California at Kearney Agricultural Center at Parlier. The study concluded that the California grape industry should modify container dimensions so that containers will fit better on the standard 48 x 40-inch pallets, and that the container minimum net weights should be reduced to 18 and 20 pounds. Based on these conclusions, the Committee recommended and USDA approved reducing the minimum net weight requirements in March 1996 to enhance the deliverability of grapes (61 FR 11129, March 19, 1996).

Since that time, grape handlers have packed grapes in 18 and 20-pound containers and marked such containers as 18 and 20 pounds. Approximately 95 percent of all grapes shipped during the 2001 season were shipped in 18-pound containers. Grapes normally lose moisture during shipment. To address

mislabeling concerns, it is common practice in the industry to pack containers of grapes slightly over the minimum net weight required to allow for shrink, and to mark these containers as 18 or 20 pounds, respectively. Last season, some containers were packed with slightly more than 21 pounds and marked as 21 pounds. Marking containers other than 18 or 20 pounds caused confusion in the marketplace and impacted handler assessments and statistical reporting. Thus, the Committee unanimously recommended at its February 12, 2002, meeting, that containers packed with slightly more than 18 or 20 pounds shall be marked as 18 or 20 pounds, as appropriate. To address this issue, § 925.304(b)(2) was revised to provide that containers other than master containers containing individual consumer packages to be marked with the minimum net weight of 18 or 20 pounds, as appropriate (67 FR 20607, April 26, 2002).

The Committee discussed alternatives to this change. The Committee believes that allowing markings other than 18 or 20-pound markings could cause confusion in the marketplace and may not address the mislabeling concerns as grapes lose moisture and shrink during shipment. Thus, the Committee unanimously recommended at its February 12, 2002, meeting, that the container marking requirements in § 925.304(b)(2) be revised as provided in the interim final rule (67 FR 20607, April 26, 2002).

Recently, retailers have requested master containers containing individual consumer packages that weigh a total of 24 pounds, 16 pounds, or 10 pounds. An individual consumer package is a package that is customarily produced and distributed for sale to individuals for their personal consumption.

The Committee discussed alternatives to this change, including making no change to the minimum net weight requirement for master containers containing individual consumer packages, but believes that providing this exception for mater containers is in the best interest of handlers. The Committee estimated that approximately 2 percent of the crop is shipped in master containers containing individual consumer packages. The 2002 crop was estimated to be 9.5 million lugs. Allowing master containers containing individual consumer packages will enable handlers to market an additional 190,000 lugs of grapes. Therefore, the Committee unanimously recommended and USDA approved revising § 925.304(b)(2) to exempt master containers containing individual consumer packages from the minimum net weight requirements of 18 or 20 pounds. (67 FR 20607, April 26, 2002).

Finally, the language in § 925.304(b)(2) was changed for clarity to specifically provide that containers containing grapes packed in bags or wrapped in plastic or paper prior to being placed in these containers must meet a minimum net weight requirement of 18 pounds based on an average net weight of grapes in a representative sample of containers.

These revisions will enable handlers to compete more effectively in the marketplace and to better meet the needs of buyers. Imported grapes will not be affected by this action.

Removal of Obsolete Language

This rule continues in effect the minor changes to remove obsolete language in paragraphs (a) and (b)(iii) of § 925.304. These paragraphs included references to the period June 1, 1998, through August 15, 1998, which marked the trial usage of the ''DGAC Consumer No. 1 Institutional'' (DGAC) grade.

This rule will not impose any additional reporting or recordkeeping requirements on either small or large grape handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

In addition, as noted in the initial regulatory flexibility analysis, USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

Further, the Committee's meeting was widely publicized throughout the grape industry and all interested persons were invited to attend the meeting and participate in Committee deliberations. Like all Committee meetings, the February 12, 2002, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue. A fax vote was conducted to clarify the recommendation regarding the number and dimensions of containers to be added to the list currently authorized under the grape order. All handlers were provided information on the number and dimensions of containers to be added to the order.

An interim final rule concerning this action was published in the **Federal Register** on April 26, 2002. Copies of the rule were mailed by the Committee's staff to all Committee members and grape handlers. In addition, the rule was made available through the Internet by the Office of the Federal Register and USDA. That rule provided for a 60-day comment period which ended June 25, 2002. No comments were 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 Committee's recommendation, and other information, it is found that finalizing the interim final rule, without change, as published in the **Federal Register** (67 FR 20607, April 26, 2002) will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 925

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

PART 925—GRAPES GROWN IN A DESIGNATED AREA OF SOUTHEASTERN CALIFORNIA

Accordingly, the interim final rule amending 7 CFR part 925 which was published at 67 FR 20607 on April 26, 2002, is adopted as a final rule without change.

Dated: August 19, 2002.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 02–21536 Filed 8–22–02; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 242

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 100

Subsistence Management Regulations for Public Lands in Alaska, Subpart D; Seasonal Adjustments—Redoubt Lake and Three Southeastern Alaska Lake Systems

AGENCIES: Forest Service, USDA; Fish and Wildlife Service, Interior.

ACTION: Seasonal adjustments.

SUMMARY: This provides notice of the Federal Subsistence Board's in-season management actions to protect sockeye salmon escapement in three Southeastern Alaska lake systems and to

remove unnecessary restrictions on salmon harvest by non-Federally qualified users at Redoubt Lake. The fishing schedules and closures will provide an exception to the Subsistence Management Regulations for Public Lands in Alaska, published in the **Federal Register** on February 7, 2002. Those regulations established seasons, harvest limits, methods, and means relating to the taking of fish and shellfish for subsistence uses during the 2002 regulatory year.

DATES: The Falls Lake, Salmon Lake, and Klag Bay Lake action is effective July 24, 2002, through August 31, 2002. The Redoubt Lake action is effective July 25, 2002, through September 21, 2002.

FOR FURTHER INFORMATION CONTACT: Thomas H. Boyd, Office of Subsistence Management, U.S. Fish and Wildlife Service, telephone (907) 786–3888. For questions specific to National Forest System lands, contact Ken Thompson, Subsistence Program Manager, USDA—Forest Service, Alaska Region, telephone (907) 786–3592.

SUPPLEMENTARY INFORMATION:

Background

Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111–3126) requires that the Secretary of the Interior and the Secretary of Agriculture (Secretaries) implement a joint program to grant a preference for subsistence uses of fish and wildlife resources on public lands in Alaska, unless the State of Alaska enacts and implements laws of general applicability that are consistent with ANILCA and that provide for the subsistence definition, preference, and participation specified in Sections 803, 804, and 805 of ANILCA. In December 1989, the Alaska Supreme Court ruled that the rural preference in the State subsistence statute violated the Alaska Constitution and, therefore, negated State compliance with ANILCA.

The Department of the Interior and the Department of Agriculture (Departments) assumed, on July 1, 1990, responsibility for implementation of Title VIII of ANILCA on public lands. The Departments administer Title VIII through regulations at Title 50, Part 100 and Title 36, Part 242 of the Code of Federal Regulations (CFR). Consistent with Subparts A, B, and C of these regulations, as revised January 8, 1999, (64 FR 1276), the Departments established a Federal Subsistence Board to administer the Federal Subsistence Management Program. The Board's composition includes a Chair appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture; the Alaska Regional Director, U.S. Fish and Wildlife Service; the Alaska Regional Director, National Park Service; the Alaska State Director, Bureau of Land Management; the Alaska Regional Director, Bureau of Indian Affairs; and the Alaska Regional Forester, USDA Forest Service. Through the Board, these agencies participate in the development of regulations for Subparts A, B, and C, which establish the program structure and determine which Alaska residents are eligible to take specific species for subsistence uses, and the annual Subpart D regulations, which establish seasons, harvest limits, and methods and means for subsistence take of species in specific areas. Subpart D regulations for the 2002 fishing seasons, harvest limits, and methods and means were published on February 7, 2002, (67 FR 5890).

Because this rule relates to public lands managed by an agency or agencies in both the Departments of Agriculture and the Interior, identical closures and adjustments would apply to 36 CFR part 242 and 50 CFR part 100.

The Alaska Department of Fish and Game (ADF&G), under the direction of the Alaska Board of Fisheries (BOF), manages sport, commercial, personal use, and State subsistence harvest on all lands and waters throughout Alaska. However, on Federal lands and waters, the Federal Subsistence Board implements a subsistence priority for rural residents as provided by Title VIII of ANILCA. In providing this priority, the Board may, when necessary, preempt State harvest regulations for fish or wildlife on Federal lands and waters.

These adjustments are necessary because of weak returns of the sockeye salmon run in the Afognak Lake, Falls Lake, Salmon Lake, and Klag Bay Lake systems based on in-season run assessments. The adjustment for Redoubt Lake is necessary because of strong returns of sockeye salmon to that lake system. These actions are authorized and in accordance with 50 CFR 100.19(d)–(e) and 36 CFR 242.19(d)–(e).

Southeastern Alaska Lake Systems

The Falls Lake system was closed because sockeye salmon returns were very low, and to avoid excessive harvest effort for this relatively small sockeye population. The current harvest to date has exceeded the previous 5-year average and the weir counts have been very low.

The Salmon Lake system was closed because sockeye salmon returns were very low, and to avoid excessive harvest effort for this relatively small sockeye population. The total escapement to July 23, 2002, was 259 at Salmon Lake. In 2001 total escapement for Salmon Lake was 1039 sockeye salmon.

The Klag Bay Lake system was closed since sockeye salmon returns were very low, and to avoid excessive harvest effort for this relatively small sockeye population. The current harvest to date has exceeded the previous 5-year average and the weir counts have been very low.

This regulatory action was necessary to assure the continued viability of the sockeye salmon runs and provide a long-term subsistence priority during a period of limited harvest opportunity. These closures brought the Federal subsistence fishing regulations in line with the similar ADF&G action for unified management and minimized confusion under the dual management system.

Redoubt Lake

On July 25, 2002, the Federal Subsistence Board suspended the sockeye harvest closure for non-Federally qualified users on the Redoubt Lake system. The projected escapement for 2002 of 32,887 fish is well above the previous 10-year average escapement. As a result of the larger than expected return, the Board suspended the now unnecessary, closure restrictions on non-Federally qualified users. This action also allowed users to fish under a State subsistence fishing permit rather than having to obtain a Federal permit.

The Board finds that additional public notice and comment requirements under the Administrative Procedure Act (APA) for these emergency closures are impracticable, unnecessary, and contrary to the public interest. Lack of appropriate and immediate conservation measures could seriously affect the continued viability of fish populations, adversely impact future subsistence opportunities for rural Alaskans, and would generally fail to serve the overall public interest. Therefore, the Board finds good cause pursuant to 5 U.S.C. 553(b)(3)(B) to waive additional public notice and comment procedures prior to implementation of these actions and pursuant to 5 U.S.C. 553(d)(3) to make this rule effective as indicated in the **DATES** section.

Conformance with Statutory and Regulatory Authorities

National Environmental Policy Act Compliance

A Final Environmental Impact Statement (FEIS) was published on

February 28, 1992, and a Record of Decision on Subsistence Management for Federal Public Lands in Alaska (ROD) was signed April 6, 1992. The final rule for Subsistence Management Regulations for Public Lands in Alaska, Subparts A, B, and C (57 FR 22940–22964, published May 29, 1992) implemented the Federal Subsistence Management Program and included a framework for an annual cycle for subsistence hunting and fishing regulations. A final rule that redefined the jurisdiction of the Federal Subsistence Management Program to include waters subject to the subsistence priority was published on January 8, 1999, (64 FR 1276.)

Compliance with Section 810 of ANILCA

The intent of all Federal subsistence regulations is to accord subsistence uses of fish and wildlife on public lands a priority over the taking of fish and wildlife on such lands for other purposes, unless restriction is necessary to conserve healthy fish and wildlife populations. A Section 810 analysis was completed as part of the FEIS process. The final Section 810 analysis determination appeared in the April 6, 1992, ROD which concluded that the Federal Subsistence Management Program, under Alternative IV with an annual process for setting hunting and fishing regulations, may have some local impacts on subsistence uses, but the program is not likely to significantly restrict subsistence uses.

Paperwork Reduction Act

The adjustment and emergency closures do not contain information collection requirements subject to Office of Management and Budget (OMB) approval under the Paperwork Reduction Act of 1995.

Other Requirements

The adjustments have been exempted from OMB review under Executive Order 12866.

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations, or governmental jurisdictions. The exact number of businesses and the amount of trade that will result from this Federal land-related activity is unknown. The aggregate effect is an insignificant economic effect (both positive and negative) on a small number of small entities supporting subsistence activities, such as boat, fishing gear, and gasoline dealers. The number of small entities affected is unknown; but, the effects will be seasonally and geographically-limited in nature and will likely not be significant. The Departments certify that the adjustments will not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act. Under the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 801 *et seq.*), this rule is not a major rule. It does not have an effect on the economy of $100 million or more, will not cause a major increase in costs or prices for consumers, and 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.

Title VIII of ANILCA requires the Secretaries to administer a subsistence preference on public lands. The scope of this program is limited by definition to certain public lands. Likewise, the adjustments have no potential takings of private property implications as defined by Executive Order 12630.

The Service has determined and certifies pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that the adjustments will not impose a cost of $100 million or more in any given year on local or State governments or private entities. The implementation is by Federal agencies, and no cost is involved to any State or local entities or Tribal governments.

The Service has determined that the adjustments meet the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988, regarding civil justice reform.

In accordance with Executive Order 13132, the adjustments do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. Title VIII of ANILCA precludes the State from exercising management authority over fish and wildlife resources on Federal lands. Cooperative salmon run assessment efforts with ADF&G will continue.

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175, and 512 DM 2, we have evaluated possible effects on Federally recognized Indian tribes and have determined that there are no effects. The Bureau of Indian Affairs is a participating agency in this rulemaking.

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, or use. This Executive Order requires agencies to prepare Statements of Energy Effects when undertaking certain actions. As these actions are not expected to significantly affect energy supply, distribution, or use, they are not significant energy actions and no Statement of Energy Effects is required.

Drafting Information

William Knauer drafted this document under the guidance of Thomas H. Boyd, of the Office of Subsistence Management, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska. Taylor Brelsford, Alaska State Office, Bureau of Land Management; Rod Simmons, Alaska Regional Office, U.S. Fish and Wildlife Service; Bob Gerhard, Alaska Regional Office, National Park Service; Glenn Chen, Alaska Regional Office, Bureau of Indian Affairs; and Ken Thompson, USDA-Forest Service, provided additional guidance.

Authority: 16 U.S.C. 3, 472, 551, 668dd, 3101–3126; 18 U.S.C. 3551–3586; 43 U.S.C. 1733.

Dated: July 25, 2002.

Kenneth E. Thompson,

Subsistence Program Leader, USDA-Forest Service.

Dated: July 25, 2002.

Thomas H. Boyd,

Acting Chair, Federal Subsistence Board.

[FR Doc. 02–21567 Filed 8–22–02; 8:45 am]

BILLING CODE 3410–11–P; 4310–55–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[Region II Docket No. NJ52–243(a); FRL–7264–6]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; State of New Jersey

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On January 15, 2002, the New Jersey State Department of Environmental Protection (NJDEP) submitted a request to EPA to redesignate the New Jersey portion of the New York-Northern New Jersey-Long Island Carbon Monoxide (CO) nonattainment area from nonattainment to attainment of the National Ambient Quality Standard (NAAQS) for CO. EPA is approving this request from the State of New Jersey because it meets the

redesignation requirements set forth in the Clean Air Act. In addition, EPA is approving the New Jersey CO maintenance plan because it provides for continued maintenance of the CO NAAQS.

EPA is also approving the New Jersey CO attainment demonstration that was submitted on August 7, 1998. This provides for full approval of New Jersey's State Implementation Plan (SIP) for CO.

Additionally, EPA is approving the 2007 and 2014 transportation conformity budgets found in New Jersey's CO maintenance plan. Finally, EPA is approving the 1997 transportation conformity budget submitted on December 10, 1999 as an addendum to the New Jersey CO attainment demonstration submitted on August 7, 1998.

The intended effect of this action is to approve a plan that demonstrates that the CO standard has been attained and will continue to be attained.

DATES: This direct final rule will be effective on October 22, 2002 unless EPA receives adverse comments by September 23, 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: Written comments should be addressed to: Raymond Werner, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866.

Copies of the State submittals and EPA's Technical Support Document are available for public inspection during normal business hours, by appointment, at the following addresses:

Environmental Protection Agency, Region 2 Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007–1866

New Jersey Department of Environmental Protection, Office of Energy, Bureau of Air Quality Planning, 401 East State Street, CN027, Trenton, New Jersey 08625

FOR FURTHER INFORMATION CONTACT: Henry Feingersh, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866, (212)637–4249.

SUPPLEMENTARY INFORMATION:

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2. What Was Included in New Jersey's Submittal and Does It Meet the Clean Air Act Requirements?
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6. Administrative Requirements

1. What Is Required by the Clean Air Act and How Does It Apply to New Jersey?

Under the Clean Air Act (CAA) as amended in 1990, air quality designations can be revised if sufficient data is available to warrant such revisions.

Section 107(d)(3)(E) of the CAA identifies five specific requirements that an area must meet in order to be redesignated from nonattainment to attainment.

a. The Area Must Have Attained the Applicable NAAQS

b. The area must have a fully approved SIP under section 110(k) of the CAA.

c. The air quality improvement must be permanent and enforceable.

d. The area must have a fully approved maintenance plan pursuant to section 175A of the CAA.

e. The area must meet all applicable requirements under section 110 and Part D of the CAA.

Pursuant to sections 107, 186, and 187 of the CAA, the New Jersey portion of the New York-Northern New Jersey-Long Island CO nonattainment area is classified as a moderate 2 area (*i.e.,* an area having a CO design value of 12.8—16.4 parts per million, or ppm). The entire non-attainment area is included within the New York-Northern New Jersey-Long Island Consolidated Metropolitan Statistical Area (CMSA). The areas in New Jersey which are designated non-attainment include the Counties of Hudson, Essex, Bergen, and Union and the municipalities of Clifton, Passaic, and Paterson in Passaic County.

The CO design value used for designation and control program development purposes was 13.5 ppm and was based on ambient CO data from a monitor in Kings County, New York. Kings County was chosen because this site recorded the highest CO values in the multistate nonattainment area. (See 56 FR 56694 (November 6, 1991) and 57 FR 56762 (November 30, 1992), codified at 40 CFR 81.333.) For moderate 2 CO nonattainment areas, the CAA required attainment of the National Ambient Air Quality Standard (NAAQS) by December 31, 1995. The remainder of the State of New Jersey is designated attainment for CO.

In the area being redesignated today, there was a measured exceedance of the CO NAAQS in 1994. Consequently, on April 24, 1996, the State of New Jersey submitted a request for a one year extension of the attainment date to December 31, 1996 as allowed for in the CAA if adjoining states concur. On July 31, 1996 and June 27, 1996, the States of New York and Connecticut respectively submitted letters to EPA concurring with New Jersey's request and requested their own extensions. Pursuant to section 186(a)(4), EPA granted the request for a one year extension to December 31, 1996 in a November 5, 1996 **Federal Register** notice (61 FR 56897).

2. What Was Included in New Jersey's Submittal and Does It Meet the Clean Air Act Requirements?

On August 7, 1998, New Jersey submitted its CO attainment demonstration. This proposed revision is contained in a document entitled ''State Implementation Plan (SIP) Revision for the Attainment and Maintenance of the Carbon Monoxide National Ambient Air Quality Standards—Attainment Demonstration for the New Jersey Portion of the New York-Northern New Jersey-Long Island Carbon Monoxide Nonattainment Area.'' The State held a public hearing for this SIP revision on August 11, 1997.

In an effort to comply with the CAA and to ensure continued attainment of the NAAQS, on January 15, 2002, the State of New Jersey submitted a CO redesignation request and maintenance plan for the New Jersey portion of the CO nonattainment area. New Jersey held a public hearing for this proposal on December 18, 2001.

The following is a brief description of how the State has fulfilled each of the CAA redesignation requirements.

a. The Area Must Have Attained the Applicable NAAOS

New Jersey's CO air monitoring data shows that from calendar year 1995 through calendar year 2000, no violations of the CO NAAQS have occurred. A violation is considered to have occurred when measured levels exceed the standard more than once at the same CO monitor during a calendar year.

In addition, in order to demonstrate attainment of the CO NAAQS, the data must be quality-assured and not show a violation of the standard for the last two consecutive years. New Jersey's CO data has been quality assured and shows no more than one exceedance of the NAAQS per year over the most recent two complete years of data (1999 and 2000). Moreover, EPA's review of available data for 2001 and the first few

months of 2002 indicates no exceedances of the CO standard since 2000. Therefore, EPA finds that the New Jersey portion of the CMSA has met the first statutory criterion for attainment of the CO NAAQS (40 CFR 50.9 and appendix C).

b. The Area Must Have a Fully Approved SIP Under Section 110(k) of the CAA

The 1990 CAA required that nonattainment areas meet specific new requirements depending on the severity of the nonattainment classification. Requirements for New Jersey include an attainment demonstration, forecast of vehicle miles traveled, the preparation of a 1990 emission inventory with periodic updates, the development of contingency measures, implementation of an enhanced inspection and maintenance (I/M) program, and adherence to the transportation and general conformity rules. In today's action EPA is fully approving New Jersey's January 15, 2002 CO SIP revision as meeting all of the requirements of section 110(a)(2)(I) of the CAA, including the requirements of Part D (relating to nonattainment), which were due prior to the date of New Jersey's redesignation request.

Previously Approved Requirements

New Jersey's emissions inventory and contingency measures were approved by EPA as part of the New Jersey CO SIP on December 7, 1995 (60 FR 62741). Similarly, the vehicle miles traveled forecast was approved on July 25, 1996 (61 FR 38591).

Implementation of New Jersey's enhanced I/M program began on December 13, 1999. After the State successfully demonstrated its decentralized test and repair effectiveness rate credit claim and revised its performance standard modeling to reflect the program as implemented, EPA published a final approval of the enhanced I/M program on January 22, 2002 (67 FR 2811).

Requirements Currently Being Approved

New Jersey submitted an August 7, 1998 CO attainment demonstration to EPA in which all of the modeled intersections attained the 8-hour CO standard of 9 ppm. Since air quality values at the most congested intersections were determined to not exceed the standard, New Jersey has demonstrated that the entire area is and will continue to be in attainment for CO. New Jersey used appropriate modeling techniques and modeling inputs in its demonstration. EPA is, therefore, approving the attainment demonstration at this time. Accordingly, as a result of today's action and the previous EPA actions noted above, New Jersey's CO SIP is fully approved.

Conformity

Section 176 of the CAA contains requirements related to conformity. Although EPA regulations require that states adopt transportation conformity provisions (40 CFR 51.390) and general conformity provisions (40 CFR 51.851) in their SIPs for areas designated nonattainment, or that are subject to an EPA approved maintenance plan, EPA has determined that transportation and general conformity SIPs are not applicable requirements for purposes of evaluating a redesignation request under section 107(d) of the CAA. This decision is reflected in EPA's approval of the Boston, Massachusetts CO redesignation, where EPA modified its national policy regarding the interpretation of the provisions of section 107(d)(3)(E) concerning the applicable requirements for purposes of reviewing a CO redesignation request (61 FR 2918, January 30, 1996).

EPA's decision is based on a combination of two factors. First, the requirement to submit SIP revisions to comply with the conformity provisions of the CAA continues to apply to areas after redesignation to attainment. Therefore, the State remains obligated to adopt the transportation and general conformity rules even after redesignation and would risk sanctions for failure to do so. Unlike most requirements of section 110 and part D, which are linked to the nonattainment status of the area, the conformity requirements apply to both nonattainment and maintenance areas. Second, EPA's federal conformity rules require the performance of conformity analyses in the absence of approved state rules. Therefore, a delay in approving State rules does not relieve an area from the obligation to implement conformity requirements.

New Jersey does not yet have approved transportation and general conformity SIPs, however, EPA may approve this redesignation. Areas are subject to the conformity requirements regardless of whether they are redesignated to attainment and must implement conformity under Federal rules, if State rules are not yet approved. The State has developed new conformity budgets for CO that must be used in future conformity determinations, in accordance with the Federal conformity rules. These budgets are discussed in detail later in this notice. Accordingly, EPA believes it is appropriate to evaluate New Jersey's redesignation request independent of the status of the State's conformity regulations.

Part D New Source Review Requirements

Consistent with the October 14, 1994 EPA guidance from Mary D. Nichols, entitled ''Part D New Source Review (Part D NSR) Requirements for Areas Requesting Redesignation to Attainment,'' EPA is not requiring full approval of a Part D NSR program by New Jersey as a prerequisite to redesignation to attainment. Under this guidance, nonattainment areas may be redesignated to attainment notwithstanding the lack of a fully approved Part D NSR program so long as the program is not relied upon for maintenance. New Jersey has not relied on a NSR program to maintain air quality within the CO standard. Moreover, because the New Jersey portion of the CO nonattainment area is being redesignated to attainment by this action, New Jersey's Prevention of Significant Deterioration (PSD) requirements, not Part D NSR, will be applicable to new or modified sources of CO.

c. The Air Quality Improvement Must Be Permanent and Enforceable

As part of the August 7, 1998 CO SIP revision, New Jersey submitted a demonstration that the improvement in air quality within the nonattainment area is due to permanent and enforceable reductions in emissions of CO resulting from implementation of a number of measures to control motor vehicle CO emissions. These measures include the Federal Motor Vehicle Control Program, Federal reformulated gasoline regulation, and New Jersey's pre-1990 modifications to its motor vehicle I/M program.

The State of New Jersey has demonstrated that actual enforceable emission reductions are responsible for the air quality improvement and that the CO emissions in the base year are not artificially low due to, for example, a local economic downturn. EPA finds that the combination of existing EPA-approved SIP and federal measures contribute to the permanence and enforceability of reduction in ambient CO levels that have allowed New Jersey to attain the NAAQS since 1995.

d. The Area Must Have a Fully Approved Maintenance Plan Pursuant to Section 175A of the CAA

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. The plan

must demonstrate continued attainment of the applicable NAAQS for at least ten years after EPA approves a redesignation to attainment. Eight years after the redesignation, a state must submit a revised maintenance plan which demonstrates attainment for the ten years following the initial ten-year period. To provide for the possibility of future NAAQS violations, the maintenance plan must contain contingency measures, with a schedule for implementation adequate to assure prompt correction of any air quality problems should they arise. In this action, EPA is approving New Jersey's maintenance plan because EPA finds that New Jersey's submittal meets the requirements of section 175A.

1996 Attainment Year Inventory

Sections 172(c)(3) and 187(a)(1) of the CAA require that CO plan provisions include a comprehensive, accurate, and current emission inventory from all sources of relevant pollutants in the nonattainment area. In addition, page 8, section 5a of the September 4, 1992 memorandum from John Calcagni, former Director, Air Quality Management Division, to EPA Regional Air Division Directors entitled ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' requires States to ''develop an attainment inventory to identify the level of emissions in the area which is sufficient to attain the NAAQS. This inventory should be consistent with EPA's most recent guidance on emission inventories for nonattainment areas available at the time and should include emissions during the time period associated with the monitoring data showing attainment.''

New Jersey originally provided an estimate of 1996 attainment year emissions in its August 7, 1998 attainment demonstration. This was supplemented on October 1, 2001, when New Jersey submitted a revised 1996 attainment year CO inventory. The inventory, which is based on the winter time months spanning from December 1995 through February 1996, includes average winter time daily emissions from stationary point sources, stationary area sources, on-road mobile sources, and non-road mobile sources of CO. New Jersey's submittal reflects emission estimates that have been revised to incorporate methodological changes, including new control assumptions and updated vehicle registration data since that original submittal. The inventory was prepared in a manner consistent with EPA's most recent guidance for preparing actual emission inventories. Table I below shows the source sector contributions by county to the overall CO emissions in 1996.

For the reader's information, New Jersey has chosen to use countywide emission inventory values for attainment demonstration and projection purposes in Passaic County, rather than limiting the inventory to the three nonattainment municipalities. The State believes countywide CO inventory and projection values are more technically sound than sub-county estimates would have been in this case and are adequately protective of air quality.

TABLE I.—THE 1996 CARBON MONOXIDE ATTAINMENT EMISSION INVENTORY

County	Carbon Monoxide Emissions (tons per day)				
	Point sources	Area sources	On-road mobile sources	Non-road mobile sources	County totals
Bergen	1.62	28.10	297.77	127.80	455.29
Essex	2.77	11.81	208.70	63.82	287.10
Hudson	8.83	5.15	126.79	42.88	183.64
Passaic	0.72	39.65	141.07	38.74	220.17
Union	4.18	13.98	153.36	47.60	219.11
Sector totals	18.12	98.69	927.69	320.84	1365.31

Grand Total From All Sources: 1365.31 tons per peak winter season day.

EPA has reviewed New Jersey's 1996 attainment year inventory and finds that it was prepared in a manner acceptable to EPA. Therefore, EPA is approving the CO inventory for the counties of Bergen, Essex, Hudson, Union, and Passaic.

Projection Year Inventories

As part of the January 15, 2002 SIP submittal, New Jersey included projection year inventories for 2007 and 2014. These emissions, which reflect post-1996 control measure assumptions, are provided in Table 2 below in comparison to the 1996 attainment year inventory.

TABLE 2.—THE 1996 ATTAINMENT AND 2007 AND 2014 PROJECTED CARBON MONOXIDE SEASON CARBON MONOXIDE EMISSION INVENTORIES BY COUNTY

County	1996 Attainment Emission Inventory (tons/day)	2007 Projected Emission Inventory (tons/day)	2014 Projected Emission Inventory (tons/day)
Bergen	455.29	350.56	381.01
Essex	287.10	209.08	222.18
Hudson	183.64	118.20	130.76
Passaic	220.17	163.46	171.53
Union	219.11	156.41	166.45
Totals	1365.31	997.71	1071.93

Based on the projections provided above, New Jersey estimates that total CO emissions within the nonattainment area will decrease from 1,365.31 tons per day in the 1996 attainment year to 1,071.93 tons per day in 2014. Such a reduction in CO emissions clearly supports New Jersey's contention that the CO NAAQS will be maintained into the forseeable future. Both the attainment and projected inventories submitted by New Jersey were prepared in accordance with EPA's most recent guidance. The attainment year and projection year totals in Tables 1 and 2 show that the future CO emissions are expected to be below the level of emissions in the attainment year and takes into account national, regional, and local (state) emission reduction benefits from the following control programs: Tier I—Post 1990 Federal Motor Vehicle Control Program; Federal Reformulated Gasoline; National Low Emission Vehicle Program; Enhanced Inspection and Maintenance Program; and Phase I of the Federal Spark Ignition Small Engine Rule. For more details on how New Jersey prepared its attainment year and projection year inventories, the reader is referred to the technical support document which accompanies this action. EPA finds that New Jersey has projected its 2007 and 2014 emissions using appropriate growth factors and methodology and is therefore, approving the CO projection year inventories for the counties of Bergen, Essex, Hudson, Union, and Passaic.

Transportation Conformity Budgets

The submittal included transportation conformity budgets based on the control strategies, growth projections and assumptions used in the attainment demonstration and maintenance plans for the CO nonattainment area. Table 3 presents the 1997, 2007 and 2014 CO transportation conformity budgets in tons of CO per winter day. The transportation conformity budget for 1997 was submitted on December 10, 1999 as an addendum to the New Jersey CO attainment demonstration submitted by NJDEP on August 7, 1998. EPA announced its findings that the 1997 budget was adequate for transportation conformity purposes on June 9, 2000 (65 FR 36689). The transportation conformity budgets for 2007 and 2014 were included in the maintenance plan portion of the January 15, 2002 submittal. EPA sent a letter to NJDEP on April 22, 2002 stating that the 2007 and 2014 CO budgets are adequate for transportation conformity purposes. This finding was published in the **Federal Register** on May 8, 2002 at 67 FR 30915. These budgets are consistent with the State's emission baseline and projected inventories for highway mobile sources. EPA is now approving the 1997, 2007, and 2014 transportation conformity budgets for CO.

TABLE 3.—CARBON MONOXIDE TRANSPORTATION CONFORMITY BUDGETS

(tons of CO/winter day)

Year	CO (tons/winter day)
1997	690.43
2007	492.41
2014	490.45

Monitoring Network

New Jersey has committed to continue to operate its existing air monitoring network and quality assurance program in accordance with 40 CFR part 58 to ensure the development of complete and accurate air monitoring data.

Verification of Continued Attainment

Continued attainment of the CO NAAQS in New Jersey depends, in part, on the State's efforts toward tracking indicators of continued attainment during the maintenance period. The State has projected CO emissions out to 2014 with the interim year of 2007. New Jersey will review monitoring data each year and will check for trends. If upward trends are observed, the State will review conditions to determine the cause of the increase. If this review does not reveal the cause of the increase and an exceedance is possible, emission estimates will be generated and compared to those from the 1996 attainment inventory. New Jersey has committed to report to EPA within six months of finding any upward air quality trends.

EPA is approving the State of New Jersey's plans for verifying continued attainment of the CO standard and for identifying areas at risk of exceeding the CO standard.

Contingency Plan

The level of CO emissions in New Jersey will largely determine its ability to stay in compliance with the CO NAAQS in the future. Despite the State's best efforts to demonstrate continued compliance with the NAAQS, it is possible that the ambient air pollutant concentrations may exceed or violate the NAAQS based upon some unforeseeable condition. In order to avoid this, the CAA requires states to develop contingency measures to offset unexpected emission increases. New Jersey has committed to implement a set of actions which will reduce truck idling emissions. In addition, the State will work with the local metropolitan planning organization, the North Jersey Transportation Planning Authority, to implement various transportation control measures.

e. The Area Must Meet All Applicable Requirements Under Section 110 and Part D of the CAA

In section 2.b. of this document EPA sets forth the basis for its conclusion that New Jersey has a fully approved SIP which meets the applicable requirements of section 110 and Part D of the CAA. EPA notes that section 110 also requires that states include in their SIPs, where applicable, oxygenated gasoline programs. The oxygenated fuels program was removed from the New Jersey SIP because the entire CMSA, including the New York and Connecticut portions, were attaining the CO NAAQS. Consequently, the State demonstrated to EPA's satisfaction that the program was no longer necessary to continue to attain the CO NAAQS (see 64 FR 63690 (November 22, 1999)).

3. What Are EPA's Findings?

EPA has determined that the information received from the NJDEP constitutes complete redesignation requests under the general completeness criteria of 40 CFR part 51, appendix V, sections 2.1 and 2.2. Additionally, the New Jersey redesignation request meets the five requirements of section 107(d)(3)(E), noted earlier.

4. What Are EPA's Conclusions?

EPA is approving New Jersey's request for redesignating the New Jersey portion of the New York-Northern New Jersey-Long Island CO nonattainment area to attainment, because the State has demonstrated compliance with the requirements of section 107(d)(3)(E) for redesignation. EPA is also approving the New Jersey CO maintenance plan because it meets the requirements set forth in section 175A of the CAA. In addition, EPA is approving the New Jersey CO attainment demonstration that was submitted on August 7, 1998. Finally, EPA is approving the 2007 and 2014 transportation conformity budgets found in New Jersey's CO maintenance plan and the 1997 transportation conformity budget submitted on December 10, 1999 as an addendum to New Jersey's August 7, 1998 CO attainment demonstration.

5. EPA Rulemaking Action

The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial

submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective October 22, 2002 without further notice unless the Agency receives adverse comments by September 23, 2002.

If the EPA receives adverse comments, then EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

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

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

The Congressional Review Act, 5 U.S.C. 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 Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 22, 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, Intergovernmental relations, Reporting and recordkeeping requirements.

40 CFR Part 81

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

Dated: August 7, 2002.

William J. Muszynski,

Deputy Regional Administrator, Region 2.

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 FF—New Jersey

2. Section 52.1581 is added to read as follows:

§ 52.1581 Control strategy: Carbon monoxide.

(a) Approval—The September 28, 1995 revision to the carbon monoxide state implementation plan for Camden County and the Nine not-classified areas (the city of Trenton, the City of Burlington, the Borough of Penns Grove (part), the Borough of Freehold, the City of Morristown, the City of Perth Amboy, the City of Toms River, the Borough of Somerville, and the City of Atlantic City). This revision included a maintenance plan which demonstrated continued attainment of the National Ambient Air Quality Standard for carbon monoxide through the year 2007.

(b) The base year carbon monoxide emission inventory requirement of section 187(a)(1) of the 1990 Clean Air Act Amendments has been satisfied for the entire State. The inventory was submitted on November 15, 1992 and amended on September 28, 1995 by the New Jersey Department of Environmental Protection as a revision to the carbon monoxide State Implementation Plan.

(c) Approval—The November 15, 1992, October 4, 1993, and August 7, 1998 revisions to the carbon monoxide state implementation plan for the New Jersey portion of the New York—Northern New Jersey—Long Island

Carbon Monoxide nonattainment area. This included an attainment demonstration and the control measures needed to attain the National Ambient Air Quality Standard for carbon monoxide. The January 15, 2002, request to redesignate the New Jersey portion of the New York—Northern New Jersey—Long Island Carbon Monoxide nonattainment area from nonattainment to attainment of the National Ambient Air Quality Standard for carbon monoxide. As part of the redesignation request, the State submitted a maintenance plan which demonstrated continued attainment of the National Ambient Air Quality Standard for carbon monoxide through the year 2014.

3. Section 52.1582 is amended by revising the section heading and removing and reserving paragraph (d)(2) to read as follows:

§ 52.1582 Control strategy and regulations: Ozone.

* * * * *

PART 81—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart C—Section 107 Attainment Status Designations

2. In § 81.331, the table for ''New Jersey-Carbon Monoxide'' is amended by revising the entry for ''New York—N. New Jersey—Long Island Area'' to read as follows:

§ 81.331 New Jersey.

* * * * *

NEW JERSEY-CARBON MONOXIDE

Designated Area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
* *	*	*	* *	*
New York-N. New Jersey-Long Island Area:				
Bergen	October 22, 2002	Attainment.		
Essex County	do	Attainment.		
Hudson County	do	Attainment.		
Passaic County (part)				
City of Clifton	do	Attainment.		
City of Paterson	do	Attainment.		
City of Passaic	do	Attainment.		
Union County	do	Attainment.		
* *	*	*	* *	*

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

* * * * *

[FR Doc. 02–21283 Filed 8–22–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[CA–082–FOAa; FRL–7263–9]

Determination of Attainment of the 1-Hour Ozone Standard for San Diego County, CA

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: This rulemaking contains EPA's final determination that the San Diego area has attained the 1-hour ozone air quality standard by the deadline required by the Clean Air Act. If adverse written comments are received, we will withdraw the direct final rule and address the comments received in a new final rule; otherwise no further rulemaking will occur on this action. Elsewhere in this issue of the **Federal Register**, we are proposing to make this finding of attainment.

DATES: This direct final finding is effective October 22, 2002, without further notice, unless we receive adverse comments by September 23, 2002. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

ADDRESSES: Please address your comments to: Dave Jesson, Air Planning Office (AIR–2), Air Division, U.S. EPA, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the State's submittal are available for public inspection during normal business hours at EPA's Region 9 office and at the following locations:

California Air Resources Board, 1001 I Street, Sacramento, CA 95814.

San Diego County Air Pollution Control District, 9150 Chesapeake Drive, San Diego, CA 92123–1096.

FOR FURTHER INFORMATION CONTACT: Dave Jesson, US EPA Region 9, at (415) 972–3957, or *jesson.david@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Attainment Finding

A. San Diego's Ozone Classification and Current Status

When the Clean Air Act (CAA) Amendments were enacted in 1990, each area of the country that was designated nonattainment for the 1-hour ozone national ambient air quality standard (NAAQS), including the San Diego area, was classified by operation of law as marginal, moderate, serious, severe, or extreme depending on the severity of the area's air quality problem.[1] CAA sections 107(d)(1)(C) and 181(a). The San Diego area was initially classified as severe. See 40 CFR 81.305 and 56 FR 56694 (November 6, 1991). The area was reclassified as serious after we determined that the ozone design value used in the original classification was incorrect. 60 FR 3771 (January 19, 1995).

[1] The 1-hour ozone nonattainment area is the ''San Diego Area,'' which comprises the entire County of San Diego. See 40 CFR 81.305.

Upon the San Diego area's reclassification as serious, the CAA required submittal of a state implementation plan (SIP) demonstrating attainment of the 1-hour ozone standard as expeditiously as practicable but no later than November 15, 1999. CAA sections 181(a)(1) and 182(c)(2)(A). The SIP had to meet several other CAA requirements for serious areas. See generally CAA section 182(c). The San Diego County Air Pollution Control District (SDCAPCD) adopted a serious area plan addressing these provisions, and we approved the SIP submittal on January 8, 1997 (62 FR 1150).

Although the San Diego area did not attain the standard by the November 15, 1999 deadline, the area did qualify to have that deadline extended, since the area had complied with all requirements and commitments in the SIP and recorded no more than 1 exceedance of the NAAQS in 1999. For areas meeting these provisions, CAA section 181(a)(5) allows us to grant up to two 1-year extensions. On October 11, 2000 (65 FR 65025), we granted the San Diego area a 1-year attainment date extension to November 15, 2000, and on August 6, 2001 (66 FR 40908), we granted the area a second 1-year extension to November 15, 2001, since the area again had no more than 1 exceedance in the previous year.

On March 28, 2002, Richard J. Smith, Acting Director, SDCAPCD, addressed a letter to Michael P. Kenny, Executive Officer of the California Air Resources Board (CARB), asking that the State petition us to make an attainment finding because quality-assured ambient ozone data show no more than one exceedance at any monitoring station in the San Diego area for the 1999–2001 period. On June 21, 2002, CARB formally requested that we make a finding of attainment for the San Diego area based on the area's design value as of the 2001 attainment date (letter from Michael P. Kenny to Wayne Nastri, Regional Administrator, EPA Region 9).

B. Clean Air Act Provisions for Attainment Findings

Under CAA section 181(b)(2)(A), we must determine within six months of the applicable attainment date whether an ozone nonattainment area has attained the standard. If we find that a serious area has not attained the standard and does not qualify for an extension, it is reclassified by operation of law to severe. Under CAA section 181(b)(2)(A), we must base our determination of attainment or failure to attain on the area's design value as of its applicable attainment date, which for the San Diego area was November 15, 2001.

The 1-hour ozone NAAQS is 0.12 ppm, not to be exceeded on average more than 1 day per year over any 3-year period. 40 CFR 50.9 and appendix H. Under our policies, we determine if an area has attained the 1-hour standard by calculating, at each monitor, the average number of days over the standard per year during the preceding 3-year period.[2] For this direct final rulemaking, we have based our determination of attainment on both the design value and the average number of exceedance days per year as of November 15, 2001.

The design value is an ambient ozone concentration that indicates the severity of the ozone problem in an area and is used to determine the level of emission reductions needed to attain the standard, that is, it is the ozone level around which a State designs its control strategy for attaining the ozone standard. A monitor's design value is the fourth highest ambient concentration recorded at that monitor over the previous 3 years. An area's design value is the highest of the design values from the area's monitors.[3]

We make attainment determinations for ozone nonattainment areas using all available, quality-assured air quality data for the 3-year period up to and including the attainment date.[4] Consequently, we used all of the 1999, 2000, and 2001 quality-assured data available to determine whether the San Diego area attained the 1-hour ozone standard by November 15, 2001. From the available air quality data, we have calculated the average number of days over the standard and the design value for each ozone monitor in the San Diego nonattainment area.

C. Attainment Finding for the San Diego Area

1. Adequacy of the San Diego Area Ozone Monitoring Network

Determining whether or not an area has attained the 1-hour ozone standard under CAA section 181(b)(1)(A) is based on monitored air quality data. Thus, the validity of a determination of attainment depends on whether the monitoring network adequately measures ambient ozone levels in the area.

We evaluate 4 basic elements in determining the adequacy of an area's ozone monitoring network. The network needs to meet the design requirements of 40 CFR part 58, appendix D; the network needs to utilize monitoring equipment designated as reference or equivalent methods under 40 CFR part 53; and the agency or agencies operating the equipment need to have a quality assurance plan in place that meets the requirements of 40 CFR part 58, appendix A. The ozone network in the San Diego area meets or exceeds these requirements and is therefore adequate for use in determining the ozone attainment status of the area.

2. The San Diego Area's Ozone Design Value for the 1999–2001 Period

We have listed in Table 1 the design values and the average number of exceedance days per year for the 1999 to 2001 period for each monitoring site in the San Diego area. We calculated the design values following the procedures in the Laxton memo.[5]

[2] See generally 57 FR 13506 (April 16, 1992) and Memorandum from D. Kent Berry, Acting Director, Air Quality Management Division, EPA, to Regional Air Office Directors; ''Procedures for Processing Bump Ups and Extensions for Marginal Ozone Nonattainment Areas,'' February 3, 1994. While explicitly applicable only to marginal areas, the general procedures for evaluating attainment in this memorandum apply regardless of the initial classification of an area because all findings of attainment are made pursuant to the same Clean Air Act requirements in section 181(b)(2).

[3] The fourth highest value is used as the design value because a monitor may record up to 3 exceedances of the standard in a 3-year period and still show attainment, since 3 exceedances over 3 years would average 1 day per year, the maximum allowed to show attainment of the 1-hour ozone standard. If the monitor records a fourth exceedance in that period, it would average more than 1 exceedance day per year and would no longer show attainment. Therefore, if a State can reduce the fourth highest ozone value to below the standard, thus preventing a fourth exceedance, then it will be able to demonstrate attainment.

[4] All quality-assured available data include all data available from the state and local/national air monitoring (SLAMS/NAMS) network as submitted to EPA's AIRS system and all data available to EPA from special purpose monitoring (SPM) sites that meet the requirements of 40 CFR 58.13. See Memorandum John Seitz, Director, OAQPS, to Regional Air Directors; ''Agency Policy on the Use of Ozone Special Purpose Monitoring Data,'' August 22, 1997.

[5] See memorandum, William G. Laxton, Director, Technical Support Division, Office of Air Quality Planning and Standards to Regional Air Directors, ''Ozone and Carbon Monoxide Design Value Calculations,'' June 18, 1990.

TABLE 1.—AVERAGE NUMBER OF OZONE EXCEEDANCE DAYS PER YEAR AND DESIGN VALUES BY MONITOR IN SAN DIEGO COUNTY, 1999–2001

Site	Average number of exceedance days per year	Site design value (ppm)
Chula Vista (SLAMS)	0	0.10
El Cajon (PAMS/NAMS)	0	0.10
Oceanside (SLAMS)	0	0.09
San Diego/Overland (PAMS/NAMS)	0.3	0.11
Del Mar (SLAMS)	0	0.09
Escondido (SLAMS)	0.3	0.11
Alpine (PAMS/SLAMS)	0.3	0.12
San Diego/12th Street (SLAMS)	0	0.09
Camp Pendleton (PAMS/SLAMS)	0	0.10
Otay Mesa (SLAMS)	0	0.09

Note: EPA's monitoring network regulations are codified at 40 CFR 58. The regulations provide for National Air Monitoring Stations (NAMS), State or Local Air Monitoring Stations (SLAMS), and Photochemical Assessment Monitoring Stations (PAMS). All of the stations in the San Diego County monitoring network are operated by SDCAPCD or CARB. The monitoring data are submitted to EPA's Aerometric Information Retrieval System-Air Quality Subsystem (AIRS–AQS) database.

From Table 1, the highest design value at any monitor, and thus the design value for the San Diego area, is .12 ppm at the Alpine site. No monitor in the San Diego area recorded an average of more than 1 exceedance of the 1-hour ozone standard per year during the 1999 to 2001 period.

Because the area's design value does not exceed the 0.12 ppm 1-hour ozone standard and the area has averaged less than 1 exceedance per year at each monitor for the 1999 to 2001 period, we find that the San Diego area has attained the 1-hour ozone standard by its Clean Air Act mandated attainment date of November 15, 2001.

D. Attainment Findings and Redesignations to Attainment

A finding that an area has attained the 1-hour ozone standard under CAA section 181(b)(1)(A) does not redesignate the area to attainment for the 1-hour standard nor does it guarantee a future redesignation to attainment.

The redesignation of an area to attainment under CAA section 107(d)(3)(E) is a separate process from a finding of attainment under CAA section 181(b)(1)(A). Unlike an attainment finding where we need only determine that the area has had the prerequisite number of clean years, a redesignation to attainment requires additional submittals and multiple determinations. Under CAA section 107(d)(3)(E), we must make the following determinations:

1. The area has attained the relevant NAAQS at the time of redesignation.
2. The State has a fully approved SIP for the area.
3. The improvements in air quality are due to permanent and enforceable reductions in emissions resulting from implementation of the SIP and applicable federal regulations and other permanent and enforceable reductions.
4. We have fully approved a maintenance plan for the area under CAA section 175A.
5. The State has met all the nonattainment area requirements applicable to the area.

To address the provisions of CAA section 175A, SDCAPCD is preparing an ozone redesignation request and maintenance plan, which is scheduled for adoption later this year. It is possible, although not expected, that the San Diego area might violate the 1-hour ozone NAAQS before the maintenance plan is approved and the area is redesignated to attainment. If such a violation were to occur after EPA's finding of attainment under CAA section 181(b)(2)(A) in this rulemaking, EPA believes that issuance of a SIP call under CAA section 110(k)(5) would be an appropriate response. This SIP call could require the State to submit, by a reasonable deadline but not to exceed 18 months, a revised plan demonstrating expeditious attainment and compliance with other requirements of subpart 2 applicable to the area at the time of this finding.

II. Final Action

We are finding that the San Diego area has attained the 1-hour ozone NAAQS under CAA section 181(b)(2)(A).

We are publishing this action without prior proposal because we view this as a noncontroversial finding and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposed finding of attainment if relevant adverse comments are filed. This rule will be effective October 22, 2002 without further notice unless relevant adverse comments are received by September 23, 2002. If we receive such comments, this action will be withdrawn before the effective date. All public comments received will then be addressed in a subsequent final rule based on the proposed action. We will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective October 22, 2002.

III. 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 determines that the San Diego area has attained a previously-established national ambient air quality standard based on an objective review of measured air quality data. As such, the action 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 does not impose any additional enforceable duty, 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 makes a determination based on air quality data, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This action 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.

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use voluntary consensus standards (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical. EPA believes that VCS are inapplicable to today's final action because the action does not require the public to perform activities conducive to the use of VCS. 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.*).

List of Subjects in 40 CFR Part 81

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

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

Dated: August 8, 2002.

Keith Takata,

Acting Regional Administrator, Region IX.

[FR Doc. 02–21560 Filed 8–22–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–2002–0183; FRL–7194–4]

Triflumizole; Pesticide Tolerance for Emergency Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a time-limited tolerance for residues of triflumizole (1-(1-((4-chloro-2-(trifluoromethyl) phenyl)imino)-2-propoxyethyl)-1*H*-imidazole) and its metabolites containing the 4-chloro-2-trifluoromethylaniline moiety, calculated as the parent in or on hazelnuts, or filberts (EPA preferred term). This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on filberts. This regulation establishes a maximum permissible level for residues of triflumizole in this food commodity. The tolerance will expire and is revoked on June 30, 2004.

DATES: This regulation is effective August 23, 2002. Objections and requests for hearings, identified by docket ID number OPP–2002–0183, must be received on or before October 22, 2002.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VII. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket ID number OPP–2002–0183 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Andrea Conrath, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–9356; e-mail address: conrath.andrea@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

Categories	NAICS Codes	Examples of Potentially Affected Entities
Industry	111	Crop production
	112	Animal production
	311	Food manufacturing
	32532	Pesticide manufacturing

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

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

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html, a beta site currently under development.

2. *In person*. The Agency has established an official record for this action under docket ID number OPP–2002–0183. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public

Information and Records Integrity Branch (PIRIB), Rm. 119, Mall # 2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

EPA, on its own initiative, in accordance with sections 408(e) and 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, is establishing a tolerance for residues of the fungicide triflumizole, (1-(1-((4-chloro-2-(trifluoromethyl)phenyl)imino)-2-propoxyethyl)-1*H*-imidazole) and its metabolites containing the 4-chloro-2-trifluoromethylaniline moiety, calculated as the parent, in or on filbert at 0.05 part per million (ppm). This tolerance will expire and is revoked on June 30, 2004. EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations.

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

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

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

III. Emergency Exemption for Triflumizole on Filberts and FFDCA Tolerance

Since the discovery of Eastern Filbert Blight (EFB) in Oregon in the late 1980's, none of the control tactics have provided complete control, and the disease continues to spread.

Without adequate control of EFB, not only are significant economic losses likely, but the long-term viability of the filbert industry is also in jeopardy, as 98% of U.S. filbert production occurs in Oregon. Efficacy trials have indicated that the triflumizole provides better control, as compared to the currently available alternatives, none of which are systemic in nature. EPA has authorized under FIFRA section 18 the use of triflumizole on filberts for control of Eastern Filbert Blight in Oregon. After having reviewed the submission, EPA concurs that emergency conditions exist for this State.

As part of its assessment of this emergency exemption, EPA assessed the potential risks presented by residues of triflumizole in or on filberts. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is establishing this tolerance without notice and opportunity for public comment as provided in section 408(l)(6). Although this tolerance will expire and is revoked on June 30, 2004, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on filberts after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA, and the residues do not exceed the level that was authorized by this tolerance at the time of that application. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

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

IV. Aggregate Risk Assessment and Determination of Safety

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

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of triflumizole and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a time-limited tolerance for residues of triflumizole in or on filbert at 0.05 ppm.

The most recent estimated aggregate risks resulting from the use of triflumizole are discussed in the **Federal Register** for June 12, 2002 (67 FR 40219) (FRL–7180–5), Final Rule establishing tolerances for residues of triflumizole in/on cucurbit vegetables, strawberries, sweet cherries, and tart cherries, because in that prior action, risks were estimated assuming tolerance level residues in all commodities for established tolerances, as well as those being proposed, such as this exempted use on filberts. Refer to the June 12, 2002 **Federal Register** document for a detailed discussion of the aggregate risk assessments and determination of safety. EPA relies upon that risk

assessment and the findings made in the **Federal Register** document in support of this action. Below is a brief summary of the aggregate risk assessment.

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. A summary of the toxicological dose and endpoints for triflumizole for use in human risk assessment is discussed in Unit III.A. of the final rule mentioned above, published in the **Federal Register** of June 12, 2002 (67 FR 40219).

EPA assessed risk scenarios for triflumizole under acute and chronic exposure scenarios.

The Dietary Exposure Evaluation Model (DEEM™) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity.

The following assumptions were made for the acute exposure assessments: A conservative, unrefined Tier 1 acute dietary exposure assessment was conducted for females 13–50 years old using tolerance level residues and modified DEEM™ processing factors for apples and grapes, based on the results of previously submitted processing studies. The Agency assumed 100% crop treated (CT) for all other registered and proposed triflumizole food uses.

Using these exposure assessments, EPA concluded that triflumizole exposure from food consumption will utilize 19% of the acute population adjusted dose (aPAD) for the US population subgroup of concern, females 13 years and older. No acute toxicity endpoint was selected for the general U.S. population, including infants and children; therefore, an acute dietary exposure assessment was not conducted for these groups. In addition, despite the potential for acute dietary exposure to triflumizole in drinking water, after calculating drinking water levels of concern (DWLOCs) and comparing them to conservative model estimated environmental concentrations (EECs) of triflumizole in surface water and ground water, EPA does not expect the aggregate exposure to exceed 100% of the aPAD, as shown in the following Table 1.

TABLE 1.—AGGREGATE RISK ASSESSMENT FOR ACUTE EXPOSURE TO TRIFLUMIZOLE

Population Subgroup	aPAD (mg/kg)	% aPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Acute DWLOC (ppb)
Female (13+ years)	0.03	19	191	0.12	710

The following assumptions were made for the chronic exposure assessments: A partially refined, Tier 3 chronic dietary assessment was conducted for the general U.S. population and all population subgroups (including infants and children) using anticipated residues, modified DEEM™ processing factors for apples and grapes based on the results of previously submitted processing studies, and average weighted percent crop treated information for apples, grapes, and pears.

Using these exposure assessments, EPA concluded that exposure to triflumizole from food will utilize 11% of the cPAD for the population subgroup infants <1 year old, 18% for children 1-6 years old, and 8% for the overall U.S. population and as well as all other population subgroups. The most highly exposed subpopulation is children 1-6 years old at 18% of the cPAD. Based on the use pattern, chronic residential exposure to residues of triflumizole is not expected. In addition, despite the potential for chronic dietary exposure to triflumizole in drinking water, after calculating DWLOCs and comparing them to conservative model EECs of triflumizole in surface water and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following Table 2.

TABLE 2.—AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE TO TRIFLUMIZOLE

Population Subgroup	cPAD mg/kg/day	% cPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Chronic DWLOC (ppb)
U.S. population (48 contiguous states)	0.005	8	40	0.12	160
Infants (<1 year old)	0.005	11	40	0.12	45
Children (1–6 years old)	0.005	18	40	0.12	41

Triflumizole is classified as a ''Group E'' chemical (evidence of non-carcinogenicity in humans) based on adequate studies in 2 species of animal. Therefore, a cancer dietary exposure assessment was not performed.

Short- and intermediate-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level). For triflumizole, the Agency did not perform short-term or intermediate-term assessments because there are currently no registered or proposed uses for homeowner application and residential post-application exposures are expected to be negligible.

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

V. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology is available to enforce the tolerance expression. The method may be requested from: Francis Griffith, Analytical Chemistry Branch, Environmental Science Center, U.S. Environmental Protection Agency, 701 Mapes Road, Fort George G. Meade, MD 20755–5350; telephone number (410)

305–2905; e-mail address: griffith.francis@epa.gov.

B. International Residue Limits

There are no Codex maximum residue limits established for triflumizole residues in/on any crop commodities. Therefore, no compatibility problems exist for the proposed tolerance.

C. Conditions

A maximum of four applications may be made. A maximum of 0.125–0.25 pound active ingredient may be applied using ground or aerial equipment. No more than 1 pound active ingredient may be applied per acre per season.

VI. Conclusion

Therefore, the tolerance is established for residues of triflumizole (1-(1-((4-chloro-2-(trifluoromethyl)phenyl)imino)-2-propoxyethyl)-1*H*-imidazole) and its metabolites containing the 4-chloro-2-trifluoromethylaniline moiety, calculated as the parent, in or on filbert at 0.05 ppm.

VII. Objections and Hearing Requests

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

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

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number OPP–2002–0183 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before October 22, 2002.

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

Mail your written request to: Office of the Hearing Clerk (1900C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your written request to the Office of the Hearing Clerk in Rm. 104, Crystal Mall # 2, 1921 Jefferson Davis Hwy., Arlington, VA. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (703) 603–0061.

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

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

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

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VII.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by the docket ID number OPP–2002–0183, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

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

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

VIII. Regulatory Assessment Requirements

This final rule establishes a time-limited tolerance under FFDCA section 408. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections

subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a FIFRA section 18 exemption under FFDCA section 408, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers, and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

IX. Submission to Congress and the Comptroller General

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

List of Subjects in 40 CFR Part 180

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

Dated: August 17, 2002.

Debra Edwards,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

Authority: 21 U.S.C. 321(q), 346(a) and 374.

2. Section 180.476 is amended by adding text and a table to paragraph (b) to read as follows:

§ 180.476 Triflumizole; tolerances for residues.

* * * * *

(b) Time-limited tolerances are established for the residues of triflumizole (1-(1-((4-chloro-2-(trifluoromethyl)phenyl)imino)-2-propoxyethyl)-1*H*-imidazole) and its metabolites containing the 4-chloro-2-trifluoromethylaniline moiety, calculated as the parent in connection with use of the pesticide under section 18 emergency exemptions granted by EPA. The tolerances are specified in the following table, and will expire and are revoked on the dates specified.

Commodity	Parts per million	Expiration/revocation date
Filbert	0.05	6/30/04

* * * * *

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BILLING CODE 6560–50–S

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA–7791]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register**.

EFFECTIVE DATES: The effective date of each community's suspension is the third date (''Susp.'') listed in the third column of the following tables.

ADDRESSES: If you wish to determine whether a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

FOR FURTHER INFORMATION CONTACT: Edward Pasterick, Division Director, Program Marketing and Partnership Division, Federal Insurance and Mitigation Administration, 500 C Street, SW.; Room 411, Washington, DC 20472, (202) 646–3098.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the National Flood Insurance Program, 42 U.S.C. 4001 *et seq.*; unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59 *et seq.* Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications have been made, this final rule may take effect within less than 30 days.

National Environmental Policy Act

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

Regulatory Flexibility Act

The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless they take remedial action.

Regulatory Classification

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

Paperwork Reduction Act

This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp.; p. 252.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp.; p. 309.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

1. The authority citation for Part 64 continues to read as follows:

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

§ 64.6 [Amended]

2. The tables published under the authority of § 64.6 are amended as follows:

State/location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in special flood hazard areas
Region III				
Virginia:				
Boykins, Town of, Southampton County	510151	May 20, 1975, Emerg.; April 1, 1982, Reg. September 4, 2002.	Sept. 4, 2002	Sept. 4, 2002.
Branchville, Town of, Southampton County.	510296	July 21, 1975; March 30, 1979, Reg. September 4, 2002.	do	Do.
Franklin, City of, Independent City	510060	July 19, 1974, Emerg.; August 15, 1980, Reg. September 4, 2002.	do	Do.
Isle of Wight County, Unincorporated Areas.	510303	May 20, 1975, Emerg.; August 19, 1991, Reg. September 4, 2002.	do	Do.
Smithfield, Town of, Isle of Wight County	510081	September 24, 1974, Emerg.; December 5, 1990, Reg. September 4, 2002.	do	Do.
Southampton County, Unincorporated Areas.	510315	September 16, 1974, Emerg.; December 15, 1982, Reg. September 4, 2002.	do	Do.
Suffolk, City of, Independent City	510156	January 22, 1975, Emerg.; November 16, 1990, Reg. September 4, 2002.	do	Do.
Windsor, Town of, Isle of Wight County	510295	August 11, 1988, Emerg.; August 1, 1990, Reg. September 4, 2002.	do	Do.
Region V				
Ohio:				
New Boston, Village of, Scioto County	390497	April 17, 1975, Emerg.; January 26, 1983, Reg. September 4, 2002.	do	Do.
Portsmouth, City of, Scioto County	390498	March 7, 1975, Emerg.; August 15, 1983, Reg. September 4, 2002.	do	Do.
Rarden, Village of, Scioto County	390499	February 14, 1977, Emerg.; April 17, 1989, Reg. September 4, 2002.	do	Do.
Scioto County, Unincorporated Areas	390496	November 20, 1975, Emerg.; June 19, 1989, Reg. September 4, 2002.	do	Do.
Wisconsin:				
Bay City, Village of, Pierce County	555543	July 31, 1970, Emerg.; June 11, 1971, Reg. September 4, 2002.	do	Do.
Region VI				
New Mexico:				
Lovington, City of, Lea County	350031	December 10, 1974, Emerg.; November 1, 1989, Reg. September 4, 2002.	do	Do.
Region VIII				
North Dakota:				
Harwood, Township of, Cass County	380338	April 11, 1978, Emerg.; September 30, 1980, Reg. September 4, 2002.	do	Do.
Reed, Township of, Cass County	380257	December 27, 1977, Emerg.; October 15, 1980, Reg. September 4, 2002.	do	Do.
Reiles Acres, City of, Cass County	380324	March 22, 1978, Emerg.; September 30, 1987, Reg. September 4, 2002.	do	Do.
West Fargo, City of, Cass County	380024	December 6, 1973, Emerg.; April 17, 1978, Reg. September 4, 2002.	do	Do.
Region IV				
Florida:				
Callaway, City of, Bay County	120005	January 13, 1975, Emerg.; July 16, 1980, Reg. September 18, 2002.	Sept. 18, 2002	Sept. 18, 2002
Parker, City of, Bay County	120011	May 5, 1975, Emerg.; August 1, 1980, Reg. September 18, 2002.	do	Do.
Region V				
Ohio:				
Meigs County, Unincorporated Areas	390387	February 9, 1977, Emerg.; November 16, 1995, Reg. September 18, 2002.	do	Do.
Middleport, Village of, Meigs County	390388	August 28, 1974, Emerg.; September 29, 1978, Reg. September 18, 2002.	do	Do.
Pomeroy, Village of, Meigs County	390389	July 24, 1975, Emerg.; July 5, 1983, Reg. September 18, 2002.	do	Do.
Racine, Village of, Meigs County	390390	March 31, 1976, Emerg.; August 15, 1983, Reg. September 18, 2002.	do	Do.
Rutland, Village of, Meigs County	390670	September 3, 1975, Emerg.; November 2, 1990, Reg. September 18, 2002.	do	Do.
Syracuse, Village of, Meigs County	390391	July 2, 1975, Emerg.; July 5, 1983, Reg. September 18, 2002.	do	Do.

State/location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in special flood hazard areas
Wisconsin:				
Chippewa Falls, City of, Chippewa County	550044	April 16, 1971, Emerg.; September 1, 1977, Reg. September 18, 2002.	.....do	Do.
Region VI				
Texas:				
Abernathy, City of, Lubbock County	480271	June 6, 1975, Emerg.; August 24, 1982, Reg. September 18, 2002.	.....do	Do.
Idalou, Town of, Lubbock County	480916	May 19, 1978, Emerg.; June 1, 1988, Reg. September 18, 2002.	.....do	Do.
Lubbock, City of, Lubbock County	480452	May 24, 1973, Emerg.; September 2, 1982, Reg. September 18, 2002.	.....do	Do.
Slanton, Town of, Lubbock County	480453	June 25, 1975, Emerg.; August 3, 1982, Reg. September 18, 2002.	.....do	Do.
Region VII				
Kansas:.				
Andover, City of, Butler County	200383	February 7, 1977, Emerg.; December 4, 1986, Reg. September 18, 2002.	.....do	Do.
Region II				
New York:				
Corning, City of, Steuben County	360772	February, 23, 1973, Emerg.; December 1, 1977, Reg. September 27, 2002.	Sept. 27, 2002 ..	Sept. 27, 2002
Corning, Town of, Steuben County	360773	March 23, 1973, Emerg.; August 3, 1981, Reg. September 27, 2002.	.....do	Do.
Hamilton, Town of, Madison County	360401	July 2, 1975, Emerg.; May 1, 1985, Reg. September 27, 2002.	.....do	Do.
Hamilton, Village of, Madison County	360402	January 3, 1975, Emerg.; April 1, 1987, Reg. September 27, 2002.	.....do	Do.
Region IX				
Nevada:				
Boulder, City of, Clark County	320004	August 25, 1975, Emerg.; September 16, 1981, Reg. September 27, 2002.	.....do	Do.
Clark County, Unincorporated Areas	320003	June 27, 1975, Emerg.; September 29, 1989, Reg. September 27, 2002.	.....do	Do.
Henderson, City of, Clark County	320005	January 14, 1975, Emerg.; June 15, 1982, Reg. September 27, 2002.	.....do	Do.
Las Vegas, City of, Clark County	325276	August 16, 1974, Emerg.; September 30, 1980, Reg. September 27, 2002.	.....do	Do.
Mesquite, City of, Clark County	320035	November 6, 1985, Emerg.; September 28, 1990, Reg. September 27, 2002.	.....do	Do.
North Las Vegas, City of, Clark County ...	320007	August 8, 1973, Emerg.; January 16, 1981, Reg. September 27, 2002.	.....do	Do.

Code for reading third column: Emerg.-Emergency; Reg.-Regular; Susp.-Suspension.

Dated: August 14, 2002.

Anthony S. Lowe,

Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 02–21503 Filed 8–22–02; 8:45 am]

BILLING CODE 6718–02–P

Proposed Rules

Federal Register
Vol. 67, No. 164
Friday, August 23, 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 TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 25, 121, 125, and 135

RIN 2120–AC87 and 2120–AA49

Withdrawal of Rulemaking Actions

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Proposed rules; withdrawal.

SUMMARY: The FAA is withdrawing a notice of proposed rulemaking (NPRM) and an advance notice of proposed rulemaking (ANPRM). This action is necessary due to technological advances that have occurred since we published these documents. The effect of this action is to inform the public of our decision to discontinue work on these proposals. This action is part of our effort to address recommendations of the Government Accounting Office and the Management Advisory Council by reducing the number of items in the Regulatory Agenda.

FOR FURTHER INFORMATION CONTACT: Patrick W. Boyd, Office of Rulemaking (ARM–23), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone 202–267–7320.

SUPPLEMENTARY INFORMATION

Installation of Crashworthy Fuselage Fuel Tanks and Fuel Lines, RIN 2120–AC87

On May 2, 1989, the FAA published an ANPRM seeking information on the feasibility of installing, in all air carrier aircraft, fuselage fuel tanks and fuel lines that are rupture resistant and that disconnect and seal in the event of an accident (54 FR 18824). We issued the ANPRM in response to section 9(a) of the Aviation Safety Research Act of 1988 (Pub. L. 100–591). The comment period closed on October 30, 1989.

Since the FAA published the ANPRM, many technological advancements in fuel tank design have occurred. In addition, we are currently engaged in a process of harmonizing fuel tank and fuel line requirements with the European Joint Aviation Authority. For these reasons, we are withdrawing this ANPRM. We may consider further rulemaking action on this issue in the future.

Fuel System Vent Fire Protection, RIN 2120–AA49

On February 2, 1995, the FAA published an NPRM to amend the airworthiness standards for transport category airplanes to require fuel system vent protection during post-crash ground fires (60 FR 6632). The proposal was the result of information obtained from public hearings on aircraft fire safety and was intended to provide protection against a fuel tank explosion following a post-crash ground fire. The comment period closed on June 2, 1995.

Since the FAA published the NPRM, technological advancements have occurred in this area also. In addition, the issues raised in the NPRM will be addressed by future regulatory action developed within the Aviation Rulemaking Advisory Committee as part of the FAA's program to harmonize its regulations with those of the European Joint Aviation Authorities. The FAA believes future rulemaking action that may be broader in scope and a harmonized proposal will better serve the public interest.

Conclusion

The FAA withdraws the following documents:

- Advance Notice of Proposed Rulemaking entitled, Installation of Crashworthy Fuselage Fuel Tanks and Fuel Lines, RIN 2120–AC87, May 2, 1989, 54 FR 18824; and
- Notice of Proposed Rulemaking entitled, Fuel System Vent Fire Protection, RIN 2120–AA49, February 2, 1995, 60 FR 6632.

Issued in Washington, DC, on August 16, 2002.

John J. Hickey,

Director, Aircraft Certification Service.

[FR Doc. 02–21570 Filed 8–22–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–34–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 767 series airplanes. This proposal would require replacement of the aileron control override quadrant with a modified unit. This action is necessary to prevent corrosion of the input override mechanism bearings of the lateral central control actuator, which, in the event of a subsequent jam in the pilot's aileron control system, could result in failure of the aileron override system and consequent reduced lateral controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by October 7, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–34–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov.* Comments sent via fax or the Internet must contain ''Docket No. 2002–NM–34–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington

98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Douglas Tsuji, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1506; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket 2002–NM–34–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket 2002–NM–34–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received a report of the seizing of the input override mechanism bearings of the lateral central control actuator on affected airplanes. The seizing was discovered during an inspection and has been attributed to corrosion on the steel bearings in the override mechanism. A failed override system is a latent failure and does not affect normal operation. However, if the pilot's control system were to subsequently jam, the seizing of the override bearings could have prevented the aileron control override system from operating properly. This condition, if not corrected, could result in reduced lateral control of the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 767–27A0175, dated October 25, 2001, which describes procedures for replacing the aileron control override quadrant with a modified unit. The modification involves replacing the existing steel bearings with corrosion-resistant steel bearings. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously, except as discussed below.

Difference Between Proposed AD and Service Bulletin

Service Bulletin 767–27A0175 recommends that operators perform the actions specified by Boeing Service Bulletin 767–27–0142 before the actions of this proposed AD. The FAA agrees that both service bulletins require access to the same area of the airplane, so accomplishment of both actions at the same time would be convenient for operators. However, the FAA finds that accomplishment of the actions in Service Bulletin 767–27–0142 is not necessary in connection with this AD to ensure the safety of affected airplanes.

Cost Impact

There are approximately 811 airplanes of the affected design in the worldwide fleet. The FAA estimates that 318 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 3 work hours per airplane to accomplish the proposed replacement, and that the average labor rate is $60 per work hour. Required parts would cost approximately $146 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $103,668, or $326 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Boeing: Docket 2002–NM–34–AD.

Applicability: Model 767 series airplanes; certificated in any category; line numbers 1 through 811 inclusive.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent corrosion of the input override mechanism bearings of the lateral central control actuator, which, in the event of a subsequent jam in the pilot's aileron control system, could result in failure of the aileron override system and consequent reduced lateral controllability of the airplane, accomplish the following:

Replacement

(a) Within 18 months after the effective date of this AD, replace the aileron control override quadrant with a modified unit, in accordance with Boeing Alert Service Bulletin 767–27A0175, dated October 25, 2001.

Note 2: This AD does not require accomplishment of the actions specified by Boeing Service Bulletin 767–27–0142.

Spare Parts

(b) As of the effective date of this AD, no person may install, on any airplane, an aileron control override quadrant that has not been modified in accordance with the requirements of this AD.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Issued in Renton, Washington, on August 19, 2002.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–21509 Filed 8–22–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–358–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–10–10, DC–10–10F, DC–10–15, DC–10–30, DC–10–30F, DC–10–30F (KC10A and KDC–10), MD–10–10F, and MD–10–30F Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–10–10, DC–10–10F, DC–10–15, DC–10–30, DC–10–30F, DC–10–30F (KC10A and KDC–10), MD–10–10F, and MD–10–30F airplanes. This proposal would require inspections of the linear variable differential transducers (LVDTs) of the autopilot for discrepancies, and follow-on actions, if necessary. This action is necessary to prevent failure of the LVDTs, which could result in an automatic pitch trim malfunction or an autopilot disconnect, and consequent reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by October 7, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–358–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov.* Comments sent via fax or the Internet must contain ''Docket No. 2001–NM–358–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: *Technical Information:* Ron Atmur, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5224; fax (562) 627–5210.

Other Information: Sandi Carli, Airworthiness Directive Technical Editor/Writer; telephone (425) 687–4243, fax (425) 687–4248. Questions or comments may also be sent via the Internet using the following address: *sandi.carli@faa.gov.* Questions or comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.

• For each issue, state what specific change to the proposed AD is being requested.

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2001–NM–358–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–358–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has been informed by the manufacturer that certain McDonnell Douglas Model DC–10–10, DC–10–10F, DC–10–15, DC–10–30, DC–10–30F, DC–10–30F (KC10A and KDC–10), MD–10–10F, and MD–10–30F airplanes having linear variable differential transducers (LVDT) were delivered with an undersize nylok element on the threaded extension end. If such undersizing is not corrected, the LVDT plunger jamnut could become loose causing an automatic pitch trim malfunction, an elevator stand-off resulting in automatic pitch trim operation in one direction only, or an autopilot disconnect.

Also, we received one report of a pitch trim incident in flight that resulted in an uncommanded nose-down pitch of the airplane. Investigation revealed that the cause of that incident was loose shear rivets in the drive assembly of the automatic pitch trim LVDT. The loose shear rivets allowed the automatic pitch trim LVDT to shift enough to command the horizontal stabilizer to put the airplane in a nose-down direction. Further investigation revealed additional airplanes with loose rivets, and one airplane with an additional problem with the attachment to the automatic pitch trim LVDT. Binding between the plunger and body of the LVDT due to loose rivets can cause failure of the LVDT shear rivets. Such conditions, if not corrected, could result in an automatic pitch trim malfunction and consequent reduced controllability of the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin DC10–22A126, dated October 31, 2001, which describes procedures for a visual inspection of the shear rivets of the LVDTs of the drive assembly of the automatic pitch trim for discrepancies (sheared and/or loose rivets), and these six follow-on conditions:

• *Condition 1:* If no sheared or loose rivets are found, no further action is needed.

• *Condition 2:* If any sheared and/or loose rivets are found, repair the drive assembly and repeat visual inspection of the LVDT for further discrepancies (misalignment, corrosion, bent plunger, restricted movement, or hangar binding). If no discrepancy is found, no further action is needed.

• *Condition 3:* If a discrepancy is found after doing Condition 2, do the corrective actions specified in Conditions 4 through 6, as applicable.

• *Condition 4:* If the LVDT is misaligned, realign.

• *Condition 5:* If any corrosion, a bent plunger, or restricted movement of the LVDT is found, replace the existing LVDT with a new LVDT.

• *Condition 6:* If hangar binding of the LVDT is found, replace the LVDT hangar assembly with a new assembly.

We also have reviewed and approved Boeing Alert Service Bulletin DC10–22A127, dated December 17, 2001, which describes procedures for a visual inspection of the LVDTs for affected serial numbers (with an undersize nylok element) and these two options for follow-on actions:

• *Option 1:* Replace any affected LVDT with a new LVDT; then do the automatic pitch trim adjustment/test.

• *Option 2:* Install a heat shrinkable sleeve over the LVDT jamnut; then do repetitive inspections for loose LVDT jamnuts until the LVDT is replaced.

Accomplishment of the actions specified in the service bulletins is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletins described previously, except as discussed below.

Difference Between This Proposed AD and the Service Information

The service bulletins described previously refer to a ''visual'' inspection. For the purposes of this AD, we have determined that the procedures in the service bulletins constitute a ''detailed inspection.'' Note 2 of this proposed AD defines such an inspection.

Explanation of AD Applicability

We have specified model designations in the applicability of this proposed AD as published in the most recent type certificate data sheet for the affected models. These model designations differ in the referenced service bulletins.

Cost Impact

There are approximately 394 airplanes of the affected design in the worldwide fleet. The FAA estimates that 252 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 1 work hour per airplane to accomplish the inspection specified in Boeing Alert Service Bulletin DC10–22A126, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this proposed inspection on U.S. operators is estimated to be $15,120, or $60 per airplane.

It would take approximately 1 work hour per airplane to accomplish the inspection specified in Boeing Alert Service Bulletin DC10–22A127, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this proposed inspection on U.S. operators is estimated to be $15,120, or $60 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Should an operator be required to perform the follow-on actions specified in Boeing Alert Service Bulletin DC10–

22A126, the cost estimates are as follows:

• *Condition 2—Repair/inspect:* 1 work hour per airplane at $60 per work hour.

• *Condition 4—Realign:* 1 work hour per airplane at $60 per work hour.

• *Condition 5—Replace LVDT:* 1 work hour per airplane at $60 per work hour; estimated parts cost of $900.

• *Condition 5—Replace hangar:* 1 work hour per airplane at $60 per work hour; estimated parts cost of $100.

Should an operator be required to perform the follow-on actions specified in Boeing Alert Service Bulletin DC10–22A127, the cost estimates are as follows:

• *Option 1—Replace LVDT and do adjustment/test:* 2 work hours per airplane at $60 per work hour; estimated parts cost of $900.

• *Option 2—Install a heat shrinkable sleeve and inspect:* 2 work hours per airplane at $60 per work hour.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

McDonnell Douglas: Docket 2001–NM–358–AD.

Applicability: Model DC–10–10, DC–10–10F, DC–10–15, DC–10–30, DC–10–30F, DC–10–30F (KC10A and KDC–10), MD–10–10F, and MD–10–30F airplanes; as listed in Boeing Alert Service Bulletin DC10–22A126, dated October 31, 2001; and Boeing Alert Service Bulletin DC10–22A127, dated December 17, 2001; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the linear variable differential transducers (LVDTs) of the autopilot, which could result in an automatic pitch trim malfunction or an autopilot disconnect, and consequent reduced controllability of the airplane, accomplish the following:

Detailed Inspections/Follow-On Actions

(a) Within 90 days after the effective date of this AD: Do the detailed inspections of the LVDTs of the autopilot for discrepancies as required by paragraphs (a)(1) and (a)(2) of this AD.

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

(1) Inspect the LVDTs for affected serial numbers (with undersize nylok elements) per Figure 1 of Boeing Alert Service Bulletin DC10–22A127, dated December 17, 2001. If any affected serial number is found, before further flight, do either Option 1 (including replacing the LVDT with a new LVDT and doing an automatic pitch trim adjustment/test), or Option 2 (including installing a heat-shrinkable sleeve over the LVDT jamnut and doing repetitive inspections for any loose jamnut every 500 flight hours until the LVDT is replaced with a new LVDT), of Condition 1 of the service bulletin, per the service bulletin. If any discrepancy is found, before further flight, replace the LVDT with a new LVDT. If no discrepancy is found, install a shield assembly per Condition 2 of the service bulletin.

(2) Inspect the shear rivets of the LVDTs of the drive assembly of the automatic pitch trim for discrepancies (shearing and/or looseness), per Boeing Alert Service Bulletin DC10–22A126, dated October 31, 2001. If any discrepancy is found, before further flight, do Conditions 2 through 6 (including repairing the driver assembly and inspecting the LVDT within 9 months after doing the repair; doing an automatic pitch trim adjustment/test; aligning the LVDT; replacing the existing LVDT with a new LVDT; and replacing the hangar assembly with a new assembly), as applicable, of the service bulletin, per the service bulletin. If no discrepancy is found, no further action is required by this paragraph.

Spares

(b) As of the effective date of this AD, no one may install an LVDT with a serial number listed in the ''Affected Serial Numbers'' table in Figure 1 of Boeing Alert Service Bulletin DC10–22A127, dated December 17, 2001, on any airplane.

Alternative Methods of Compliance

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

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

Special Flight Permit

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

Issued in Renton, Washington, on August 19, 2002.

Vi L. Lipski,

Manager, , Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–21508 Filed 8–22–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–364–AD]

RIN 2120–AA64

Airworthiness Directives; Dassault Model Falcon 2000 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Dassault Model Falcon 2000 series airplanes. This proposal would require performing an inspection to determine the serial number on the identification plate on each of the three hydraulic shut-off valve (HSOV) actuators on the left-hand and right-hand hydraulic reservoirs, and replacing an HSOV actuator with a new HSOV actuator, if necessary. This action is necessary to ensure that proper HSOV actuators are installed on the hydraulic fluid reservoirs. In the event of an engine fire, a faulty HSOV, if not corrected, could allow the flow of flammable fluid to the engine nacelle, which could result in an engine nacelle fire that could not be readily extinguished. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by September 23, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–364–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov*. Comments sent via fax or the Internet must contain ''Docket No. 2001–NM–364–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Dassault Falcon Jet, P.O. Box 2000, South Hackensack, New Jersey 07606. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Tom Groves, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1503; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2001–NM–364–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–364–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on certain Dassault Model Falcon 2000 series airplanes. The DGAC advises that it has received reports of a batch of faulty hydraulic shut-off valve (HSOV) actuators that may be installed on the hydraulic reservoirs of certain Model Falcon 2000 series airplanes. The left-hand hydraulic reservoir has two HSOV actuators, and the right-hand hydraulic reservoir has one HSOV actuator. An HSOV actuator is intended to close the HSOV in order to stop the flow of flammable fluid to the engine nacelle in the event of a fire. The faulty HSOV actuators have defective switches and may not close the HSOVs when required. The cause of these faulty HSOV actuators has been attributed to a manufacturing process error during the production of the HSOV actuators. This condition, if not corrected, could allow the flow of flammable fluid to the engine nacelle, which could result in an engine nacelle fire that could not be readily extinguished.

Explanation of Relevant Service Information

Dassault has issued Service Bulletin F2000–A223, dated October 17, 2001, which describes procedures for an inspection to determine the serial number on the identification plate on each of the three HSOV actuators on the left-hand and right-hand hydraulic reservoirs. The service bulletin also describes procedures for replacing an HSOV actuator with a new HSOV actuator (including torquing the screw), if necessary. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The DGAC classified this service bulletin as mandatory and issued French airworthiness directive 2001–497–011(B), dated October 17, 2001, in order to assure the continued airworthiness of these airplanes in France. The French airworthiness directive contains a typographical error in that it references Dassault Service Bulletin ''F2000–223'' instead of Dassault Service Bulletin F2000–A223.

FAA's Conclusions

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral

airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the Dassault service bulletin described previously.

Cost Impact

The FAA estimates that 87 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 2 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $10,440, or $120 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Dassault Aviation: Docket 2001–NM–364–AD.

Applicability: Model Falcon 2000 series airplanes, serial numbers 2 through 132, except serial numbers 123, 130, and 131; certificated in any category; excluding those airplanes on which the actions specified in Dassault Service Bulletin F2000-A223, dated October 17, 2001, has been done.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent an engine nacelle fire that cannot be readily extinguished, accomplish the following:

Inspection

(a) Within 3 months after the effective date of this AD, inspect to determine the serial number on the identification plate on each of the three hydraulic shut-off valve (HSOV) actuators on the left-hand and right-hand hydraulic reservoirs, per the Accomplishment Instructions of the service bulletin.

Corrective Action

(b) If any serial number specified in paragraph 2.B.(3) of the Accomplishment Instructions of Dassault Service Bulletin F2000–A223, dated October 17, 2001, is found during the inspection required by paragraph (a) of this AD, before further flight, replace the HSOV actuator with a new HSOV actuator (including torquing the screw), per the Accomplishment Instructions of Dassault Service Bulletin F2000–A223, dated October 17, 2001.

Alternative Methods of Compliance

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

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

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

Note 3: The subject of this AD is addressed in French airworthiness directive 2001–497–011(B), dated October 17, 2001.

Issued in Renton, Washington, on August 19, 2002.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–21507 Filed 8–22–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–277–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9–10, DC–9–20, DC–9–30, DC–9–40, and DC–9–50 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness

directive (AD) that is applicable to certain McDonnell Douglas Model DC–9–10, DC–9–20, DC–9–30, DC–9–40, and DC–9–50 series airplanes. This proposal would require a one-time inspection at a certain disconnect panel in the left forward cargo compartment to find contamination of electrical connectors and to determine if a dripshield is installed over the disconnect panel, and corrective actions if necessary. This action is necessary to find and fix contamination of certain electrical connectors and prevent future contamination of these connectors, which could cause electrical arcing that could result in a fire on the airplane. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by October 7, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–277–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov.* Comments sent via fax or the Internet must contain ''Docket No. 2001–NM–277–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: *Technical Information:* Elvin K. Wheeler, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5344; fax (562) 627–5210.

Other Information: Judy Golder, Airworthiness Directive Technical Editor/Writer; telephone (425) 687–4241, fax (425) 227–1232. Questions or comments may also be sent via the Internet using the following address: *judy.golder@faa.gov.* Questions or comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2001–NM–277–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–277–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received a report of electrical arcing that resulted in a fire on a McDonnell Douglas Model DC–9–32 airplane. Investigation revealed that a connector at a disconnect panel at station Y=237.000 in the left forward cargo compartment was contaminated with what appeared to be blue water. Further investigation revealed that a dripshield should have been installed over the subject disconnect panel on airplanes equipped with forward lavatories. This condition, if not corrected, could cause electrical arcing that could result in a fire on the airplane.

The subject area on certain McDonnell Douglas Model DC–9–10, DC–9–20, other DC–9–30, DC–9–40, and DC–9–50 series airplanes is almost identical to that on the affected Model DC–9–32 airplane. Therefore, those airplanes may be subject to the same unsafe condition.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin DC9–24A190, Revision 01, dated November 21, 2001, which describes procedures for a one-time visual inspection at a disconnect panel at station Y=237.000 in the left forward cargo compartment to find evidence of contamination (*e.g.,* staining or corrosion) of electrical connectors by blue water, and to determine if a dripshield is installed over the disconnect panel. The service bulletin also describes procedures for installation of a dripshield if one is not already installed. If any evidence of contamination is found, corrective action includes removing the connectors and installing new or serviceable connectors. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

Cost Impact

There are approximately 80 airplanes of the affected design in the worldwide fleet. The FAA estimates that 51 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed

inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed inspection on U.S. operators is estimated to be $3,060, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

McDonnell Douglas: Docket 2001–NM–277–AD.

Applicability: Model DC–9–11, DC–9–12, DC–9–13, DC–9–14, DC–9–15, DC–9–15F, DC–9–21, DC–9–31, DC–9–32, DC–9–32 (VC–9C), DC–932F, DC–9–32F (C–9A, C–9B), DC–9–33F, DC–9–34, DC–9–34F, DC–9–41, and DC–9–51 airplanes; listed in Boeing Alert Service Bulletin DC9–24A190, Revision 01, dated November 21, 2001; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To find and fix contamination of certain electrical connectors and prevent future contamination of these connectors, which could cause electrical arcing and result in a fire on the airplane, accomplish the following:

One-Time Inspection and Corrective Actions

(a) Within 18 months after the effective date of this AD, perform a one-time general visual inspection of the disconnect panel at station Y=237.000 in the left forward cargo compartment to find evidence of contamination (*e.g.,* staining or corrosion) of electrical connectors by blue water, and to determine if a dripshield is installed over the disconnect panel. Do this inspection according to the Accomplishment Instructions of Boeing Alert Service Bulletin DC9–24A190, Revision 01, dated November 21, 2001.

(1) If no evidence of contamination of electrical connectors is found, and a dripshield is installed, no further action is required by this AD.

(2) If any evidence of contamination of any electrical connector is found: Before further flight, remove each affected connector, and install a new or serviceable connector according to the service bulletin.

(3) If no dripshield is installed over the disconnect panel: Before further flight, install a dripshield according to the service bulletin.

Previously Accomplished Inspections and Corrective Actions

(b) Inspections and corrective actions accomplished before the effective date of this AD in accordance with Boeing Alert Service Bulletin DC9–24A190, dated July 31, 2001, are considered acceptable for compliance with the corresponding action specified in this AD.

Alternative Methods of Compliance

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

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

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

Issued in Renton, Washington, on August 19, 2002.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–21506 Filed 8–22–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 02–ACE–8]

Proposed Establishment of Class E2 and Class E4 Airspace and Modification of Existing Class E5 Airspace; Ainsworth, NE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish Class E airspace designated as a surface area for Ainsworth Municipal Airport, NE; establish Class E airspace designated as an extension to Class E surface area at Ainsworth, NE; and modify Class E airspace extending upward from 700 feet above the surface of the earth at Ainsworth, NE. The FAA has developed Area Navigation (RNAV) Global Positioning System (GPS) Runway (RWY) 17 ORIGINAL Standard Instrument Approach Procedure (SIAP), RNAV (GPS) RWY 35 ORIGINAL SIAP, VHF Omni-directional Range (VOR) RWY 17 Amendment 3 SIAP and VOR RWY 35 Amendment 4 SIAP to serve Ainsworth Municipal Airport, NE. Class

E surface area airspace, extensions to this Class E surface area airspace and additional controlled airspace extending upward from 700 feet Above Ground Level (AGL) are needed to protect instrument flight rules (IFR) operations at Ainsworth, NE. This Class E surface area, Class E surface area extensions and additional controlled airspace extending upward from 700 feet AGL will ensure that aircraft executing straight-in SIAPs to RWY 17 and RWY 35 remain within controlled airspace. Adoption of this proposal would result in establishing Class E surface area and extensions at Ainsworth Municipal Airport, NE and also result in additional Class E airspace extending upward from 700 feet at Ainsworth, NE.

DATES: Comments must be received on or before October 11, 2002.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Air Traffic Division, Airspace Branch Manager, ACE–520, DOT Regional Headquarters Building, Docket Number 02–ACE–8, 901 Locust, Kansas City, MO 64106.

The official docket may be examined in the Office of the Regional Counsel for the Central Region at the same address between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours in the Air Traffic Division at the same address listed above.

FOR FURTHER INFORMATION CONTACT: Brenda Mumper, Air Traffic Division, Airspace Branch, ACE–520A, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2524.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 02–ACE–8.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Central Region, Office of the Regional Counsel, 901 Locust, Kansas City, Missouri, both before and after the closing date for comments. A report that summarizes each substantive-public contact with FAA personnel concerned with this rule making will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to 14 CFR part 71 to establish Class E airspace designated as a surface area for Ainsworth Municipal Airport, NE; establish Class E airspace designated as an extension to Class E surface area at Ainsworth, NE; and modify Class E airspace extending upward from 700 feet above the surface of the earth at Ainsworth, NE.

This Class E airspace surface area, Class E airspace surface area extensions and additional controlled airspace extending upward from 700 feet AGL are needed to ensure that aircraft executing straight-in SIAPs to RWY 17 and RWY 35 remain within controlled airspace. The areas would be depicted on appropriate aeronautical charts. Class E airspace surface areas, Class E airspace surface area extensions and Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraphs 6002, 6004 and 6005 respectively of FAA Order 7400.9J, dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

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

Paragraph 6002 Class E Airspace Designated as Surface Areas.

* * * * *

ACE NE E2 Ainsworth, NE

Ainsworth Municipal Airport, NE
(Lat. 42°34′45″ N., long. 99°59′35″ W.)
Ainsworth VOR/DME
(Lat. 42°34′09″ N., long. 99°59′23″ W.)

Within a 4.3-mile radius of Ainsworth Municipal Airport.

* * * * *

Paragraph 6004 Class E Airspace Areas Designated as an Extension to a Class D or Class E Surface Area.

* * * * *

ACE NE E4 Ainsworth, NE

Ainsworth Municipal Airport, NE
(Lat. 42°34′45″ N., long. 99°59′35″ W.)
Ainsworth VOR/DME
(Lat. 42°34′09″ N., long. 99°59′23″ W.)

That airspace extending upward from the surface within 2.4 miles each side of the Ainsworth VOR/DME 197° radial extending from the 4.3-mile radius of Ainsworth Municipal Airport to 7 miles south of the airport; and within 2.4 miles each side of the Ainsworth VOR/DME 348° radial extending from the 4.3-mile radius of Ainsworth Municipal Airport to 7 miles north of the airport.

* * * * *

Paragraph 6005 Class E Airspace Areas Extending Upward from 700 feet or More Above the Surface of the Earth.

* * * * *

ACE NE 35 Ainsworth, NE [Revised]

Ainsworth Municipal Airport, NE
(Lat. 42°34′45″ N., long. 99°59′35″ W.)
Ainsworth VOR/DME
(Lat. 42°34′09″ N., long. 99°59′23″ W.)

That airspace extending upward from 700 feet above the surface within a 7.4-mile radius of Ainsworth Municipal Airport and within 3.9 miles each side of the 179° bearing from the airport extending from the 7.4-mile radius to 9.6 miles south of the airport.

* * * * *

Issued in Kansas City, MO, on August 9, 2002.

Paul J. Sheridan,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 02–21576 Filed 8–22–02; 8:45 am]

BILLING CODE 4910–13–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[Region II Docket No. NJ52–243(b); FRL–7264–5]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; State of New Jersey

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve the State Implementation Plan (SIP) revision submitted on January 15, 2002 by the State of New Jersey to redesignate the New Jersey portion of the New York-Northern New Jersey-Long Island Carbon Monoxide (CO) nonattainment area from nonattainment to attainment of the National Ambient Quality Standard (NAAQS) for CO. EPA is proposing to approve the New Jersey CO maintenance plan because it provides for continued maintenance of the CO NAAQS.

EPA is also proposing to approve New Jersey's CO attainment demonstration that was submitted on August 7, 1998. This will provide for full approval of New Jersey's State Implementation Plan (SIP) for CO. Additionally, EPA is proposing to approve the 1997 transportation conformity budget submitted on December 10, 1999 as an addendum to the New Jersey CO attainment demonstration submitted on August 7, 1998. Finally, EPA is proposing to approve the 2007 and 2014 transportation conformity budgets found in New Jersey's CO maintenance plan.

In the ''Rules and Regulations'' section of this **Federal Register**, EPA is approving the State's SIP submittal, as a direct final rule without prior proposal because the Agency views these as noncontroversial submittals and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If EPA receives no adverse comments, EPA will not take further action on this proposed rule. If EPA receives adverse comments, EPA will withdraw the direct final rule and it will not take effect. EPA will address all public comments in a subsequent final rule based on this proposed rule. The 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: Written comments must be received on or before September 23, 2002.

ADDRESSES: All comments should be addressed to: Raymond Werner, Chief, Air Programs Branch, Environmental Protection Agency, Region II Office, 290 Broadway, New York, New York 10007–1866.

Copies of the State submittals are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region II Office, 290 Broadway, 25th Floor, New York, New York 10007–1866.

New Jersey Department of Environmental Protection, Office of Air Quality Management, Bureau of Air Pollution Control, 401 East State Street, CN027, Trenton, New Jersey 08625.

FOR FURTHER INFORMATION CONTACT: Henry Feingersh, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10278, (212) 637–4249.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is located in the Rules Section of this **Federal Register**.

Dated: August 7, 2002.

William J. Muszynski,

P.E., Deputy Regional Administrator, Region 2.

[FR Doc. 02–21284 Filed 8–22–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[CA–082–FOAb; FRL–7263–7]

Determination of Attainment of the 1-Hour Ozone Standard for San Diego County, CA

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to determine that the San Diego County area has attained the 1-hour ozone air quality standard by the deadline required by the Clean Air Act (CAA).

DATES: Comments on this proposal must be received by September 23, 2002.

ADDRESSES: Please address your comments to Dave Jesson, Air Planning Office (AIR–2), Air Division, U.S. EPA, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the State's submittal are available for public inspection during normal business hours at EPA's Region 9 office and at the following locations:

California Air Resources Board, 1001 I Street, Sacramento, CA 95814.

San Diego County Air Pollution Control District, 9150 Chesapeake Drive, San Diego, CA 92123–1096.

FOR FURTHER INFORMATION CONTACT: Dave Jesson, US EPA Region 9, at (415) 972–3957, or *jesson.david@epa.gov*.

SUPPLEMENTARY INFORMATION: In the Rules and Regulations section of this **Federal Register**, we are finding that the San Diego area has attained the 1-hour ozone National Ambient Air Quality Standards (NAAQS) under CAA Section 181(b)(2)(A). We are taking this action without prior proposal because we believe that the finding is not controversial. If we receive adverse

comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: August 8, 2002.

Keith Takata,

Acting Regional Administrator, Region IX.

[FR Doc. 02–21561 Filed 8–22–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7266–7]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete Gould Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA), Region 10, announces its intent to delete the Gould Site (Site) from the National Priorities List (NPL) and requests public comment on this proposed action. The NPL constitutes Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, as amended. EPA and the State of Oregon Department of Environmental Quality (DEQ) have determined that the remedial action for the site has been successfully executed.

DATES: Comments concerning the proposed deletion of this Site from the NPL may be submitted on or before September 23, 2002.

ADDRESSES: Comments may be mailed to: Beverly Gaines, EPA Point of Contact, U. S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Mail Stop, ECL–110, Seattle, Washington 98101.

Comprehensive information and the deletion docket for this Site are available through the Region 10 public docket which is available for reviewing at: U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Superfund Records Center, Seattle, Washington 98101.

Information on the site and a copy of the deletion docket are also available for viewing at the Information Repository which is located at: Multnomah County Library, 801 SW 10th Avenue, Portland, Oregon 97204.

FOR FURTHER INFORMATION CONTACT: Beverly Gaines, EPA Point of Contact, U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Mail Stop, ECL–110, Seattle, Washington 98101, phone: (206) 553–1066, fax: (206) 553–0124, e-mail: *gaines.beverly@epa.gov*.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis of Intended Site Deletion

I. Introduction

The U.S. Environmental Protection Agency (EPA) Region 10 announces its intent to delete the Gould Site, which is located in the City of Portland, Oregon, from the National Priorities List (NPL) and requests public comment on this proposed action. The NPL constitutes Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, as amended. EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and maintains the NPL as the list of these sites. EPA and the State of Oregon Department of Environmental Quality (DEQ)have determined that the remedial action for the site has been successfully executed.

EPA will accept comments on the proposal to delete this site for thirty (30) days after publication of this document in the **Federal Register**.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses the procedures EPA is using for this action. Section IV discusses the Gould Site and explains how the site meets the deletion criteria.

II. NPL Deletion Criteria

Section 300.425(e) of the NCP provides that sites may be deleted from, or recategorized on the NPL, where no further response is appropriate. In making a determination to delete a site from the NPL, EPA shall consider, in consultation with the State, whether any of the following criteria have been met:

(i) Responsible parties or other parties have implemented all appropriate response actions required; or

(ii) All appropriate Fund-financed responses under CERCLA have been implemented, and no further action by responsible parties is appropriate, or

(iii) The Remedial Investigation has shown that the site poses no significant threat to public health or the environment and, therefore, remedial measures are not appropriate.

Even if a site is deleted from the NPL, where hazardous substances, pollutants or contaminants remain at the site above levels that allow for unlimited use and unrestricted exposure, a subsequent review of the site will be conducted at least every five years after the initiation of the remedial action at the site to ensure that the site remains protective of public health and the environment. If new information becomes available which indicates a need for further action, EPA may initiate additional remedial actions. Whenever there is a significant release from a deleted site from the NPL, the site may be restored to the NPL without application of the Hazard Ranking System.

In the case of this site, the selected remedy is protective of human health and the environment; however, the remedy will leave waste on site above levels that allow for unlimited use and unrestricted exposure. A review of the selected remedy will occur at least every five years from initiation of the remedial action. The next five-year review will be done before September 28, 2002.

III. Deletion Procedures

The following procedures were used for the intended deletion of this site: (1) All appropriate response under CERCLA has been implemented and no further action by EPA is appropriate; (2) the State of Oregon has concurred with the proposed deletion decision; (3) a notice has been published in the local newspapers and has been distributed to appropriate federal, state, and local officials and other interested parties announcing the commencement of a 30-day public comment period on EPA's Notice of Intent to Delete; and (4) all relevant documents have been made available in the local site information repositories.

Deletion of the site from the NPL does not in itself, create, alter or revoke any individual's rights or obligations. The NPL is designed primarily for informational purposes and to assist Agency management. As mentioned in section II of this notice, Sec. 300.425(e)(3) of the NCP states that the

deletion of a site from the NPL does not preclude eligibility for future response actions.

For deletion of this site, EPA's Regional Office will accept and evaluate public comments on EPA's Notice of Intent to Delete before making a final decision to delete. If necessary, the Agency will prepare a Responsiveness Summary to address any significant public comments received.

A deletion occurs when the Regional Administrator places a final notice in the **Federal Register**. Generally, the NPL will reflect deletions in the final update following the notice. Public notices and copies of the Responsiveness Summary will be made available to local residents by the Regional Office.

IV. Basis for Intended Site Deletion

The following site summary provides the Agency's rationale for the proposal to delete this Site from the NPL.

Site Background and History

The Gould Site is located in the City of Portland, Oregon between NW Saint Helen's Road and NW Front Avenue in a heavily industrialized area northwest of downtown Portland known as the Doane lake area. The Site includes a 9.2 acre property currently owned by Gould Inc. that was the location of the former secondary lead smelter and battery recycle facility. Areas outside the property boundary is where battery casings and other residues from operations on the Gould property were placed.

A secondary lead smelting operation began at the Gould Site in 1949 under the ownership of Morris P. Kirk and Sons, a subsidiary of NL Industries, Inc. (NL). Facility operations included lead-acid battery recycling, lead smelting and refining, and lead oxide production. Gould purchased the property in 1979 and closed the facility in 1981. During facility operations, discarded battery casing materials and other lead smelter wastes were used as fill on the Gould Site and an adjacent property. Acid from batteries was drained to Doane Lake during several years of operation.

The Gould Site is adjacent to the former location of the Rhone-Poulenc Ag Company (Rhone-Poulenc) facility. Rhone-Poulenc is conducting an investigation under DEQ oversight and State authority of on-site and off-site contamination associated with their former pesticide and herbicide manufacturing facility.

The Gould Site is approximately one thousand feet southwest of the Willamette River. The Lower Willamette River, known as the Portland Harbor area, was recently added to the NPL because of sediment contamination. A remedial investigation and feasibility study (RI/FS) of the Lower Willamette River is being conducted by a group of Potentially Responsible Parties (PRPs) under a Consent Order signed by EPA and the PRPs in September 2001.

In 1981 and 1982, a joint investigation of contamination at the Gould Site was conducted by EPA and Oregon Department of Environmental Quality). EPA included the site on the NPL in 1983 because of documented lead contamination. In 1985 NL and Gould signed a Consent Order with EPA under which the two companies conducted an RI/FS. The RI/FS was completed in February 1988. The RI/FS showed there were high levels of lead contamination in battery casings and other smelter waste, soil, debris and in East Doane Lake sediments at the Site.

Selected Remedy

Soil Operable Unit

In March 1988, EPA issued a Record of Decision (ROD) for the Soils Operable Unit. The selected remedy included excavating and treating battery casings, recovering lead for recycle, excavation of contaminated soil and East Doane Lake sediments followed by stabilization of material that exceeds Resource Conservation and Recovery Act (RCRA) characteristic hazardous waste levels, monitoring air, groundwater, and surface water quality. The 1988 ROD also included additional study of groundwater to determine whether action was needed because there was insufficient hydrogeologic information available to make a decision on the groundwater.

The selected remedy was expected to control the migration of contaminants from the Site by minimizing releases to the air and groundwater. Surface soil cleanup levels for lead of 1000 mg/kg were selected to be protective of human industrial exposures, including direct contact, inhalation, and ingestion. The intent was to recycle materials that could potentially be recycled (lead and casing materials).

Excavation and treatment of contaminated surface soils, battery casing piles, buried battery casings, matte (smelter waste), and other debris began in the summer of 1993. Excavated battery casings were processed through a treatment plant to separate materials (lead fines, metallic lead, clean plastic, and clean ebonite) for recycle. Contaminated soil and matte were stabilized to bind contaminants for backfilling on Site.

An estimated 24,000 tons of contaminated battery casings were treated through the treatment/separation process, with 244 tons of plastic and 88 tons of coarse lead recycled. An estimated 20,000 blocks (each measuring one cubic yard) of stabilized material was produced. Several hundred tons of contaminated debris were shipped off site for disposal. Approximately 15,000 cubic yards of contaminated material were stockpiled on Site.

The treatment/recycle process was suspended in 1994 because of operational problems, inconsistent results, and significantly increased costs. EPA subsequently determined that the selected remedy was no longer appropriate based on operating experience and conditions at the Site.

In June 1997, EPA issued a ROD Amendment for the Soils Operable Unit that changed the cleanup remedy previously selected at the Site. The modified selected remedy included the following:

—Excavation and dewatering of contaminated East Doane Lake remnant (EDLR) sediments followed by backfilling the EDLR with clean imported backfill;
—Excavation of the remaining battery casings on the Gould property;
—Treatment (stabilization or fixation) of the lead fines stockpile, the screened Gould excavation stockpile, and other lead contaminated material identified as principal threat waste;
—Construction of a lined and capped on-site containment facility (OCF), with leachate collection and treatment, on the Gould property;
—Consolidating contaminated material, including sediments, treated and untreated stockpiled materials, casings, soil and debris in the line and capped OCF;
—Filling the East Doane Lake remnant and the open excavation in the Lake Area of the Rhone-Poulenc property;
—Performing groundwater monitoring to ensure the effectiveness of the cleanup, and that contaminants were not mobilized during its implementation.

Response Actions

The 1997 ROD Amendment also required mitigation/restoration to compensate for the loss of the estimated 3.1 acres of EDLR open water habitat. The ROD Amendment retained the surface soil cleanup level for lead at 1,000 mg/kg (the cleanup level selected in the 1988 ROD). Lead contamination was the principal threat addressed in the ROD and the primary contaminant of concern addressed in the 1997 ROD Amendment. The ROD Amendment modified the contaminated subsurface

material that would be excavated as part of the remedial action. Instead of requiring all subsurface material contaminated above RCRA characteristic waste levels to be excavated, it allowed some subsurface materials in excess of those levels to remain in place based on types of materials, location and updated information about groundwater contamination.

In the 1997 ROD Amendment, EPA determined that results of previous groundwater monitoring had not confirmed lead contamination in area groundwater. Data collected in 1995 and 1996 indicated that lead contamination was not widespread or significant in groundwater near the site. The ROD Amendment further concluded that although it did not appear there was a need for treatment of groundwater for lead, monitoring would be continued to further evaluate site conditions, and provide a basis for future cleanup or no action decisions for groundwater.

DEQ issued a Removal Action Decision Memorandum under State law in May 1998 that evaluated removal alternatives for organic contamination in portions of the East Doane lake remnant that could be performed in conjunction with the sediment removal action described in EPA's ROD Amendment for the Gould Site. DEQ's evaluation was based on additional sampling in the East Doane Lake remnant which indicated that sediments were also contaminated with organic chemicals that appeared to be related to past waste management practices at the Rhone-Poulenc Ag Company (Rhone-Poulenc) facility that was located adjacent to the Gould property. DEQ determined that removal of additional sediments in portions of East Doane Lake was warranted to address organic contamination and that the removal should occur in conjunction with sediment removal under the Gould Site remedial action. Rhone-Poulenc did not agree to perform the removal action and DEQ funded the removal of additional contaminated sediments.

Nine Gould Potentially Responsible Parties (PRPs) signed a Consent Decree with EPA that was lodged in U.S. District Court in Portland, Oregon in March, 1998. The PRPs began work in the summer of 1998 with the excavation, dewatering, and stockpiling of contaminated sediments from EDLR. Construction of the on-site containment facility, excavation and treatment of other contaminated materials, placement of the waste in the containment facility, and other cleanup actions required by the ROD Amendment have been completed as described below:

—East Doane lake contaminated sediments: Dredging, mechanical dewatering and stockpiling an estimated 8,700 cubic yards of contaminated EDLR sediment (including sediment removed as part of the DEQ removal action) and debris was completed in November of 1999. In addition, 55 compressed gas cylinders that were buried in the east portion of EDLR sediments were recovered, overpacked, and transported to an off-site facility for treatment and disposal.

—Gould property battery casings—An estimated 3590 cubic yards of battery casings and other waste material were excavated from the south shoreline of EDLR.

—Treatment of principle threat/stockpiled material—An estimated 7850 cubic yards of stockpiled material, including the lead fines stockpile, were treated by fixation to pass RCRA characteristic waste levels.

—On-site containment facility—Construction of the 4.5 acre containment facility on the Gould property is complete. The OCF includes a double bottom liner, leachate collection and treatment, and a multi-media cap. The leachate collection and treatment system are operational. Leachate is pre-treated for metals prior to transport to the Rhone-Poulenc wastewater treatment facility for additional treatment prior to discharge to the Willamette River in accordance with Rhone-Poulenc's NPDES permit.

—Consolidating contaminant material in the OCF—An estimated 77,700 cubic yards of contaminated material have been placed in the OCF. The OCF was capped with a multimedia cap following materials placement. The final topsoil covering and seeding were completed in August 2000.

—East Doane Lake remnant and the open excavation in the Lake Area of the Rhone-Poulenc property—backfilling the East Doane Lake remnant and the open excavation in the Lake Area of Rhone-Poulenc with clean material was completed in 1998 following excavation of the contaminated sediments.

—Groundwater monitoring—groundwater monitoring was carried out during remedial action to ensure the effectiveness of the cleanup and that contaminants were not mobilized during its implementation; and to gather additional information for the groundwater evaluation. Long-term groundwater monitoring will continue as part of the remedial action requirements for the Soils Operable Unit and the operation and maintenance plan for the OCF.

Other cleanup activities performed as part of the remedial action included demolition of on-site structures, asbestos abatement and polychlorinated biphenyl (PCB) light ballast removal and disposal, and excavation of surface soils contaminated above the 1,000 ppm lead cleanup level established by the ROD Amendment. Extensive air monitoring of lead and particulate levels was conducted to ensure that fugitive dust from construction activities were adequately controlled. Perimeter security fencing was installed to restrict access to the OCF.

EPA has approved a wetlands mitigation plan which provides funding and requires acquisition of an off-site property as mitigation for the loss of East Doane lake wetland and open-water habitat. EPA will approve the specific property in consultation with U.S. Fish and Wildlife Service prior to acquisition.

Groundwater Operable Unit ROD

EPA released a proposed plan that described the agency's preferred alternative of no further action for the Gould Site Groundwater Operable Unit on August 10, 2000. No comments were received during the 30-day public comment period.

EPA issued a ''No Action'' ROD for the Groundwater Operable Unit on September 28, 2000. The ROD concluded that cleanup of the Gould Site Soils Operable Unit has addressed lead-contaminated waste, soil, debris, and other potential sources of groundwater contamination from the Gould site operations. Groundwater investigations and monitoring have not shown a need for additional cleanup of Gould site contaminants in groundwater. Long-term groundwater monitoring will continue as required by the ROD Amendment for the Soils Operable Unit.

Cleanup Standards

The remedial action cleanup activities at the Gould Site are consistent with the objectives of the NCP and will provide protection to human health and the environment. The major sources of contamination, including battery casings, smelter waste, and lead-contaminated waste, soil, and debris have been addressed.

Air monitoring for dust and lead was performed during remedial construction and non-construction activities. The action levels for the Site ranged from 0.5 to 1.5 ug/cubic meter with specific

corrective actions required at each level. Results for individual sampling events ranged from non-detect to 3.5 ug/cubic meter. Average quarterly lead concentrations for the Site did not exceed Federal and State of Oregon standard for lead (1.5 ug/cubic meter).

Groundwater samples were collected during six sampling events during construction activities from on-site and off-site wells. Sample results indicated that there were no exceedences of the 15 micrograms/liter action level for lead established under the Safe Drinking Water Act.

Surface soil (0 to 1ft depth) sampling was performed at the Site to identify soils exceeding 1,000 mg/kg total lead and confirm removal. Surface soils that required removal outside the footprint of the OCF were located in the lake area of the Rhone-Poulenc property and the eastern and southern portions of the Gould property. Surface soil inside the footprint of the OCF was also removed as part of the site preparation for the OCF. Contaminated surface soils from these areas were excavated and disposed of in the OCF. Confirmatory sampling was performed and sample analysis was conducted for areas outside the OCF footprint in accordance with the Quality Assurance Project Plan results were reviewed and approved by EPA representatives prior to backfilling with imported non-contaminated soil.

East Doane lake was divided into sampling quadrants and dredging depths were predetermined based on sample results. Post-dredging sampling was also conducted to evaluate whether dredging achieved the criteria of EP Toxicity for lead. Total lead levels were also collected for comparison purposes. Re-dredging of sediment in quadrants that did not meet the criteria was conducted until the sample results within the quadrant indicated the criteria was met and/or EPA approved backfilling the sample quadrant based on sample results in the quadrant and consideration of the practical limits of dredging. The East Doane lake remnant was then backfilled in accordance with the ROD and contract documents.

Two stockpiles of waste material were designated as principle threat waste, the lead fines stockpile and the screened excavation stockpile. This waste was treated by stabilization to achieve a RCRA waste characteristic level of less than 5 mg/l of lead. Quality control confirmatory samples were collected to verify that the results met the performance standard.

Operation and Maintenance

Operation and maintenance activities began in January 2000 in accordance with the Final Remedial Design Report and Draft Operation and Maintenance Plan. The Final Operation and Maintenance Plan was completed November 6, 2001. It addresses activities, responsibilities and schedules for the following site components: OCF cover condition and stability, erosion and sedimentation controls, access roads, security fencing, storm water systems, leachate collection and removal, and groundwater monitoring. The plan also addresses monitoring and inspection frequency and responsibilities. Site inspections, maintenance and monitoring have been performed and will continue to be performed in accordance with the Operation and Maintenance Plan. EPA approved the Final Operation and Maintenance Plan on May 15, 2002.

Institutional Controls

Future use of the property is limited to industrial or other uses compatible with the cleanup under the terms of the Environmental Protection Restrictive Covenant and Easements that were granted by property owners to meet the requirements of the Consent Decree. EPA will evaluate the institutional controls at least every five years as part the five-year reviews that will be conducted at the Site.

Five-Year Review

Hazardous substances will remain at the Site above levels that allow unlimited use and unrestricted exposure after the completion of the remedial action. Pursuant to CERCLA Section 121(c) and provided in the current guidance on Five-Year Reviews, EPA must conduct a statutory five-year review to ensure that the remedy continues to provide adequate protection of human health and the environment. EPA conducted the first five-year review of the Gould Site on September 28, 1997, and the next five-year review is scheduled to be completed by September 28, 2002.

Community Involvement

EPA provided routine progress fact sheets to keep the public advised of site cleanup activities. There was not a great deal of interest in the excavation of waste materials and construction of the On-site Containment Facility (OCF) from the general public, but workers at an adjacent Metro waste transfer facility did raise concerns about the potential for off-site migration of lead-contaminated dust. Arrangements were made to provide air monitoring results directly to representatives from the transfer facility to keep workers advised and provide assurances that lead levels were being adequately controlled.

Applicable Deletion Criteria

One of the three criteria for deletion specifies that EPA may delete a site from the NPL if ''responsible parties have implemented all appropriate response actions required.'' EPA, with the concurrence of the State of Oregon, believe that this criterion for deletion has been met. There is no significant threat to human health or the environment and, therefore; no further remedial action is necessary. Subsequently, EPA is proposing deletion of this site from the NPL. Documents supporting this action are available in the deletion docket at the information repositories.

State Concurrence

In a letter dated August 8, 2002, from the Oregon Department of Environmental Quality (DEQ), DEQ concurs with the proposed deletion of the Gould Superfund Site from the NPL.

Dated: August 15, 2002.

Ronald A. Kreizenbeck,

Acting Regional Administrator, U.S. EPA, Region 10.

[FR Doc. 02–21553 Filed 8–22–02; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Part 72, Appendix A

RIN 0920–AA08

Interstate Shipment of Etiologic Agents; Select Agents

AGENCY: Centers for Disease Control and Prevention, Department of Health and Human Services.

ACTION: Notice of intent to issue regulations.

SUMMARY: On June 12, 2002, President George W. Bush signed Public Law 107–188, Public Health Safety and Bioterrorism Preparedness and Response Act of 2002. The Act specifies that the Secretary of the Department of Health and Human Services establish and maintain a list of biological agents and toxins that have the potential to pose a severe threat to public health and safety. The Secretary directed the Centers for Disease Control and Prevention (CDC) to convene an inter-agency work group to review the current list of biological agents and toxins found in 42 CFR part 72, Appendix A, and revise the list as necessary.

Prior to issuing the Interim Final Rule, as required by Public Law 107–

188, the CDC is interested in obtaining public comments on the revisions to 42 CFR part 72, Appendix A, that are under consideration. In addition to these revisions, the CDC is particularly interested in obtaining comments on whether there are biological agents and toxins that should be added to the list or removed from the list.

DATES: Submit comments on or before September 17, 2002.

ADDRESSES: Comments on the revisions to the list of select agents and toxins that are under consideration should be marked ''Comments on Select Agents'' and mailed to: Centers for Disease Control and Prevention, National Center for Infectious Diseases, Select Agent Transfer Program, 1600 Clifton Road NE., Mailstop E–79, Atlanta, Georgia 30333. Due to staff and equipment limitations, CDC cannot accept comments by facsimile or electronic mail.

FOR FURTHER INFORMATION CONTACT: For information concerning the revisions to the list of select agents and toxins that are under consideration should contact: Ms. Jennifer Brooks, National Center for Infectious Diseases, Office of the Director, 1600 Clifton Road NE., Mailstop C–12, Atlanta, Georgia 30333. Telephone: (404) 639–2763.

SUPPLEMENTARY INFORMATION:

Background

President George W. Bush signed the Public Health Safety and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107–188) on June 12, 2002. The Act specifies that the Secretary of the Department of Health and Human Services establish and maintain a list of biological agents and toxins that have the potential to pose a severe threat to public health and safety. The current list of select agents and toxins was published in the **Federal Register** on October 24, 1996, and appears as Appendix A to 42 CFR part 72. This notice of intent is part of the rule-making process that will culminate in the publication of an Interim Final Rule. CDC anticipates publishing this rule in coordination with the U.S. Department of Agriculture on or before December 9, 2002.

The Secretary directed the Centers for Disease Control and Prevention (CDC) to convene an inter-agency work group to review the current list of biological agents and toxins and revise the list as necessary. Members of the work group included representatives from the Department of Health and Human Services/Office of the Secretary (DHHS/OS), the Centers for Disease Control and Prevention (CDC), the National Institutes of Health (NIH), the Food and Drug Administration (FDA), the Department of the Army (DoD/Army), the Department of the Navy (DoD/Navy), the Department of the Air Force (DoD/AF), the U.S. Department of Agriculture (USDA), the Environmental Protection Agency (EPA), the Agency for Toxic Substances and Disease Registry (ATSDR), the Department of Labor/Occupational Safety and Health Administration (OSHA), the National Institute of Occupational Safety and Health (CDC/NIOSH), the Department of Transportation (DoT), the Department of Commerce (DoC), Department of Energy (DoE), the Department of Justice (DoJ), the Federal Bureau of Investigation (FBI), the Central Intelligence Agency (CIA), the Defense Intelligence Agency (DoD/DIA), and the U.S. Postal Service (USPS).

The Current List of Select Agents and Toxins

The current list of select agents and toxins was previously published in the **Federal Register** on October 24, 1996 and appears as Appendix A to 42 CFR part 72. In June 2002, CDC convened an interagency working group to review the current list of select agents and toxins and develop recommendations regarding possible changes to the list. CDC has reviewed those recommendations and this notice of intent seeks to solicit comments from the public on potential changes to the current list of select agents and toxins. Of the 36 select agents and toxins on CDC's current list, 18 of these appear on the USDA list of agents and toxins required under Section 212(a) and located in 9 CFR 121.2(a). These 18 agents and toxins appear on both the CDC and USDA lists since they pose a risk to both human and animal health. Because the process of changing the list of select agents and toxins was in the initial stages when USDA published its interim rule on August 8, 2002 and when this CDC notice of intent is being published, the list of agents and toxins found in both 42 CFR part 72, Appendix A, and 9 CFR 121.2(a) reflects the select agent list promulgated by CDC in October 1996. The notification requirement for persons in possession of any select agent as published by CDC on July 12, 2002 and USDA on August 8, 2002, applies to the current list of agents and toxins and is unaffected by the information solicited by this notice.

Summary of Changes to Appendix A, 42 CFR Part 72, That Are Under Consideration

The following changes are being considered to the list of *Viruses:*

1. Rename ''Equine Morbillivirus'' to ''Nipah and Hendra Complex viruses''.
2. Change ''Tick-borne encephalitis complex viruses'' to ''Tick-borne encephalitis complex (flavi) viruses (Central European Tick-borne encephalitis, Far Eastern Tick-borne encephalitis (Russian Spring and Summer encephalitis, Kyasanur Forest disease, Omsk Hemorrhagic Fever))''.
3. *Delete:* ''Viruses causing hantavirus pulmonary syndrome'' and ''Yellow fever virus''.
4. *Add:* ''Monkeypox virus'' and ''Herpes B virus''.
5. *Remove:* exemptions list since exemptions will be covered in the Interim Final Rule.

The following changes are being considered to the list of *Bacteria:*

1. Remove ''(Pseudomonas)'' from the name of ''Burkholderia (Pseudomonas) mallei'' and ''Burkholderia (Pseudomonas) pseudomallei''.
2. Change ''Clostridium botulinum'' to ''Botulinum neurotoxin producing strains of Clostridium''.
3. *Remove the header:* Rickettsiae and combine these agents with the agents in the bacteria list.
4. *Remove:* exemptions list since this will be covered in the Interim Final Rule.

The following change is being considered to the list of *Fungi:*

1. Change Coccidioides immitis to Coccidioides immitis, C. posadasii.

The following changes are being considered to the list of *Toxins:*

1. *Remove:* ''Aflatoxins''.
2. Change ''Botulinum toxins'' to ''Botulinum neurotoxins''.
3. Change ''Shigatoxin'' to ''Shigatoxin and Shiga-like toxins''.

The following change is being considered for *Exemptions:*

1. Change ''Exemptions: Toxins for medical use, inactivated for use as vaccines, or toxin preparations for biomedical research use at an LD<INF> 50 for vertebrates of more than 100 nanograms per kilogram body weight are exempt. National standard toxins required for biologic potency testing as described in 9 CFR part 113 are exempt.'' to ''Exemptions: Toxin preparations containing ≤ 1 mg of Botulinum neurotoxins; ≤ 10 mg of Staphylococcal enterotoxins; or ≤ 100 mg of Abrin, Clostridium perfringens epsilon toxin, Conotoxins, Diacetoxyscirpenol, Ricin, Saxitoxin, Shigatoxin and Shiga-like toxins, Tetrodotoxin, or T–2 toxin, are exempt. Toxin preparation stored in more than one location within a facility must be aggregated in determining if the exemption applies. The medical use of toxins for patient treatment are exempt.''

The following changes are being considered to *Recombinant Organisms/Molecules:*

1. Change title ''Recombinant Organisms/Molecules'' to ''Genetic Elements, Recombinant Nucleic Acids, and Recombinant Organisms''.

2. Change ''1. Genetically modified microorganisms or genetic elements from organisms on Appendix A, shown to produce or encode for a factor associated with a disease. 2. Genetically modified microorganisms or genetic elements that contain nucleic acid sequences coding for any of the toxins listed in this Appendix, or their toxic subunits.'' to:

''1. Full length nucleic acids (synthetic or naturally derived) of any of the viruses listed in Appendix A.

2. Nucleic acids (synthetic or naturally derived) of 100 nucleotides or more in length of Variola major virus (smallpox virus).

3. Nucleic acids (synthetic or naturally derived) of bacteria, fungi, or viruses listed in Appendix A that encode for either a functional toxin or virulence factor sufficient to cause disease if the nucleic acid is: (1) Expressed in vivo or in vitro; (2) in an expression vector or host chromosome; or (3) in a carrier plasmid.

4. Nucleic acids (synthetic or naturally derived) that encode for functional form of any of the toxins listed in Appendix A if: (1) Expressed in vivo or in vitro; (2) in an expression vector or host chromosome; or (3) in a carrier plasmid.

5. Microorganisms in Appendix A that have been genetically modified.''

Finally, CDC is considering the following change to *Additional Exemptions:*

1. Remove the following text since exemptions will be addressed in the Interim Final Rule:

''1. Products subject to regulation under the Federal Insecticide Fungicide and Rodenticide Act (7 U.S.C. 136 *et seq.*) and the Toxic Substances Control Act (15 U.S.C. 2601 *et seq.*) are exempt.

2. Additional exemptions for otherwise covered strains will be considered when CDC reviews and updates the list of select agents and toxins in this Appendix. Individuals seeking an exemption should submit a request to CDC that specifies the agent or strain to be exempted and explains why such an exemption should be granted. Future exemptions will be published in the **Federal Register** for review and comment prior to inclusion in this Appendix.''

List of Select Agents and Toxins

The following is the list of select agents and toxins that is being considered for adoption:

Viruses

1. Crimean-Congo haemorrhagic fever virus
2. Eastern Equine Encephalitis virus
3. Ebola viruses
4. Herpes B virus
5. Lassa fever virus
6. Marburg virus
7. Monkeypox virus
8. Nipah and Hendra Complex viruses
9. Rift Valley fever virus
10. South American Haemorrhagic fever viruses (Junin, Machupo, Sabia, Flexal, Guanarito)
11. Tick-borne encephalitis complex (flavi) viruses (Central European Tick-borne encephalitis, Far Eastern Tick-borne encephalitis (Russian Spring and Summer encephalitis, Kyasanur Forest disease, Omsk Hemorrhagic Fever))
12. Variola major virus (Smallpox virus)
13. Venezuelan Equine Encephalitis virus

Bacteria

1. Bacillus anthracis
2. Brucella abortus
3. Brucella melitensis
4. Brucella suis
5. Burkholderia mallei
6. Burkholderia pseudomallei
7. Botulinum neurotoxin producing strains of Clostridium
8. Coxiella burnetii
9. Francisella tularensis
10. Rickettsia prowazekii
11. Rickettsia rickettsii
12. Yersinia pestis

Fungi

1. Coccidioides immitis
2. Coccidioides posadasii

Toxins

1. Abrin
2. Botulinum neurotoxins
3. Clostridium perfringens epsilon toxin
4. Conotoxins
5. Diacetoxyscirpenol
6. Ricin
7. Saxitoxin
8. Shigatoxin and Shiga-like toxins
9. Staphylococcal enterotoxins
10. Tetrodotoxin
11. T–2 toxin

Exemptions: Toxin preparations containing ≤1 mg of Botulinum neurotoxins; ≤10 mg of Staphylococcal enterotoxins; or ≤100 mg of Abrin, Clostridium perfringens epsilon toxin, Conotoxins, Diacetoxyscirpenol, Ricin, Saxitoxin, Shigatoxin and Shiga-like toxins, Tetrodotoxin, or T–2 toxin, are exempt. Toxin preparation stored in more than one location within a facility must be aggregated in determining if the exemption applies. The medical use of toxins for patient treatment are exempt.

Genetic Elements, Recombinant Nucleic Acids, and Recombinant Organisms

1. Full length nucleic acids (synthetic or naturally derived) of any of the viruses listed in Appendix A.

2. Nucleic acids (synthetic or naturally derived) of 100 nucleotides or more in length of Variola major virus (smallpox virus).

3. Nucleic acids (synthetic or naturally derived) of bacteria, fungi, or viruses listed in Appendix A that encode for either a functional toxin or virulence factor sufficient to cause disease if the nucleic acid is: (1) Expressed in vivo or in vitro; (2) in an expression vector or host chromosome; or (3) in a carrier plasmid.

4. Nucleic acids (synthetic or naturally derived) that encode for functional form of any of the toxins listed in Appendix A if: (1) Expressed in vivo or in vitro; (2) in an expression vector or host chromosome; or (3) in a carrier plasmid.

5. Microorganisms in Appendix A that have been genetically modified.

Other Restrictions

The deliberate transfer of a drug resistance trait to microorganisms listed in this Appendix that are not known to acquire the trait naturally is currently prohibited if such acquisition could compromise the use of the drug to control these disease agents in humans or veterinary medicine.

Dated: August 9, 2002.

Julie Louise Gerberding,

Director, Centers for Disease Control and Prevention.

[FR Doc. 02–21512 Filed 8–20–02; 4:01 pm]

BILLING CODE 4163–18–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AH08

Endangered and Threatened Wildlife and Plants; Designations of Critical Habitat for Plant Species From the Island of Molokai, HI

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of comment period, and public hearing announcement.

SUMMARY: The U.S. Fish and Wildlife Service (Service) gives notice of a public hearing on the proposed critical habitat designations for 46 plants from the island of Molokai, Hawaii. In addition, the comment period which originally closed on June 4, 2002, will be reopened. The new comment period and hearing will allow all interested parties to submit oral or written comments on the proposal. We are seeking comments or suggestions from the public, other concerned agencies, the scientific community, industry, or any other interested parties concerning the proposed rule. Comments already submitted on the proposed rule need not be resubmitted as they will be fully considered in the final determination.

DATES: The comment period for this proposal now closes on September 30, 2002. Any comments received by the closing date will be considered in the final decision on this proposal. The public hearing will be held from 6 p.m. to 8 p.m. on Monday, September 9, 2002, on the island of Molokai, Hawaii. Prior to the public hearing, the Service will be available from 3:30 to 4:30 p.m. to provide information and to answer questions. The Service will also be available for questions after the hearing.

ADDRESSES: The public hearing will be held at the Mitchell Pauole Center Hall, 90 Ainoa Street, Kaunakakai, Hawaii. Comments and materials concerning this proposal should be sent to the Field Supervisor, U.S. Fish and Wildlife Service, Pacific Islands Office, 300 Ala Moana Boulevard, Room 3–122, PO Box 50088, Honolulu, HI 96850. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Paul Henson, at the above address (telephone 808/541–3441, facsimile 808/541–3470).

SUPPLEMENTARY INFORMATION:

Background

On April 5, 2002, we published a revised proposed critical habitat rule for 46 of the 51 plant species listed under the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), known historically from the island of Molokai (67 FR 16492). The original comment period closed on June 4, 2002. The comment period now closes on September 30, 2002. Written comments should be submitted to us (*see* **ADDRESSES** section).

A total of 51 species historically found on Molokai were listed as endangered or threatened species under the Act between 1991 and 1999. Some of these species may also occur on other Hawaiian islands. Previously, we proposed that designation of critical habitat was prudent for 47 (*Adenophorus periens, Alectryon macrococcus, Bidens wiebkei, Bonamia menziesii, Brighamia rockii, Canavalia molokaiensis, Centaurium sebaeoides, Clermontia oblongifolia* ssp. *brevipes, Ctenitis squamigera, Cyanea dunbarii, Cyanea grimesiana* ssp. *grimesiana, Cyanea mannii, Cyanea procera, Cyperus trachysanthos, Diellia erecta, Diplazium molokaiense, Flueggea neowawraea, Hedyotis mannii, Hesperomannia arborescens, Hibiscus arnottianus* ssp. *immaculatus, Hibiscus brackenridgei, Ischaemum byrone, Isodendrion pyrifolium, Labordia triflora, Lysimachia maxima, Mariscus fauriei, Marsilea villosa, Melicope mucronulata, Melicope reflexa, Neraudia sericea, Peucedanum sandwicense, Phyllostegia mannii, Phyllostegia mollis, Plantago princeps, Platanthera holochila, Pteris lidgatei, Schiedea lydgatei, Schiedea nuttallii, Schiedea sarmentosa, Sesbania tomentosa, Silene alexandri, Silene lanceolata, Spermolepis hawaiiensis, Stenogyne bifida, Tetramolopium rockii, Vigna o-wahuensis,* and *Zanthoxylum hawaiiense*) of the 51 species reported from the island of Molokai. No change is made to the 47 proposed prudency determinations in the April 5, 2002, revised proposed critical habitat rule for plants from Molokai. We previously proposed that designation of critical habitat was not prudent for *Pritchardia munroi* because it would likely increase the threats from vandalism or collection of this species on Molokai, and we did not propose critical habitat for this species (65 FR 83158). No change is made to this proposed prudency determination in the April 5, 2002, revised proposed critical habitat rule (67 FR 16492). In the April 5, 2002, revised proposed critical habitat rule, we proposed that designation of critical habitat is prudent for *Eugenia koolauensis,* a species for which a prudency determination has not been made previously. We determined that designation of critical habitat was prudent for *Labordia triflora* and *Melicope munroi* at the time of their listing in 1999.

We also propose designation of critical habitat for 46 (*Adenophorus periens, Alectryon macrococcus, Bidens wiebkei, Brighamia rockii, Canavalia molokaiensis, Centaurium sebaeoides, Clermontia oblongifolia* ssp. *brevipes, Ctenitis squamigera, Cyanea dunbarii, Cyanea grimesiana* ssp. *grimesiana, Cyanea mannii, Cyanea procera, Diellia erecta, Diplazium molokaiense, Eugenia koolauensis, Flueggea neowawraea, Hedyotis mannii, Hesperomannia arborescens, Hibiscus arnottianus* ssp. *immaculatus, Hibiscus brackenridgei, Ischaemum byrone, Isodendrion pyrifolium, Labordia triflora, Lysimachia maxima, Mariscus fauriei, Marsilea villosa, Melicope mucronulata, Melicope reflexa, Neraudia sericea, Peucedanum sandwicense, Phyllostegia mannii, Phyllostegia mollis, Plantago princeps, Platanthera holochila, Pteris lidgatei, Schiedea lydgatei, Schiedea nuttallii, Schiedea sarmentosa, Sesbania tomentosa, Silene alexandri, Silene lanceolata, Spermolepis hawaiiensis, Stenogyne bifida, Tetramolopium rockii, Vigna o-wahuensis,* and *Zanthoxylum hawaiiense*) plant species. Critical habitat is not proposed for four (*Bonamia menziesii, Cyperus trachysanthos, Melicope munroi,* and *Solanum incompletum*) of the 51 species which no longer occur on the island of Molokai, and for which we are unable to identify any habitat that is essential to their conservation on the island of Molokai. Critical habitat is not proposed for *Pritchardia munroi* for the reasons given above. Ten critical habitat units, totaling approximately 17,614 hectares (43,532 acres), are proposed for designation on the island of Molokai. For locations of these proposed units, please consult the proposed rule (67 FR 16492) (April 5, 2002).

Section 4(b)(5)(E) of the Act, requires that a public hearing be held if it is requested within 45 days of the publication of a proposed rule. In response to a request from a government agency of the State of Hawaii, we will hold a public hearing on the date and at the address described in the **DATES** and **ADDRESSES** sections above.

Anyone wishing to make an oral statement for the record is encouraged to provide a written copy of their statement and present it to us at the hearing. In the event there is a large attendance, the time allotted for oral statements may be limited. Oral and written statements receive equal consideration. There are no limits to the length of written comments presented at the hearing or mailed to us. Legal notices announcing the date, time, and location of the public hearing will be published in newspapers concurrently with the **Federal Register** notice.

Persons needing reasonable accommodations in order to attend and participate in the public hearing should

contact Patti Carroll at 503/231–2080 as soon as possible. In order to allow sufficient time to process requests, please call no later than one week before the hearing date.

Information regarding this proposal is available in alternate formats upon request.

We will accept public comments on the draft economic analysis until September 11, 2002.

Comments from the public regarding this proposed rule are sought, especially regarding:

(1) The reasons why critical habitat for any of these species is prudent or not prudent as provided by section 4 of the Act and 50 CFR 424.12(a)(1);

(2) The reasons why any particular area should or should not be designated as critical habitat for any of these species, as critical habitat is defined by section 3 of the Act;

(3) Specific information on the amount, distribution, and quality of habitat for the 46 species, and what habitat is essential to the conservation of the species and why;

(4) Land use practices and current or planned activities in the subject areas, and their possible impacts on proposed critical habitat;

(5) Any economic or other impacts resulting from the proposed designations of critical habitat, including any impacts on small entities, energy development, low income households, and local governments;

(6) Economic and other potential values associated with designating critical habitat for the above plant species such as those derived from non-consumptive uses (*e.g.,* hiking, camping, birding, enhanced watershed protection, increased soil retention, ''existence values'', and reductions in administrative costs); and

(7) Information for use, under section 4(b)(2) of the Act, in determining if the benefits of excluding an area from critical habitat outweigh the benefits of specifying the area as critical habitat.

Reopening of the comment period will enable us to respond to the request for a public hearing on the proposed action. The comment period on this proposal now closes on September 30, 2002. Written comments should be submitted to the Service office listed in the **ADDRESSES** section.

Author

The primary author of this notice is Michelle Mansker (see **ADDRESSES** section).

Authority: The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: August 14, 2002.

David P. Smith,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 02–21626 Filed 8–22–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[I.D. 081302B]

Mid-Atlantic Fishery Management Council and New England Fishery Management Council; Public Hearings

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

ACTION: Notice of supplemental scoping meetings; request for comments.

SUMMARY: The Mid-Atlantic and New England Fishery Management Councils (Councils) are currently developing Amendment 2 to the Monkfish Fishery Management Plan (FMP), pursuant to the Magnuson- Stevens Fishery Conservation and Management Act of 1976, as amended. Among management measures, the FMP implemented a limited access system which restricts participation in the monkish fishery within Federal waters based on historical participation. The Councils are considering revising the monkfish limited access permit system in Amendment 2 to allow vessels that landed monkfish after the original control date in the southern end of the range of the fishery to qualify for permits.

In January 2002, at one of their regularly scheduled meetings, the Councils provided the public with an opportunity to comment on the monkfish limited access permit system in Amendment 2. Once again, the Councils intend to provide the public with an opportunity to comment on this particular issue. The intended effect of this action is to alert interested public of the commencement of this supplemental scoping process and to provide for public participation.

DATES: The Councils will discuss and take scoping comments on options to amend the monkfish limited access program in Amendment 2 at public meetings in September 2002. See **SUPPLEMENTARY INFORMATION** for specific dates and times. Written scoping comments must be received on or before 5 p.m. EST, September 27, 2002.

ADDRESSES: Written comments should be directed to Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115 Federal Building, 300 South New Street, Dover, DE 19904–6790. Comments may also be submitted by facsimile (fax) to (302) 674–5399. Comments should be marked ''Comments on Monkfish Amendment 2.'' The Council will not accept unsigned faxes or comments by e-mail.

FOR FURTHER INFORMATION CONTACT: Daniel T. Furlong, Executive Director, telephone (302) 674–2331, ext. 19.

SUPPLEMENTARY INFORMATION:

Background

A notice of intent to prepare a Monkfish Supplemental Environmental Impact Statement (SEIS) and notice of public scoping process was published in the **Federal Register** on December 10, 2001 (66 FR 63666). The purpose of this notice was to initiate the public scoping process to determine the scope of the issues to be included in the SEIS for Amendment 2. In particular, this notice sought public comment on the possibility of revising the monkfish limited access program qualification criteria to include Virginia and North Carolina vessels that were excluded from the qualification criteria due to mis-information regarding the extent of the monkfish fishery management unit in a public hearing document for the initial FMP. The public scoping comment period for Amendment 2 ended on February 11, 2002. This notice announces a supplemental scoping process to seek further public comment on options to address the exclusion of Virginia and North Carolina vessels, or other vessels that may meet the revised limited access criteria, from the monkfish limited access fishery.

Scoping Meetings

The public will have an opportunity to provide oral comments on the options that would potentially amend the monkfish limited access program at the September meeting of the New England Fishery Management Council, and three additional public meetings to be held in September, as described below. The dates, times, and locations of the hearings are scheduled as follows:

1. Wednesday, September 11, 2002, 7–9 p.m.—Roanoke Island Festival Park, One Festival Park, Manteo, NC 27954; telephone: 252–475–1500.

2. Wednesday, September 11, 2002, 6–8 p.m.—Providence Biltmore Hotel, Providence, RI 02903; telephone: 401–421–0700.

3. Thursday, September 12, 2002, 7–10 p.m.—Chincoteague Center, 6155

Community Drive, Chincoteague, VA 23336; telephone: 757–336–0614.

Special Accommodations

These public meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Joanna Davis at the Mid-Atlantic Council at least 5 days prior to the meeting date.

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

Dated: August 19, 2002.

Virginia M. Fay,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 02–21589 Filed 8–22–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 020724175–2175–01; I.D. 062602E]

RIN 0648–AP71

Fisheries of the Exclusive Economic Zone Off Alaska; Amendment 69 To Revise American Fisheries Act Inshore Cooperative Requirements

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

ACTION: Supplemental proposed rule; request for comments.

SUMMARY: NMFS proposes additional changes related to an earlier proposed rule to implement Amendment 69 to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP). This proposed amendment would allow an American Fisheries Act (AFA) inshore cooperative to contract with a non-member vessel to harvest a portion of the cooperative's pollock allocation. The North Pacific Fishery Management Council (Council) developed Amendment 69 to provide greater flexibility to inshore catcher vessel cooperatives to arrange for the harvest of their pollock allocation, and to address potential emergency situations, such as vessel breakdowns, that would prevent a cooperative from harvesting its entire allocation. This action is designed to be consistent with the environmental and socioeconomic objectives of the AFA, the Magnuson-Stevens Fishery Management and Conservation Act (Magnuson-Stevens Act), the FMP, and other applicable laws.

DATES: Comments on the proposed rule must be received on or before October 7, 2002.

ADDRESSES: Comments must be sent to Sue Salveson, Assistant Administrator, Sustainable Fisheries Division, NMFS, Alaska Region, P.O. Box 21668, Juneau, AK 99802, Attn: Lori Gravel, or delivered to Federal Building, Fourth Floor, 709 West 9th Street, Juneau, AK, and marked Attn: Lori Gravel. Copies of the Regulatory Impact Review/ Initial Regulatory Flexibility Analysis (RIR/ IRFA) prepared for Amendment 69 may be obtained from NMFS at the above address. Send comments on collection-of-information requirements to the NMFS, Alaska Region and to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB), Washington, DC 20503 (Attn: NOAA Desk Officer). Additional information on the AFA, and the regulations to implement Amendments 61/61/13/8, may be found in the proposed rule to implement Amendments 61/61/13/8, and in the final Environmental Impact Statement prepared for Amendments 61/61/13/8, which is available from NMFS at the addresses noted above.

FOR FURTHER INFORMATION CONTACT: Kent Lind, 907–586–7650, or *kent.lind@noaa.gov*.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the exclusive economic zone (EEZ) of the Bering Sea and Aleutian Islands Management Area (BSAI) under the FMP. The Council prepared, and NMFS approved, the FMP under the authority of the Magnuson-Stevens Act (16 U.S.C. 1801 *et seq.*) and the AFA (Div. C, Title II, Pub. L. No. 105–277, 112 Stat. 2681 (1998)). Regulations implementing the FMP appear at 50 CFR part 679. General regulations governing U.S. fisheries also appear at 50 CFR part 600.

The Council has submitted Amendment 69 for Secretary of Commerce review and a Notice of Availability of the FMP amendment was published in the **Federal Register** on July 5, 2002 (67 FR 44794), with comments on the FMP amendment invited through September 3, 2002. Comments may address the FMP amendment, the proposed rule, or both, but must be received by September 3, 2002, to be considered in the approval/ disapproval decision on the FMP amendment. All comments received by that time, whether specifically directed to the FMP amendment or the proposed rule, will be considered in the approval/ disapproval decision on the FMP amendment.

Background Information on the AFA

The AFA established a limited access program for the inshore sector of the BSAI pollock fishery that is based on the formation of fishery cooperatives around each inshore pollock processor. Under the AFA, if at least 80 percent of the catcher vessels that delivered the majority of their BSAI pollock catch to a specific inshore processor during the previous year form a fishery cooperative, and agree to deliver at least 90 percent of its BSAI pollock catch to that same processor, then NMFS must grant the cooperative an exclusive allocation of BSAI pollock based on the member vessels' catch histories from 1995–1997. NMFS issues a single pollock allocation to each cooperative and the cooperative may make sub-allocations of pollock to each individual vessel owner in the cooperative.

All the inshore cooperative agreements implemented to date have provided each member of the cooperative an allocation of pollock that is proportionate to the member vessel's catch history in a manner determined by the cooperative (generally, the best 2 of 3 years from 1995–1997). In effect, the inshore cooperative program functions as a privately run individual fishing quota in which NMFS assigns overall cooperative allocations and each member vessel is granted by the cooperative the exclusive right to harvest its portion of the cooperative's annual pollock allocation. Each cooperative allows its members to harvest their individual allocations or to ''lease'' their individual allocations to other members of the cooperative.

NMFS first implemented this inshore cooperative allocation program in 2000 through emergency interim rule (65 FR 4520, January 28, 2000). The program was renewed for 2001 with modifications recommended by the Council that allowed inactive vessels to remain eligible to join fishery cooperatives even if they did not fish for pollock during the previous year (66 FR 7327, January 22, 2001) and again in 2002 (67 FR 956, January 8, 2002).

During the time period when the provisions of the AFA were implemented through interim regulations, the Council and NMFS also undertook the development of a comprehensive FMP amendment package to implement the provisions of the AFA on a permanent basis. These amendments to implement the AFA included: Amendment 61 to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian

Islands Area, Amendment 61 to the Fishery Management Plan for Groundfish of the Gulf of Alaska, Amendment 13 to the Fishery Management Plan for Bering Sea and Aleutian Islands King and Tanner Crab, and Amendment 8 to the Fishery Management Plan for the Scallop Fishery off Alaska (Amendments 61/61/13/8). This proposed Amendment 69 would supersede paragraphs 210(b)(1)(B) and 210(b)(5) of the AFA, to the extent that these paragraphs affect the BSAI groundfish fisheries, which would be implemented by Amendments 61/61/13/8 and currently prohibit such contracts with outside vessels. Amendments 61/61/13/8 were partially approved on February 27, 2002, and a proposed rule to implement the amendments, which includes the operating regulations for inshore catcher vessel cooperatives, was published on December 17, 2001 (66 FR 65028).

Additional information on the AFA, and the regulations to implement Amendments 61/61/13/8, may be found in the proposed rule to implement Amendments 61/61/13/8 (66 FR 65028; December 17, 2001), and in the Environmental Impact Statement prepared for Amendments 61/61/13/8, which is available from NMFS (see **ADDRESSES**).

Purpose and Need for Amendment 69

Several existing regulations and administrative limitations prevent inshore cooperatives from contracting with non-member vessels to harvest a portion of the cooperative's BSAI pollock allocation. First, NMFS recordkeeping and reporting requirements specify that all landings from the BSAI directed pollock fishery that are made by the member vessels of a cooperative must accrue against that cooperative's annual allocation. The NMFS database in its present form automatically assigns a single cooperative code to each AFA catcher vessel (the code representing the cooperative of which the vessel is a member) and therefore precludes a vessel from reporting landings using any different cooperative code during a fishing year. Second, regulations at 50 CFR 679.7(k)(5)(i) prohibit a catcher vessel listed on an AFA inshore cooperative permit to harvest pollock in excess of the cooperative's allocation. This prohibition prevents the member vessels in one cooperative from contracting to harvest a portion of the allocation of another cooperative.

These restrictions, which have the effect of preventing inshore cooperatives from contracting with non-member vessels, are required by subparagraph 210(b)(1)(B) of the AFA, which states:

> Effective January 1, 2000. . . upon the filing of a contract implementing a fishery cooperative under subsection (a) which. . . specifies, except as provided in paragraph (6), that such catcher vessels will deliver pollock in the directed pollock fishery only to such shoreside processor during the year in which the fishery cooperative will be in effect and that such shoreside processor has agreed to process such pollock, the Secretary shall allow only such catcher vessels (and catcher vessels whose owners voluntarily participate pursuant to paragraph (2)) to harvest the aggregate percentage of the directed fishing allowance under section 206(b)(1) in the year in which the fishery cooperative will be in effect that is equivalent to the aggregate total amount of pollock harvested by such catcher vessels (and by such catcher vessels whose owners voluntarily participate pursuant to paragraph (2)) in the directed pollock fishery for processing by the inshore component during 1995, 1996, and 1997 relative to the aggregate total amount of pollock harvested in the directed pollock fishery for processing by the inshore component during such years and shall prevent such catcher vessels (and catcher vessels whose owners voluntarily participate pursuant to paragraph (2)) from harvesting in aggregate in excess of such percentage of such directed fishing allowance.

And also by the last sentence of paragraph 210(b)(5) of the AFA which states:

> . . .A catcher vessel eligible under section 208(a) the catch history of which has been attributed to a fishery cooperative under paragraph (1) during any calendar year may not harvest any pollock apportioned under section 206(b)(1) in such calendar year other than the pollock reserved under paragraph (1) for such fishery cooperative.

The Council developed Amendment 69 to modify these limitations in response to requests from the inshore pollock industry to provide greater harvest flexibility to members of inshore pollock cooperatives. Amendment 69 has three objectives: (1) Increase efficiency and provide catcher vessel owners with a more functional market for leasing of individual pollock allocations, (2) ensure that an inshore cooperative is able to harvest its entire allocation in the event of vessel breakdowns or other unanticipated emergencies, and (3) improve safety by providing greater flexibility for larger catcher vessels to harvest cooperative allocations during hazardous weather in winter months and when Steller sea lion conservation measures require that fishing be done further offshore.

With respect to the first objective, the AFA currently limits the lease market for pollock quota to only those vessels that are members of the same cooperative. In cooperatives where a substantial number of the vessels are owned or controlled by the associated processor, owners of independent catcher vessels may have limited opportunities to lease quota to other independent vessel owners in the same cooperative. The problem could become even more acute at certain times of the year when only plant-owned vessels are operating. In this hypothetical case, an independent catcher vessel owner could have only one potential customer willing to lease his quota and, therefore, may be in a weak bargaining position. This independent catcher vessel owner likely would benefit from a broader market for his pollock allotment. Efficiency could improve if the vessel that is being contracted to harvest the pollock has lower operating costs than the vessel initially granted use rights to the pollock by the cooperative, depending upon the cost and terms of the lease contract.

With respect to the second objective, under existing regulations, if one or more vessels in a cooperative break down or are otherwise out of commission, and the other vessels in the cooperative are already operating at full capacity, a catcher vessel owner could be unable to contract with a replacement vessel to harvest his portion of the cooperative's pollock allocation. An unexpected emergency such as a dockside fire or accidents that disable or destroy several member vessels of a cooperative at the same time could result in the cooperative being unable to harvest a large portion of its annual allocation. This proposed rule would give cooperatives the means to deal with such emergency situations and facilitate their ability to harvest their entire annual allocations.

With respect to the third objective, safety could be improved if the owners of smaller catcher vessels have greater flexibility to enter into contracts with larger (presumably safer) vessels to harvest the smaller vessel's allocation during the more hazardous weather conditions common during winter months and when Steller sea lion protection measures require that fishing be conducted further offshore. Under existing regulations, the owner of a smaller catcher vessel could be under greater pressure to fish in less than safe conditions if he is unable to contract with larger vessels within his cooperative to harvest some or all of his pollock allocation.

Council Authority to Supersede the AFA

Subsection 213(c) of the AFA provides the Council with the following authority to recommend management

measures to supersede certain provisions of the AFA:

(c) CHANGES TO FISHERY COOPERATIVE LIMITATIONS AND POLLOCK CDQ ALLOCATION. The North Pacific Council may recommend and the Secretary may approve conservation and management measures in accordance with the Magnuson-Stevens Act

(1) that supersede the provisions of this title, except for sections 206 and 208, for conservation purposes or to mitigate adverse effects in fisheries or on owners of fewer than three vessels in the directed pollock fishery caused by this title or fishery cooperatives in the directed pollock fishery, provided such measures take into account all factors affecting the fisheries and are imposed fairly and equitably to the extent practicable among and within the sectors in the directed pollock fishery;

(2) that supersede the allocation in section 206(a) for any of the years 2002, 2003, and 2004, upon the finding by such Council that the western Alaska community development quota program for pollock has been adversely affected by the amendments in this title; or

(3) that supersede the criteria required in paragraph (1) of section 210(b) to be used by the Secretary to set the percentage allowed to be harvested by catcher vessels pursuant to a fishery cooperative under such paragraph.

Any measure recommended by the Council that supersedes a specific provision of the AFA must be implemented by FMP amendment in accordance with the Magnuson-Stevens Act. In developing Amendment 69, the Council determined that all three objectives for Amendment 69 meet the criteria established in paragraph 213(c)(1) of the AFA, which states that the Council may recommend measures that supersede the AFA ''to mitigate adverse effects . . . on owners of fewer than three vessels in the directed pollock fishery...''

Elements of the Proposed Rule

The proposed rule to implement Amendment 69 contains the following requirements for inshore cooperatives that wish to contract with non-member vessels to harvest a portion of a cooperative's annual BSAI pollock allocation.

Application process. A cooperative that wishes to contract with a vessel that is a member of another inshore cooperative would be required to complete and submit to NMFS a completed vessel contract form. The form would be provided by NMFS and would require that the cooperative identify the contract vessel, the contact vessel's home cooperative, and describe how pollock landings by the contract vessel are to be assigned between cooperatives. Cooperatives would be allowed to contract with a non-member vessel to fish for the cooperative for a certain period of time, or to harvest a certain tonnage of pollock. The contract form also must indicate how any harvest overages by the contract vessel will be treated. A vessel contract form would not be valid unless it was signed by the cooperative's designated representative, the contracted vessel owner, and the designated representative for the vessel's home cooperative. These signatures are necessary to ensure that all affected parties are in agreement as to the terms of the contract and to avoid any disputes about how a contract vessel's catch is to be attributed.

Fishing for multiple cooperatives. Under the proposed rule, a vessel owner could enter into simultaneous contracts with more than one cooperative. This could occur, for example, at the end of a fishing season when several cooperatives have very small remaining allocations and it is more cost-effective for a single vessel to conduct ''mop up'' operations for several cooperatives at one time than for each individual cooperative to send a separate vessel to harvest the small remaining tonnages of pollock. If a vessel owner wishes to enter into contracts with more than one cooperative at the same time, then all the affected cooperatives would be required to submit their contract applications together and the contract applications would need to specify how the contracted vessel's harvest and any overages are to be assigned among the various cooperatives.

Recordkeeping and reporting requirements. Inshore processors are currently required to report in their shoreside electronic delivery reports the name and co-op code of each vessel that makes a delivery to that processor. Under the proposed rule, this requirement would not change. However each vessel operator would be obligated to correctly identify for the processor the co-op code that should be assigned to each delivery. In the event that a vessel is making a single delivery on behalf of more than one cooperative, the processor would submit a separate delivery report for each cooperative that identifies the tonnage of pollock that is assigned to each cooperative. Cooperatives would be required to report any contracted landings by non-member vessels on their weekly reports to NMFS. Cooperatives also would be required to provide a summary of all contracted fishing by non-member vessels in their preliminary and final annual reports.

Liability. For the purpose of liability, a non-member vessel under contract to a cooperative would be considered to be a member of the cooperative for the duration of the terms of the contract. This means that the members of the cooperative could be held jointly and severally liable for any fishing violations made by the operator of the contracted vessel.

Effects of contract fishing on future qualification for membership. Under the proposed rule, BSAI pollock landings made by a vessel while under contract to another cooperative would not be used to determine the vessel's qualification for future membership in a cooperative. Only landings attributed to the vessel's home cooperative would be used to determine which cooperative the vessel is eligible to join in a future year. The purpose of this measure is to prevent contracted fishing activity from affecting which cooperative a vessel is eligible to join in the subsequent fishing year.

Classification

At this time, NMFS has not determined that the amendment that this proposed rule would implement is 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.

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

The Council prepared an initial regulatory flexibility analysis that describes the economic impact this proposed rule, if adopted, would have on small entities. A copy of this analysis is available from NMFS (see **ADDRESSES**). A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of the preamble and in the **SUMMARY** section of the preamble and in the IRFA. Implementation of this proposed rule would involve a modification to an existing form to allow a cooperative to identify a non-member vessel with which the cooperative intends to contact. This modification would have no impact on small entities because the reporting and record-keeping burden would be fulfilled entirely by cooperatives, none of which are small entities. NMFS is aware of no existing relevant Federal rules which duplicate, overlap, or conflict with the proposed rule.

The IRFA concluded that no small entities would be directly affected by this proposed rule. Therefore, it is unlikely that the action would result in a significant adverse impact on a substantial number of directly regulated small entities. The basis for this conclusion is set out below:

A total of 100 inshore catcher vessels, six inshore processors (owning eight

AFA plants), four communities that are home to those processors, 18 communities where the owners of these vessels reside, and other industry support businesses that could be directly or indirectly impacted by the proposed regulations. Only those entities ''directly regulated'' under the proposed alternatives are appropriately included in the RFA, based upon Small Business Administration (SBA) guidelines for completion of the IRFA and FRFA. SBA guidelines require that affiliated entities be considered as a single entity when making determinations about size. Because all of the vessels that are members of a cooperative are affiliates of the cooperative (which also includes the processor associated with the cooperative), each cooperative itself is considered a single entity for purposes of size determination. Furthermore, because each cooperative has combined gross revenues exceeding $3.5 million, no such cooperative meets the ''small entities'' criterion for IRFA purposes. In addition to the catcher vessel cooperatives described above, the remaining entities directly affected by this regulation are the eight AFA inshore processors that receive pollock from catcher vessel cooperatives. All of these processors are considered large entities because they exceed the SBA size criterion for fish processing facilities. Therefore, none of the entities directly regulated by this action are considered small entities for IRFA purposes.

All six of the inshore processors are considered large entities because they employ more than 500 people in their worldwide operations. The processors are also affiliated with their associated cooperative's catcher vessel fleet and that would also cause them to be classified as large entities.

None of the communities involved in the BSAI pollock fishery are directly regulated by this proposed amendment. Therefore, they are not appropriately subjects of the IRFA under SBA guidelines.

In conclusion, the Council's preferred alternative would not likely result in a significant adverse impact on a substantial number of directly regulated small entities. This proposed action does not duplicate, overlap, or conflict with other Federal rules and takes into consideration the BSAI groundfish regulations under part 679 in order to be consistent with the objectives of the FMP.

This rule contains a collection-of-information requirement not subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA) because the total universe of respondents is less than 10. Under AFA, the number of inshore cooperatives is limited to no more than 8 because only 8 inshore processors are eligible to process pollock under the AFA and only one cooperative can be associated with each processor. To date, only seven processors have cooperatives associated with them. The eighth processor has not been operating in the BSAI pollock fishery since 1999. Thus, the actual number of respondents is equal to 7 and a theoretical maximum of 8.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: August 15, 2002.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set forth in the preamble, the proposed rule amending 50 CFR part 679 published at 66 FR 65028 (December 17, 2001) is proposed to be amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for 50 CFR part 679 is revised to read as follows:

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, and 3631 *et seq.*; Title II of Division C, Pub. L. 105–277; Sec. 3027, Pub. L. 106–31, 113 Stat. 57.

2. In § 679.4, paragraph (l)(6)(ii)(D)(*2*)(*iii*) is added to read as follows:

§ 679.4 Permits.

* * * * *

(l) * * *

(6) * * *

(ii) * * *

(D) * * *

(*2*) * * *

(*iii*) Harvests under contract to a cooperative. Any landings made by a vessel operating under contract to an inshore cooperative in which it was not a member will not be used to determine eligibility under this paragraph (l)(6)(ii)(D)(*2*).

* * * * *

3. In § 679.7, paragraphs (k)(5)(i) and (k)(5)(ii) are revised to read as follows:

§ 679.7 Prohibitions.

* * * * *

(k) * * *

(5) * * * (i) *Quota overages.* Use an AFA catcher vessel listed on an AFA inshore cooperative fishing permit, or under contract to the cooperative under § 679.62(c) to harvest non-CDQ pollock in excess of the cooperative's annual allocation of pollock specified under § 679.62.

(ii) *Liability.* An inshore pollock cooperative is prohibited from exceeding its annual allocation of BSAI pollock TAC. The owners and operators of all vessels listed on the cooperative fishing permit are responsible for ensuring that the operators of all member vessels, and any vessels under contract to the cooperative, comply with all applicable regulations contained in part 679. The owners and operators will be held jointly and severally liable for overages of an annual cooperative allocation, and for any other violation of these regulations committed by a member vessel, or a vessel under contract to the cooperative.

* * * * *

4. In § 679.62. paragraphs (e), (f), and (g) are revised and paragraph (i) is added to read as follows:

§ 679.62 Inshore sector cooperative allocation program.

* * * * *

(e) *What are the restrictions on fishing under a cooperative fishing permit*? A cooperative that receives a cooperative fishing permit under § 679.4(l)(6) must comply with all of the fishing restrictions set out in this section. The owners and operators of all the member vessels that are named on an inshore cooperative fishing permit and the owners and operators of any vessels under contract to the cooperative under paragraph (c) of this section are jointly and severally responsible for compliance with all of the requirements of a cooperative fishing permit.

(f) *What vessels are eligible to fish under an inshore cooperative fishing permit*? Only catcher vessels listed on a cooperative's AFA inshore cooperative fishing permit or vessels under contract to the cooperative under paragraph (i) of this section are permitted to harvest any portion of an inshore cooperative's annual pollock allocation.

(g) *What harvests accrue against an inshore cooperative's annual pollock allocation*? The following catches will accrue against a cooperative's annual pollock allocation regardless of whether the pollock was retained or discarded:

(1) *Member vessels.* All pollock caught by a member vessel while engaged in directed fishing for pollock in the BSAI by a member vessel unless the vessel is under contract to another cooperative and the pollock is assigned to another cooperative.

(2) *Contract vessels.* All pollock contracted for harvest and caught by a

vessel under contract to the cooperative under paragraph (c) of this section while the vessel was engaged in directed fishing for pollock in the BSAI.

* * * * *

(i) *Contract fishing by non-member vessels*. A cooperative that wishes to contract with a non-member vessel to harvest a portion of the cooperative's annual pollock allocation must comply with the following procedures.

(1) *How does a cooperative contract with a non-member vessel*? A cooperative that wishes to contract with a non-member vessel must submit a completed contract fishing application to the Alaska Region, NMFS, in accordance with the contract fishing application instructions.

(2) *What information must be included on a contract fishing application*? The following information must be included on a contract fishing application:

(i) *Co-op name(s)*. The names of the cooperative or cooperatives that wish to contract with a non-member vessel

(ii) *Designated representative(s)*. The names and signatures of the designated representatives for the cooperatives that wish to contract with a non-member vessel and the vessel's home cooperative.

(iii) *Vessel name*. The name and AFA permit number of the contracted vessel

(iv) *Vessel owner*. The name and signature of the owner of the contracted vessel

(v) *Harvest schedule*. A completed harvest schedule showing how all catch and any overages by the contracted vessel will be allocated between the contracting cooperative (or cooperatives) and the contract vessel's home cooperative. In the event that multiple cooperatives are jointly contracting with a non-member vessel, the harvest schedule must unambiguously specify how all catch and any overages will be allocated among the various cooperatives.

(3) *What vessels are eligible to conduct contract fishing on behalf of an inshore cooperative*? Only AFA catcher vessels with an inshore fishing endorsement that are members of an inshore cooperative may conduct contract fishing on behalf of another inshore cooperative.

(4) *Who must be informed*? A cooperative that has contracted with a non-member vessel to harvest a portion of its inshore pollock allocation must inform any AFA inshore processors to whom the vessel will deliver pollock while under contract to the cooperative prior to the start of fishing under the contract.

(5) *How must contract fishing be reported to NMFS*? An AFA inshore processor that receives pollock harvested by a vessel under contract to a cooperative must report the delivery to NMFS on the electronic delivery report by using the co-op code for the contracting cooperative rather than the co-op code of the vessel's home cooperative.

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Notices

Federal Register

Vol. 67, No. 164

Friday, August 23, 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

Animal and Plant Health Inspection Service

[Docket No. 02–051–1]

International Sanitary and Phytosanitary Standard-Setting Activities

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with legislation implementing the results of the Uruguay Round of negotiations under the General Agreement on Tariffs and Trade, we are informing the public of international standard-setting activities of the Office International des Epizooties, the Secretariat of the International Plant Protection Convention, and the North American Plant Protection Organization, and we are soliciting public comment on the standards to be considered.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 02–051–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 02–051–1. If you use e-mail, address your comment to *regulations@aphis.usda.gov.* Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and ''Docket No. 02–051–1'' on the subject line.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at *http://www.aphis.usda.gov/ppd/rad/webrepor.html.*

FOR FURTHER INFORMATION CONTACT: For general information on the topics covered in this notice, contact Mr. John Greifer, Director, Trade Support Team, International Services, APHIS, Room 1132, South Building, 14th Street and Independence Avenue SW., Washington, DC 20250; (202) 720–7677. For specific information regarding standard-setting activities of the Office International des Epizooties, contact Dr. Michael David, Chief, Sanitary International Standards Team, VS, APHIS, 4700 River Road Unit 33, Riverdale, MD 20737–1231; (301) 734–8093. For specific information regarding the standard-setting activities of the International Plant Protection Convention or the North American Plant Protection Organization, contact Mr. Narcy Klag, Program Manager, Phytosanitary Issues Management, PPQ, APHIS, 4700 River Road Unit 60, Riverdale, MD 20737–1236; (301) 734–8469.

SUPPLEMENTARY INFORMATION:

Background

The World Trade Organization (WTO) was established as the common international institutional framework for governing trade relations among its members in matters related to the Uruguay Round Agreements. The WTO is the successor organization to the General Agreement on Tariffs and Trade. U.S. membership in the WTO was approved by Congress when it enacted the Uruguay Round Agreements Act (Pub. L. 103–465), which was signed into law by the President on December 8, 1994. The WTO Agreements, which established the WTO, entered into force with respect to the United States on January 1, 1995. The Uruguay Round Agreements Act amended title IV of the Trade Agreements Act of 1979 (19 U.S.C. 2531 *et seq.*). Section 491 of the Trade Agreement Act of 1979, as amended (19 U.S.C. 2578), requires the President to designate an agency to be responsible for informing the public of the sanitary and phytosanitary (SPS) standard-setting activities of each international standard-setting organization. The designated agency must inform the public by publishing an annual notice in the **Federal Register** that provides the following information: (1) The SPS standards under consideration or planned for consideration by the international standard-setting organization; and (2) for each SPS standard specified, a description of the consideration or planned consideration of that standard, a statement of whether the United States is participating or plans to participate in the consideration of that standard, the agenda for U.S. participation, if any, and the agency responsible for representing the United States with respect to that standard.

''International standard'' is defined in 19 U.S.C. 2578b as any standard, guideline, or recommendation: (1) Adopted by the Codex Alimentarius Commission (Codex) regarding food safety; (2) developed under the auspices of the Office International des Epizooties (OIE) regarding animal health and zoonoses; (3) developed under the auspices of the Secretariat of the International Plant Protection Convention (IPPC) in cooperation with the North American Plant Protection Organization (NAPPO) regarding plant health; or (4) established by or developed under any other international organization agreed to by the member countries of the North American Free Trade Agreement (NAFTA) or the member countries of the WTO.

The President, pursuant to Proclamation No. 6780 of March 23, 1995 (60 FR 15845), designated the Secretary of Agriculture as the official responsible for informing the public of the SPS standard-setting activities of Codex, OIE, IPPC, and NAPPO. The United States Department of Agriculture's (USDA's) Food Safety and Inspection Service (FSIS) informs the public of Codex standard-setting activities and Animal and Plant Health Inspection Service (APHIS) informs the public of OIE, IPPC, and NAPPO standard-setting activities.

FSIS publishes an annual notice in the **Federal Register** to inform the public of SPS standard-setting activities for Codex. Codex was created in 1962 by

two United Nations organizations, the Food and Agriculture Organization (FAO) and the World Health Organization. It is the major international organization for encouraging international trade in food and protecting the health and economic interests of consumers.

APHIS publishes notice of OIE, IPPC, and NAPPO activities related to international standards and for representing the United States with respect to these standards.

Following are descriptions of the OIE, IPPC, and NAPPO organizations and the standard-setting agenda for each of these institutions. We have described the agenda that each of these organizations will address at their annual general sessions, including standards that may be presented for adoption or consideration, as well as other initiatives that may be underway at the OIE, IPPC, and NAPPO.

The agendas for these meetings are subject to change, and the draft standards identified in this notice may not be sufficiently developed and ready for adoption as indicated. Also, while it is the intent of the United States to support adoption of international standards and to participate actively and fully in their development, it should be recognized that the U.S. position on a specific draft standard will depend on the acceptability of the final draft. Given the dynamic and interactive nature of the standard-setting process, we encourage any persons who are interested in the most current details about a specific draft standard or the U.S. position on a particular standard-setting issue, or in providing comments on a specific standard that may be under development, to contact APHIS. Contact information is provided at the beginning of this notice under **FOR FURTHER INFORMATION CONTACT**.

OIE Standard-Setting Activities

The OIE was established in Paris, France, in 1924 with the signing of an international agreement by 28 countries. It is currently composed of 162 member nations, each of which is represented by a delegate who, in most cases, is the chief veterinary officer of that country. The WTO has recognized the OIE as the international forum for setting animal health standards, reporting global animal situations and disease status, and presenting guidelines and recommendations on sanitary measures relating to animal health.

The OIE facilitates intergovernmental cooperation to prevent the spread of contagious diseases in animals by sharing scientific research among its members. The major functions of the OIE are to collect and disseminate information on the distribution and occurrence of animal diseases and to ensure that scientifically justified standards govern international trade in animals and animal products. The OIE aims to achieve this through the development and revision of international standards for diagnostic tests, vaccines, and the safe international trade of animals and animal products.

The OIE provides annual reports on the global distribution of animal diseases, recognizes the free status of member countries for certain diseases, categorizes animal diseases with respect to their international significance, publishes bulletins on global disease status, and provides animal disease control guidelines to member countries.

The various OIE commissions and working groups undertake the initial analysis and preparation of draft standards, which are then circulated to member countries for consultation (review and comment). Draft standards are revised accordingly and then presented to the OIE General Session, which meets annually every May, for review and adoption. Adoption, as a general rule, is based on consensus of the OIE membership.

The next OIE General Session is scheduled for May 18–24, 2003, in Paris, France. The Associate Administrator for APHIS' Veterinary Services is the official U.S. delegate to the OIE. The Associate Administrator intends to participate in the proceedings and will discuss or comment on APHIS' position on any standard up for adoption. Information about current and past OIE draft Code chapters may be found at *http://www.aphis.usda.gov/vs/ncie/oie/* or by contacting Dr. Michael David (see **FOR FURTHER INFORMATION CONTACT** above).

OIE Code Chapters Up for Adoption

Existing Code chapters that may be revised and new chapters that may be drafted in preparation for the next General Session in 2003 include the following:

1. Infectious Bursal Disease (IBD)

This is a disease of poultry. This existing chapter will be revised to incorporate contemporary scientific knowledge about IBD (*e.g.,* new knowledge regarding surveillance for the disease, testing, *etc.*). These changes may affect current OIE export certification standards for products that may be affected with IBD.

2. Guidelines for Conducting a Risk Assessment on Bovine Spongiform Encephalopathy (BSE) in Cattle

This is intended to provide guidance on conducting a risk assessment that identifies all potential factors for BSE occurrence and their historic perspective in a nation's cattle herd. These factors include: the feeding of meat-and-bone meal or greaves of ruminant origin; the importation of meat-and-bone meal or greaves potentially contaminated with a transmissible spongiform encephalopathy (TSE) or feedstuffs containing either; importation of animals or embryos/oocytes potentially infected with a TSE; epidemiological situation concerning all animal TSEs in the country or zone; extent of knowledge of the population structure of cattle, sheep, and goats in the country or zone; and the origin of any unprocessed animal by-products, the parameters of the rendering processes and the methods of animal feed production.

3. Maedi-visna

This is a disease of sheep and goats. This would represent a new OIE Code chapter. The Chapter will provide recommendations for the trade of sheep and goats and their products as it pertains to Maedi-visna.

4. Traceability

This represents a new undertaking for OIE in the area of animal health and is intended to provide guidance on traceability, or the tracking of animals and animal products throughout their production system.

5. Guidelines on the Judgment of Equivalence

This represents a new undertaking for OIE and is intended to provide guidance on making equivalency determinations in the area of animal health.

As a matter of process, these chapters are drafted (or revised) by ad hoc groups composed of technical experts nominated by the OIE Code Commission by virtue of their subject-area expertise (not their national affiliation). Once the ad hoc expert group completes its task of drafting a new chapter or revising an existing one, the chapter is then distributed to member countries for review and comment. Historically, the OIE has distributed the proposed or revised Code chapters to its member countries by late October of each year. However, this year the OIE will try to provide proposed chapters by early September to allow Member States more time for comment. The draft standard is revised by the OIE Code Commission on

the basis of relevant scientific comments received from member countries.

The United States (*i.e.,* USDA/APHIS) intends to review and, where appropriate, comment on all draft chapter revisions once it receives them from the OIE. USDA/APHIS intends to distribute these drafts to the U.S. livestock industry, veterinary experts in various U.S. academic institutions, and other interested persons for review and comment. The drafts will be posted on the Internet at *http://www.aphis.usda.gov/vs/ncie/oie/.* Hence, U.S. comments submitted to the OIE will be based on APHIS' analysis and relevant scientific information received from various domestic commenters. Additional information regarding these draft standards may be obtained by contacting Dr. Michael David (see **FOR FURTHER INFORMATION CONTACT** above).

Generally, if a country has concerns with a particular draft standard, and supports those concerns with sound technical information, the OIE Code Commission will revise that standard accordingly and present the revised draft for adoption at the General Session in May. In the event that a country's concerns regarding a draft standard are not taken into account, that country may refuse to support the standard when it comes up for adoption at the General Session. However, each member country is obligated to review, comment, and make decisions regarding the adoption of standards strictly on their scientific merits.

OIE Future Work Program

In the next few years, the OIE Code Commission is expected to address the following issues or establish ad hoc groups of experts to update and/or develop the standards for the following issues:

1. Animal Welfare

This represents an effort to develop principles that can be applied to different animal welfare standards, such as housing, transportation, and slaughter. The United States will consider its position on this new standard after it reviews a prepared draft.

2. Food Safety

This represents an effort to reduce the public health risks in food from microbiological, chemical, and other risk factors at the farm level and prior to slaughter and would be accomplished by working more closely (strengthening relationships) with the relevant international organizations such as Codex, FAO, and WHO. The United States will consider its position on this new standard after it reviews a prepared draft.

3. Avian Influenza, Foot and Mouth Disease, and BSE

These represent revisions to existing chapters. The United States will consider its position on these new standards after it reviews a prepared draft.

4. Diseases of Bees

This represents a revision to or updating of an existing OIE Code chapter. This chapter, which addresses most diseases of honeybees, including mites, will be revised to incorporate changes in scientific knowledge about various honeybee diseases. This chapter will continue to provide guidance for certifying honeybee packages and queen bees for export purposes. The United States will consider its position on this new standard after it reviews a prepared draft.

5. BSE in Small Ruminants

This would be a new OIE Code chapter intended to provide guidance for export certification of sheep and goats and their products. The United States will consider its position on this new standard after it reviews a prepared draft.

Other OIE Topics

Every year at the General Session, two technical items are presented. For the May 2003 General Session, the following technical items will be presented:

1. The socioeconomic impact of animal diseases.

2. Regionalization as an instrument for preventing the propagation of diseases, including those of camelids.

The information in this notice includes all the information currently available to us on OIE standards currently under development or consideration. Information on OIE standards is available on the Internet at *http://www.oie.int.* Further, a formal agenda for the next General Session will be available to member countries in February 2003, and copies will be available to the public once the agenda is published. For the most current information on meeting times, working groups, and/or meeting agendas, including information on official U.S. participation in OIE activities, and U.S. positions on standards being considered, contact Dr. Michael David (*see* **FOR FURTHER INFORMATION CONTACT** above). Those wishing to provide comments on any areas of work under the OIE may do so at any time by responding to this notice (see **ADDRESSES** above) or by providing comments through Dr. David.

IPPC Standard-Setting Activities

The IPPC is a multilateral convention adopted in 1952 for the purpose of securing common and effective action to prevent the spread and introduction of pests of plants and plant products and to promote appropriate measures for their control. Under the IPPC, the understanding of plant protection has been, and continues to be, broad, encompassing the protection of both cultivated and noncultivated plants from direct or indirect injury by plant pests. Activities addressed by the IPPC include the development and establishment of international plant health standards, the harmonization of phytosanitary activities through emerging standards, the facilitation of the exchange of official and scientific information among countries, and the furnishing of technical assistance to developing countries that are signatories to the IPPC.

The IPPC is placed under the authority of the FAO, and the members of the Secretariat of the IPPC are appointed by the FAO. The IPPC is implemented by national plant protection organizations in cooperation with regional plant protection organizations, the Interim Commission on Phytosanitary Measures (ICPM), and the Secretariat of the IPPC. The United States plays a major role in all standard-setting activities under the IPPC and has representation on FAO's highest governing body, the FAO Conference.

The United States became a contracting party to the IPPC in 1972 and has been actively involved in furthering the work of the IPPC ever since. The IPPC was amended in 1979, and the amended version entered into force in 1991 after two-thirds of the contracting countries accepted the amendment. More recently, in 1997, contracting parties completed negotiations on further amendments that were approved by the FAO Conference and submitted to the parties for acceptance. This 1997 amendment updated phytosanitary concepts and formalized the standard-setting structure within the IPPC. The 1997 amended version of the IPPC will enter into force once two-thirds of the current contracting parties notify the Director General of FAO of their acceptance of the amendment. At this date, 39 of the required 72 member countries have deposited their official letters of acceptance. The U.S. Senate gave its advice and consent to acceptance of the newly revised IPPC on October 18,

2000. The President submitted the official letter of acceptance to the FAO Director General on October 4, 2001.

The IPPC has been, and continues to be, administered at the national level by plant quarantine officials whose primary objective is to safeguard plant resources from injurious pests. In the United States, the national plant protection organization is APHIS' Plant Protection and Quarantine (PPQ) program. The steps for developing a standard under the revised IPPC are described below.

Step 1

Proposals for a new international standard for phytosanitary measures (ISPM) or for the review or revision of an existing ISPM are submitted to the Secretariat of the IPPC in the form of a discussion paper accompanied by a topic or draft standard. Drafts can be submitted by individual countries, but are more commonly submitted by regional plant protection organizations (RPPO's). Alternately, the Secretariat can propose a new standard or amendments to existing standards.

Step 2

A summary of proposals is submitted by the Secretariat to the ICPM. The ICPM identifies the topics and priorities for standard setting from among the proposals submitted to the Secretariat and others that may be raised by the ICPM.

Step 3

Specifications for the standards identified as priorities by the ICPM are drafted by the Secretariat. The draft specifications are submitted to the Standards Committee for approval/amendment and are subsequently made available to members and RPPO's for comment (60 days). Comments are submitted in writing to the Secretariat. Taking into account the comments, the Standards Committee finalizes the specifications.

Step 4

The standard is drafted or revised in accordance with the specifications by a working group designated by the Standards Committee. The resulting draft standard is submitted to the Standards Committee for review.

Step 5

Draft standards approved by the Standards Committee are distributed to members by the Secretariat and RPPO's for consultation (120 days). Comments are submitted in writing to the Secretariat. Where appropriate, the Standards Committee may establish open-ended discussion groups as forums for further comment. The Secretariat summarizes the comments and submits them to the Standards Committee.

Step 6

Taking into account the comments, the Secretariat, in cooperation with the Standards Committee, revises the draft standard. The Standards Committee submits the final version to the ICPM for adoption.

Step 7

The ISPM is established through formal adoption by the ICPM according to Rule X of the Rules of Procedure of the ICPM.

Step 8

Review of the ISPM is completed by the specified date or such other date as may be agreed upon by the ICPM.

Each member country is represented on the ICPM by a single delegate. Although experts and advisers may accompany the delegate to meetings of the ICPM, only the delegate (or an authorized alternate) may represent each member country in considering a standard up for approval. Parties involved in a vote by the ICPM are to make every effort to reach agreement on all matters by consensus. Only after all efforts to reach a consensus have been exhausted may a decision on a standard be passed by a vote of two-thirds of delegates present and voting.

Technical experts from the United States have participated directly in working groups and indirectly as reviewers of all IPPC draft standards. In addition, documents and positions developed by APHIS and NAPPO have served as the basis for many of the standards adopted to date. This notice describes each of the IPPC standards currently under consideration or up for adoption. The full text of each standard will be available on the APHIS Internet Web site at *http://www.aphis.usda.gov/ppq/pim/standards/*. Interested individuals may review the standards posted on this website and submit comments via the website.

The next ICPM meeting is scheduled for April 7–11, 2003, at FAO Headquarters in Rome, Italy. The Deputy Administrator for APHIS' PPQ programs is the U.S. delegate to the ICPM. The Deputy Administrator intends to participate in the proceedings and will discuss or comment on APHIS' position on any standard up for adoption. The provisional agenda for the meeting is as follows:

Provisional Agenda for the Fourth Interim Commission on Phytosanitary Measures

1. Opening of the session.
2. Adoption of the agenda.
3. Report by the chairperson.
4. Report by the Secretariat.
5. Adoption of international standards (*see* section below entitled ''IPPC Standards Up for Adoption in 2003'' for details).
6. Items arising from the Third Session of the ICPM (*see* section below entitled ''New Standard Setting Initiatives'' for details).
7. Work program for harmonization.
8. Status of the 1997 revised IPPC.
9. Other business.
10. Date and venue of the next meeting.
11. Adoption of the report.

IPPC Standards Up for Adoption in 2003

It is expected that the following standards will be sufficiently developed to be considered by the ICPM for adoption at its April 2003 meeting. The United States, represented by APHIS' Deputy Administrator for PPQ, will participate in the consideration of these standards. The U.S. position on each of these issues will be developed prior to the ICPM session and will be based on APHIS' analysis, information from other U.S. Government agencies, and relevant scientific information from interested stakeholders. The standards that are most likely to be considered for adoption include:

1. Environmental Impact of Quarantine Pests

This work will supplement and strengthen the existing standard on ''Pest Risk Analysis for Quarantine Pests'' by providing detailed guidelines for evaluating the environmental impacts of quarantine pests, including quarantine pests that are invasive. This standard was reviewed and edited by the Standards Panel and was entered into the country consultation phase during the early part of 2002. The Standards Panel will review comments from consultation and prepare the final draft. The expectation is that the standard will be completed and ready for ICPM approval in 2003. The United States intends to support adoption of this draft standard, assuming it is ready for such consideration.

2. Economic Importance

The ICPM (at its third meeting) agreed on the need to develop guidelines to clarify the meaning and scope of ''economic importance''—a term found in the pest risk analysis (PRA) standard,

in the definition of quarantine pest, and other IPPC documents. The goal is to ensure a common understanding that ''economic importance'' of pest introduction may include monetary and/or non-monetary impacts (*e.g.,* pest impacts on wild flora or the environment which may be difficult to express in dollar terms). Such guidelines will help clarify the scope of the IPPC as covering not only agriculturally significant pests, but also pests which may be harmful to wild flora or non-cultivated systems. This standard was reviewed and edited by the Standards Panel and was entered into the country consultation phase during the early part of 2002. The Standards Panel will review comments from consultation and prepare the final draft. The goal is to have a guideline prepared for ICPM approval in 2003. The United States intends to support adoption of this draft standard assuming it is ready for such consideration.

3. Guidelines for the Use of Irradiation as a Phytosanitary Measure

This standard provides technical guidance for the evaluation, adoption, and use of irradiation as a phytosanitary treatment. It is designed to encourage consistency by providing essential information concerning the technical and operational aspects of using irradiation as a treatment for plant pests. This standard is important as it provides an alternative to the use of methyl bromide as a treatment for quarantine pests. This standard was reviewed and edited by the Standards Panel and was entered into the country consultation phase during the early part of 2002. The Standards Panel will review comments from consultation and prepare the final draft. The goal is to have a guideline prepared for ICPM approval in 2003. The United States intends to support adoption of this draft standard assuming it is ready for such consideration.

New Standard-Setting Initiatives, Including Those in Development

A number of expert working group meetings or other technical consultations will take place during 2002 and early 2003 on the topics listed below. These standard-setting initiatives are not expected to be completed prior to March 2003 and, therefore, will not be ready for adoption at the 2003 ICPM session. Nonetheless, APHIS intends to participate actively and fully in each of these working groups. The U.S. position on each of the topics to be addressed by these various working groups will be developed prior to these working group meetings and will be based on APHIS' technical analysis, information from other U.S. Government agencies, and relevant scientific information from interested stakeholders.

1. Living Modified Organisms (LMOs) Standard

At its third annual meeting in 2001, the ICPM agreed on the need to develop a phytosanitary standard for assessing potential pest risks associated with LMOs. The goal of this standard is to provide clear and comprehensive guidance on the conduct of PRA procedures as regards the phytosanitary risks that may be presented by LMOs. Accordingly, this standard will take into account: Existing PRA procedures and standards (IPPC and others that may be relevant); relevant hazards and methods for the evaluation of the potential phytosanitary risks presented by LMOs; and, the goal of ensuring a PRA procedure for LMOs that is consistent with relevant aspects of the Cartagena Protocol. The target date for completion of the LMO standard is 2004.

2. Efficacy of Phytosanitary Measures

ICPM consensus exists on the need to develop a standard for evaluating the efficacy of phytosanitary measures. The goal is to ensure the development of guidelines for evaluating phytosanitary measures on a consistent, rigorous, and sound basis and providing IPPC recognition of those which meet established criteria. This standard will be critical for supporting future commodity specific standards (*e.g.* hot water treatment for fruit flies) as well as the development of IPPC guidelines for making ''equivalency'' determinations. Work on this standard will begin in 2002 with the goal of having the standard ready for ICPM approval in 2004.

3. Guidelines for Equivalence

It is recognized that different phytosanitary measures can provide equivalent plant health protection for the purpose of international trade. This standard will provide guidelines for assessing and comparing different phytosanitary measures in order to make equivalency determinations. This standard will be directly linked to the draft standards work, currently underway, related to ''efficacy of measures.'' ICPM members agreed on the need to establish criteria and guidance for evaluating the efficacy of measures (*i.e.,* treatments, systems, *etc.*) prior to developing guidelines for equivalence.

4. Guidelines for Surveillance for Specific Pests (Citrus Canker)

This specific surveillance standard will describe the components of survey and monitoring systems for the purpose of detecting citrus canker and generating the necessary data for use in pest risk analyses and the establishment of pest-free areas. During the course of work on this particular standard, there have emerged substantial differences of opinion among experts regarding several aspects of the standard, particularly the appropriate statistical levels for survey. Work will continue on this draft standard in 2002 with the goal of having it ready for ICPM approval in 2004.

5. Pest Risk Analysis for Regulated Non-Quarantine Pests

Certain pests that are not quarantine pests may be subject to phytosanitary regulations and procedures because their presence above a specific level results in economically unacceptable impacts associated with the intended use of the plants. Under the IPPC, such pests are referred to as ''regulated non-quarantine pests.'' The classification of a pest as a regulated non-quarantine pest and any restrictions placed on the importation of the plant species with which it is associated must be justified by pest risk analysis. This standard will provide guidance for conducting an appropriate PRA necessary to demonstrate that importation of a particular plant for propagation may result in an unacceptable impact and to guide subsequent risk management decisions. The goal is to have this standard ready for ICPM approval in 2004.

6. Guidelines for an Import Regulatory System

A first draft was considered by an IPPC working group in 1997. Since then the draft has undergone several revisions. In November 2001, the IPPC Interim Standards Committee recommended that a small working group be organized to consider the latest draft. The primary issue is the level of detail that the standard will contain as regards structural and operational aspects of import regulatory systems. The group met in February 2002 and developed a revised edition. This draft will be reviewed by the Standards Panel in November 2002.

7. Inspection Methodology

The first draft of the standard on inspection methodology was prepared in 1995. Since then the draft standard has undergone several revisions and has been distributed to members for their formal review (1999). An expert group

may be convened in the near future to consider the draft standard in light of Members' comments.

8. Pest Listing

The IPPC requires contracting parties to establish and update lists of regulated pests for phytosanitary certification purposes. A working group is drafting standardized guidelines for meeting these obligations. These draft guidelines will describe lists of regulated pests, the purpose of the guidelines, and their relationship to phytosanitary certification procedures. There were some serious reservations by several countries after country consultations, however, these concerns have now been resolved with those countries. Work will continue on this draft standard in 2002 with the goal of having it ready for ICPM approval in 2004.

For more detailed information on the above topics, which will be addressed by various working groups established by the ICPM, contact Mr. Narcy Klag (*see* **FOR FURTHER INFORMATION CONTACT** above).

Also, APHIS posts draft standards on the Internet (*http://www.aphis.usda.gov/ppq/pim/standards*) as they become available and provides information on when comments on standards are due. Additional information on IPPC standards is available on the FAO's Web site at *http://www.ippc.int.* For the most current information on official U.S. participation in IPPC activities, including U.S. positions on standards being considered, contact Mr. Narcy Klag (*see* **FOR FURTHER INFORMATION CONTACT** above). Those wishing to provide comments on any of the areas of work being undertaken by the IPPC may do so at any time by responding to this notice (see **ADDRESSES** above) or by providing comments through Mr. Klag.

NAPPO Standard-Setting Activities

NAPPO, a regional plant protection organization created in 1976 under the IPPC, coordinates the efforts among Canada, the United States, and Mexico to protect their plant resources from the entry, establishment, and spread of harmful plant pests, while facilitating intra- and inter-regional trade.

NAPPO conducts its business through panels and annual meetings held among the three member countries. The NAPPO Executive Committee charges individual panels with the responsibility for drawing up proposals for NAPPO positions, policies, and standards. These panels are made up of representatives from each member country who have scientific expertise related to the policy or standard being considered.

Proposals drawn up by the individual panels are circulated for review to government and industry officials in Canada, Mexico, and the United States, who may suggest revisions. In the United States, draft standards are circulated to industry, States, and various Government agencies for consideration and comment. The draft standards are posted on the Internet at *http://www.aphis.usda.gov/ppq/standards;* interested persons may submit comments via that Web site. Once revisions are made, the proposal is sent to the NAPPO working group and the NAPPO standards panel for technical reviews and then to the Executive Committee for final approval, which is granted by consensus.

The annual NAPPO meeting is scheduled for October 21–25, 2002, in Oaxaca, Mexico. The NAPPO Executive Committee meeting will take place on October 20, and a special session will be held on October 21 to solicit the input of industry groups so that suggestions can be incorporated into the NAPPO work plan. The Deputy Administrator for APHIS' PPQ programs is a member of the NAPPO Executive Committee. The Deputy Administrator intends to participate in the proceedings and will discuss or comment on APHIS' position on any standard up for adoption or any proposals to develop new standards.

The work plan for 2002 was established after the October 2001 Annual Meeting in San Diego, CA. The Deputy Administrator for PPQ participated in establishing this NAPPO work plan (*see* panel assignments below).

Below is a summary of current panel assignments as they relate to the ongoing development of NAPPO standards. USDA/APHIS intends to participate actively and fully in the work of each of these panels. The U.S. position on each topic will be guided and informed by the best scientific information available on each of these topics. For each of the following panels, the United States will consider its position on any draft standard after it reviews a prepared draft. Information regarding the following NAPPO panel topics, assignments, and activities, and updates on meeting times and locations, may be obtained from the NAPPO home page at *http://www.nappo.org* or by contacting Mr. Narcy Klag (*see* **FOR FURTHER INFORMATION CONTACT** above).

1. Accreditation Panel (Inspector Accreditation)

This panel will work towards facilitating the proper implementation of the standard ''Accreditation of Individuals to Sign Federal Phytosanitary Certificates.'' A review of the U.S. system was conducted in June 2001 and a review of the Canadian system was conducted in early 2002. A review of Mexico's system will follow. A written report will be provided to the Executive Committee.

2. Biological Control Panel

This panel will work on developing a standard for biological control facilities.

3. Biotechnology Panel

This panel will continue to develop a NAPPO standard for the review of products of biotechnology that focuses on the assessment of the potential to present a plant pest risk. Modules for unconfined field release and importation of transgenic material for uses other than planting will be drafted.

4. Citrus Panel

The panel will continue to work on the standard for the entry of citrus propagative material into NAPPO member countries.

5. Forestry Panel

The panel will work on trying to harmonize, between NAPPO countries, the implementation of the international standard for wood packaging material.

6. Fruit Panel

The panel will finalize the standard ''Verification and Maintenance of Fruit Fly-Free Areas.'' Approval of this standard by the NAPPO Executive Committee is expected this year.

7. Fruit Tree Panel

The panel will finalize the standard ''NAPPO Guidelines for the Safe Movement of Plum Pox Host Material.''

8. Grapevine Panel

This panel will finalize the NAPPO grapevine standard and prepare it for approval by the NAPPO Executive Committee.

9. Pest Risk Analysis Panel

This panel will coordinate NAPPO input on the development of the IPPC standard entitled ''Pest Risk Analysis for Regulated Non-Quarantine Pests.''

10. Phytosanitary Alert System

This panel will finalize the NAPPO standard on pest reporting. The standard should be approved by the Executive Committee this year.

11. Potato Panel

This panel will review and revise the NAPPO Potato Standard pest list and

then conduct in-country consultations regarding pest status.

12. Potato Technical Advisory Group

This ad-hoc panel will prepare the minituber production guidelines for North America for country consultations.

13. Standards Panel

This panel is responsible for the following: Providing updates on standards for the NAPPO newsletter; coordinating the review of new and amended NAPPO standards and ensuring that comments received during the country consultation phase are incorporated as appropriate; organizing conference calls and preparing NAPPO discussion documents for possible use at the IPPC; and promoting implementation of recently adopted IPPC standards. The panel will finalize a NAPPO standard for implementing the recently adopted IPPC standard ''Notification of Interceptions and Non-Compliance'' and will finalize a standard for developing bilateral workplans.

The PPQ Deputy Administrator, as the official U.S. delegate to NAPPO, intends to participate in the adoption of those regional plant health standards, including the work described above, once they are completed and ready for such consideration.

The information in this notice includes all the information available to us on NAPPO standards currently under development or consideration. For updates on meeting times and for information on the working panels that may become available following publication of this notice, check the NAPPO Web page on the Internet at *http://www.nappo.org* or contact Mr. Narcy Klag (*see* **FOR FURTHER INFORMATION CONTACT** above). Information on official U.S. participation in NAPPO activities, including U.S. positions on standards being considered, may also be obtained from Mr. Klag. Those wishing to provide comments on any of the topics being addressed by any of the NAPPO panels may do so at any time by responding to this notice (*see* **ADDRESSES** above) or by transmitting comments through Mr. Klag.

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

Peter Fernandez,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02–21539 Filed 8–22–02; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Rocky Mountain Ranger District Access and Travel Management Plan EIS, Lewis and Clark National Forest; Glacier, Pondera, Teton, and Lewis & Clark Counties, MT

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service will prepare an environmental impact statement on a proposal to develop a travel management plan to regulate motorized and non-motorized travel on roads and trails on lands administered by the Rocky Mountain Ranger District, also known as the Rocky Mountain Division of the Lewis and Clark National Forest. Approximately 392,000 acres of National Forest System lands are contained within the analysis area. Designated wilderness areas that are part of the Rocky Mountain Ranger District will *not* be included in this effort. The purpose of the project is to evaluate the impacts of motorized and non-motorized travel within the planning area, and to identify and select an action alternative that allows recreational use and enjoyment of the National Forest System lands, minimizes resource damage, reduces adverse effects to terrestrial and aquatic species, and mitigates or reduces conflicts between types of uses. Needs for securing additional legal public access routes to reach National Forest System lands will be identified and discussed, but no decision will be made on acquiring specific routes.

DATES: Comments concerning the scope of the analysis should be received on or before 45 days after publication of this notice in the **Federal Register**.

ADDRESSES: Send written comments to Rick Prausa, Forest Supervisor, Lewis and Clark National Forest, 1101 15th Street, North, Box 869, Great Falls, MT 59401. People sending comments electronically can do so by putting ''Rocky Mountain Front Travel Plan'' on the subject line of their e-mail to r1 lewisclark *comments@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Dick Schwecke, EIS Team Leader (406) 791–7700.

SUPPLEMENTARY INFORMATION: This project addresses travel management planning on one of the seven mountain ranges managed partly or entirely by the Lewis and Clark National Forest. The Rocky Mountain Ranger District project includes approximately 392,000 acres, which is about 21% of the Lewis and Clark National Forest. Approximately 385,900 acres of designated wilderness areas that are part of the Rocky Mountain Ranger District will not be included in this effort. The purpose of this project is to evaluate the impacts of motorized and non-motorized travel on existing roads and trails within the planning area. The Forest Service intends to identify action alternatives that provide for public access, use, and enjoyment of the Lewis and Clark National Forest, while also minimizing resource damage, reducing adverse effects to terrestrial and aquatic species, and mitigating or reducing conflicts between types of uses. The project is intended to focus on identifying the types of use and season of use that would be appropriate on roads, trails, and specific areas within the mountain range to be analyzed.

Public Involvement. The Forest Service will be seeking information, comments and assistance from Federal, State and local agencies and other individuals or organizations who may be interested in, or affected by, the proposed action. Comments received will be included in the documentation for the EIS. The public is encouraged to take part in the process and is encouraged to visit with Forest Service officials at any time during the analysis and prior to the decision. While public participation in this analysis is welcome at any time, comments received within 45 days of the publication of this notice will be especially useful in the preparation of the Draft EIS. The scoping process will include identifying: potential issues, significant issues to be analyzed in depth, alternatives to the proposed action, and potential environmental effects of the proposal and alternatives.

Estimated Dates for Filing. The Draft EIS for the Rocky Mountain Ranger District Access and Travel Management Plan is expected to be available for public review by March 2003. The comment period on the draft EIS will be 45 days. It is very important that those interested in the management of this area participate at that time. The final EIS is scheduled to be completed by October 2003. In the final EIS, the Forest Service is required to respond to comments received during the comment period that pertain to the environmental consequences discussed in the draft EIS and applicable laws, regulations, and policies considered in making a decision regarding the proposal.

The Reviewers Obligation to Comment. The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings

related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the review's position and contentions. (*Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. (*Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980)). Because of these court rulings, it is very important that those interested in this proposed actions participate by the close of the 45-day comment period so that substantive comments and objects are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statements.

To assist the Forest Service in identifying and considering issues and concerns on the proposed actions, comments on the draft environmental impact statements should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statements. Comments may also address the adequacy of the draft environmental impact statements or the merits of the alternatives formulated and discussed in the statements. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Comments on the draft EIS should be directed to the responsible official: Rick Prausa, Forest Supervisor, Lewis and Clark National Forest, 1101 15th Street North, Great Falls, MT 59401.

Dated: August 19, 2002.

Rick Prausa,

Forest Supervisor.

[FR Doc. 02–21540 Filed 8–22–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Sanders County Resource Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act (Public Law 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Public Law 106–393) the Lolo and Kootenai National Forests' Sanders County Resource Advisory Committee will meet on August 27 at 6 p.m. in Thompson Falls, Montana for a business meeting. The meeting is open to the public.

DATES: August 27, 2002.

ADDRESSES: The meeting will be held at the Thompson Falls Courthouse, 1111 Main Street, Thompson Falls, MT 59873.

FOR FURTHER INFORMATION CONTACT: Lisa Krueger, Designated Forest Official (DFO), District Ranger Plains/Thompson Falls District, Lolo National Forest at (406) 826–4321, or Brian Avery, District Ranger, Cabinet Ranger District, Kootenai National Forest at (406) 827–3533.

SUPPLEMENTARY INFORMATION: If the meeting location is changed, notice will be posted in the local newspapers, including the Clark Fork Valley Press, the Sanders County Ledger, Daily Interlake and the Missoulian.

Dated: August 16, 2002.

Brian Avery,

Committee Coordinator, District Ranger, Cabinet Ranger District.

[FR Doc. 02–21541 Filed 8–22–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

RIN 0596–AB94

Clarification of Extraordinary Circumstances for Categories of Actions Excluded From Documentation in an Environmental Assessment or an Environmental Impact Statement

AGENCY: Forest Service, USDA.

ACTION: Notice; adoption of final interim directive.

SUMMARY: The Forest Service is adopting an Interim Directive to guide employees in complying with the National Environmental Policy Act and the Council on Environmental Quality (CEQ) regulations for certain actions which can be categorically excluded from documentation in an environmental assessment or an environmental impact statement. The Interim Directive clarifies the consideration of extraordinary circumstances as they apply to categorical exclusions. The intent of this Interim Directive is to facilitate employees' consistent interpretation and application of CEQ regulations and related agency policy.

EFFECTIVE DATE: This Interim Directive No. 1909.15–2002–2 is effective August 23, 2002.

ADDRESSES: This Interim Directive is available electronically from the Forest Service via the World Wide Web/Internet at *http://www.fs.fed.us/im/directives.* Single paper copies of this Interim Directive also are available by contacting Dave Sire, Forest Service, USDA, Ecosystem Management Coordination Staff (Mail Stop 1104), 1400 Independence Avenue, SW., Washington, DC 20250–1104.

FOR FURTHER INFORMATION CONTACT: Dave Sire, Ecosystem Management Coordination Staff, 202–205–2935, or Julia Riber, Ecosystem Management Coordination Staff, 406–329–3678.

SUPPLEMENTARY INFORMATION: On September 20, 2001, the Forest Service published a proposed Interim Directive to Forest Service Handbook (FSH) 1909.15, Chapter 30, which would partially revise the agency's direction on the use of categorical exclusions (66 FR 48412). The intent of this proposed Interim Directive was to assist employees in interpreting and complying with the National Environmental Policy Act (NEPA) and the Council on Environmental Quality (CEQ) regulations for certain actions which can be categorically excluded from documentation in an environmental assessment (EA) or an environmental impact statement (EIS). The proposed Interim Directive would have added three new categories for special use authorizations involving administrative changes when no changes are proposed in the authorized activities or facilities. The proposal also included a modification of handbook text to clarify agency policy concerning extraordinary circumstances.

Nearly 26,000 responses in the form of letters, postcards, and e-mail messages were received during the 60-day comment period. These comments came from private citizens, elected officials, and from groups and individuals representing businesses, private organizations, and Federal agencies. Responses consisted of over 800 original letters and over 25,000 form letters.

Public comment on the Interim Directive addressed a wide range of topics, many of which were directed at general Forest Service management direction, particularly the management of roadless areas. Most comments revealed a significant split in opinion on

the proposal. Many people opposed the proposed Interim Directive or recommended further restriction of the use of categorical exclusions, while many others supported the proposed Interim Directive or favored further expansion of the use of categorical exclusions. Some respondents agreed that existing direction concerning extraordinary circumstances needs clarification.

Because of the volume and nature of comments received on the proposed Interim Directive, the agency has decided to separate the special uses categorical exclusions portion of the proposal from the clarification of extraordinary circumstances. Accordingly, this notice addresses only those comments received on the direction concerning extraordinary circumstances. A separate notice will be published later to address comments on categorical exclusions for the issuance of certain special use authorizations.

Previous Direction

Forest Service Handbook 1909.15, Chapter 30, includes direction for consideration of extraordinary circumstances when Responsible Officials are contemplating categorical exclusion of a proposed action from further analysis and documentation in an EA or EIS.

Prior to this present action, direction on extraordinary circumstances was last revised in 1992. At section 30.5, extraordinary circumstances were defined as conditions associated with a normally excluded action that are identified during scoping as potentially having effects which may significantly affect the environment. At section 30.3, paragraph 2, extraordinary circumstances were described as including, but not limited to the presence of, the following: steep slopes or highly erosive soils; threatened or endangered species or their critical habitat; flood plains, wetlands, or municipal watersheds; Congressionally designated areas such as wilderness, wilderness study areas, or national recreation areas; inventoried roadless areas; research natural areas; and Native American religious or cultural sites, archeological sites, or historic properties or areas. Paragraph 3 of section 30.3 stated that scoping is required on all proposed actions, including those that would appear to be categorically excluded. Moreover, this paragraph provided that if scoping indicated that extraordinary circumstances are present and it was uncertain that the proposed action may have a significant effect on the environment, then personnel must prepare an EA. If scoping indicated that the proposed action may have a significant environmental effect, an EIS would be prepared.

Summary of the Proposed Clarification of Extraordinary Circumstances

Public and employee confusion has risen with regard to the 1992 direction on the application of a categorical exclusion to a proposed action when a listed resource condition is present. The proposed revisions to Handbook sections 30.3 and 30.5 were intended to clarify the agency's intent that the presence of a listed resource condition in section 30.3, paragraph 2 does not automatically preclude use of a categorical exclusion. The proposed revisions to sections 30.3 and 30.5 included the following:

- *Section 30.3, paragraph 1b.* References were made to the definition of extraordinary circumstances in section 30.5 and policy in paragraph 2 of section 30.3. Extraordinary circumstances were qualified as instances that could result in significant environmental effect.
- *Section 30.3, paragraph 2.* Extraordinary circumstances were qualified, stating that extraordinary circumstances occur when a proposed action would have a significant effect on the resource conditions set out in paragraphs 2a through 2g. The proposal went on to state that the Responsible Official may issue a categorical exclusion even when one or more of the resources conditions listed in paragraphs 2a through 2g are present, but only if the official determines on a case-by-case basis that the proposed action would not have a significant effect on the listed resource conditions.
- *Section 30.3, paragraph 3.* Two sentences were removed, which described when to prepare an EA and when to prepare an EIS.
- *Section 30.3, paragraph 4.* A sentence was added to the paragraph reminding readers to consider the need to evaluate new information or changed circumstances if implementing an action that has already been analyzed and documented.
- *Section 30.5.* Extraordinary circumstances were defined as instances where a proposed action normally excluded from documentation in a EA or EIS is identified as having a significant effect on resource conditions set out in section 30.3, paragraphs 2a through 2g.

In response to comment on the proposed Interim Directive, published September 20, 2001, the agency has further refined the Interim Directive as described in the following summary of comments.

Comments on the Need for the Interim Directive

Comment: Many respondents believe that there is no need for the proposed changes. They believe that proposed actions can be analyzed with a concise EA if necessary and, therefore, there is no need to clarify the definition of extraordinary circumstances. Others expressed strong disapproval of the agency's use of categorical exclusions altogether and recommended either further restricting their use or a complete elimination of categorical exclusions.

Response: The CEQ regulations (40 CFR 1500.4(p)) encourage the appropriate use of categorical exclusions to reduce paperwork and unnecessary delays. The agency believes that its use of categorical exclusions has been and continues to be appropriate. The agency further believes that the time and expense required by even the most concise EA's is not justified for those actions that qualify for categorical exclusion. Therefore, the agency remains committed to issuance of an Interim Directive.

Comment: Many respondents believe Forest Service direction contained in the 1992 definition (57 FR 43180) of extraordinary circumstances clearly prohibits the use of a categorical exclusion whenever the action takes place in the presence of the resource conditions listed in paragraph 2 of section 30.3 and, therefore, there is no need for clarification.

Response: The Forest Service does not agree. The agency has long held in administrative appeal reviews and in litigation that the mere presence of these resource conditions does not necessarily preclude use of categorical exclusions. Since 1992, handbook direction has focused on the effects of a proposed action in determining if a categorical exclusion is appropriate. As stated in section 30.3, paragraph 3 as adopted in 1992, if uncertainty exists over the significance of environmental effects, a categorical exclusion would not be appropriate.

Comments on Compliance With Law and Regulation

Comment: Citing various court rulings over the use of categorical exclusions when extraordinary circumstances exist, some respondents claimed that the proposed Interim Directive would violate CEQ regulations for implementing NEPA. They claim that it is inappropriate to use categorical exclusions when extraordinary circumstances are present.

Response: The proposal that was issued for comment in September of

2001, described paragraphs 2a through 2g as resource conditions and attempted to clarify that it is the degree of the potential effect of a proposed action on those resource conditions that determines the existence of extraordinary circumstances. In response to comment, chapter 30.3, paragraph 3 has been further modified in the final policy to emphasize that it is the uncertainty over significance of the effects of a proposed action that requires preparation of an EA. Paragraph 2 in section 30.3 lists resource conditions that should be considered in determining whether extraordinary circumstances related to the proposed action warrant additional analysis and documentation in an EA or EIS. The list of resource conditions in paragraph 2 does not preclude consideration of other factors or conditions that the Responsible Official may deem appropriate. Paragraph 2 has also been modified to emphasize that it is the degree of the potential effect of a proposed action on those resource conditions that determines the existence of extraordinary circumstances. This direction is consistent with CEQ regulations requiring that agencies provide for extraordinary circumstances.

Comment: Some respondents believe that the proposed Interim Directive would change the type of activities that may occur within the habitat of threatened and endangered species and that the Forest Service should formally consult with the U.S. Fish and Wildlife Service on this proposal as required by the Endangered Species Act.

Response: The agency has determined that this revision itself will have no effect on threatened or endangered species or their habitat. The proposed Interim Directive will not change the types of activities that may occur within the habitat of threatened and endangered species. Therefore, consultation with the U.S. Fish and Wildlife Service is not required. Any categorically excluded actions proposed within the habitat of threatened or endangered species are still subject to the consultation requirements of the Endangered Species Act.

Comment: Some respondents believe that the proposed Interim Directive would change the types of activities that may occur on American Indian or Alaska Native religious or cultural sites and that the Forest Service should consult with Tribes on this proposal as required by the National Historic Preservation Act and implementing regulations.

Response: The Forest Service wants to reassure these respondents that the Interim Directive would not change the types of activities it may authorize on or near American Indian and Alaska Native religious or cultural sites. The Interim Directive only clarifies agency policy regarding extraordinary circumstances, which has no effect on religious or cultural sites. Therefore, consultation with Tribes is not required for the promulgation of this Interim Directive.

Comment: Some respondents feel that the proposed change to the Forest Service Handbook section on extraordinary circumstances would change the assumption upon which all the categories listed in chapter 30 were created, specifically, how the use of each category of actions would be constrained by extraordinary circumstances. Therefore, respondents believe that additional effects analysis is now necessary to reassess whether each category of actions does or does not individually or cumulatively have a significant effect on the environment in compliance with the CEQ regulations on categorical exclusions.

Response: The Interim Directive merely clarifies current policy concerning extraordinary circumstances. This Interim Directive does not change the assumptions upon which the categories of actions listed in chapter 30 were created. Therefore, the agency's conclusion that the categories of actions listed in chapter 30 have no individually or cumulatively significant environmental impacts remains unchanged.

Comments on Public Participation

Comment: A considerable amount of comment revolved around the Interim Directive's effect on the public's role in decisionmaking. Many respondents are concerned that the proposal would increase the use of categorical exclusions and thereby decrease the public's opportunity for involvement and oversight of the management of National Forest System lands. Other respondents think that scoping is not warranted for actions that may be categorically excluded.

Response: Forest Service direction requires scoping for all proposed actions subject to NEPA (FSH 1909.15, section 11). Through scoping, the Forest Service identifies any important issues, identifies interested and affected persons, and determines the extent of analysis and documentation that will be necessary for the Responsible Official to make an informed decision on a proposed action. One integral part of this scoping process is determining the appropriate level of public participation. Forest Service Handbook 1909.15, section 11, directs the Responsible Official to consider options for involving potentially interested and affected agencies, organizations, and persons in the analysis process commensurate with public interest in the proposed action, regardless of the type of documentation used.

Comment: Respondents were also concerned that more decisions will be made through a categorical exclusion and, consequently, fewer decisions will be appealable.

Response: As previously noted, the purpose of this Interim Directive is to clarify existing NEPA procedures, not to broaden the use of categorical exclusions. Additionally, appeal of decisions is addressed in the regulations at 36 CFR part 215, not in the agency's NEPA procedures. In a separate effort, the agency is currently reviewing the appeal regulations. If the agency proposes any changes to the appeal regulations, the public will be provided with notice and an opportunity to comment.

Comments on Impacts

Comment: Many of the respondents who were opposed to the proposed Interim Directive feel that any increase in the use of categorical exclusions represents a reduction in environmental review and the use of science in decisionmaking. As a result, they feel that the proposed Interim Directive could result in adverse impacts to National Forest System lands and resources, including roadless areas, wilderness areas, national recreation areas, threatened and endangered species, American Indian sacred sites, and archeological sites.

Response: Categorical exclusions are to be used for routine actions that have been found by the agency through repeated environmental review to have no significant environmental effects either individually or cumulatively. Final direction in paragraph 2 of section 30.3 now requires consideration of whether extraordinary circumstances related to a proposed action warrant further analysis and documentation in an EA or EIS. Final direction in paragraph 3 of section 30.3 emphasizes that an EA is the appropriate form of documentation when the significance of effects is uncertain.

Additionally, the Forest Service is required to comply with all applicable laws, regulations, and policies for every action it undertakes on National Forest System lands. Therefore, all actions, even those that are excluded from documentation in an EA or an EIS, must comply with laws and regulations governing the protection of resources,

such as roadless areas, wilderness, national recreation areas, threatened and endangered species, American Indian sacred sites, and archeological sites.

Comments on the Interim Directive

Comment: Some respondents questioned how long the Interim Directive (ID) would be in effect or under what circumstances it would terminate.

Response: As was stated in the preamble for the proposed directives published in the September 20, 2001, **Federal Register** (66 FR 48412), the changes are being made through an ID only for administrative efficiency. The agency is proposing modifications to other parts of this chapter; for example, the agency has proposed to add three new categories for certain special use authorizations. Additionally, previously issued IDs need to be incorporated into Chapter 30. In accordance with its policies on directive issuances the agency has chosen to issue this clarification of extraordinary circumstances as an ID. The agency will give notice when Chapter 30 is amended to incorporate these IDs.

Comments on Section 30.3 Policy

Comment: Many respondents contend that the proposed Interim Directive does not comply with the definition of categorical exclusion contained in the CEQ regulations and, therefore, violates NEPA. They were concerned that the proposed language would eliminate the possibility of ever doing an EA for an action listed in the categories. They feared that instead the proposed Interim Directive would lead to a situation where an internal review could be used to determine whether the project may have a significant effect on the environment, which would be in direct conflict with the CEQ establishment of the EA as the appropriate method of determining if a project may have significant effects.

Response: The agency agrees that the language in both the preamble and the proposed directive could be interpreted to bypass the EA process. Therefore, the agency has modified the text in the final Interim Directive to address these concerns. The proposed language and the confusion that resulted from it led to a great many of the concerns voiced by those who were opposed to the proposal. The agency agrees with the numerous respondents who indicated that if there is a question regarding whether environmental effects may be significant, a categorical exclusion would not be appropriate. In response, the final policy reinstates the language of paragraph 3, which states that it is the uncertainty over significance of the effects of a proposed action that requires preparation of an EA. The proposed Interim Directive at 30.3, paragraph 2, stated that extraordinary circumstances occur when a proposed action would have a significant effect on a set of listed resource conditions. Paragraph 2 now identifies a list of resource conditions that, if present, require the Responsible Official to consider whether extraordinary circumstances related to a proposed action warrant analysis in an EA or EIS. Paragraph 2 also states that the mere presence of these resources does not preclude use of a categorical exclusion. In response to contentions that the definition of extraordinary circumstances is not consistent with the CEQ regulations, the final policy does not contain a definition of extraordinary circumstances. The CEQ regulations direct agencies not to paraphrase the regulations, but to supplement them. The agency sees little value in expanding on CEQ's use of the term ''extraordinary circumstances''. The agency's final policy, therefore, relies on the context in which CEQ uses the term and provides for extraordinary circumstances as directed by the CEQ regulations at 40 CFR 1508.4.

Comment: Some respondents objected to the concept that a Responsible Official can make a case-by-case analysis of whether a proposed action has extraordinary circumstances and, therefore, whether or not it can be excluded from documentation in an EA or EIS. They did not think this complies with CEQ regulatory requirements for an agency to develop specific criteria and classes of actions for categorical exclusions.

Response: The CEQ regulations at 40 CFR 1507.3 direct agencies to include specific criteria for and identification of those typical classes of actions that normally do not require either an EA or EIS. Those categories of actions are identified along with appropriate criteria for their use in handbook sections 31.1b and 31.2. The agency believes that an appropriate evaluation of the potential effects of a proposed action can and should be made by the Responsible Official prior to the placement of the proposed action in a category for exclusion. The text in paragraphs 2 and 3 of section 30.3 have been modified to emphasize that the Responsible Official determines whether or not extraordinary circumstances exist, and further, when it is appropriate to prepare an EA or an EIS.

Comment: A few respondents suggested that the directive should include clear guidelines by which a Responsible Official can determine when the use of a categorical exclusion is appropriate. Other respondents stated that Forest Service officials have the expertise to assess the relationship between the proposed action and extraordinary circumstances and, therefore, it is appropriate for them to determine the level of NEPA analysis necessary for a proposed action.

Response: Forest Service Handbook, section 11.6, directs Responsible Officials to determine the appropriate level of analysis and documentation based upon the nature of the proposed action; preliminary issues associated with the proposed action; interested and affected agencies, organizations, and individuals; and the extent of existing available documentation. The list of resource conditions (sec. 30.3, para. 2) that require consideration of whether extraordinary circumstances related to the proposed action warrant analysis in an EA or EIS provide sufficient guidance for Responsible Officials to determine the appropriate level of analysis and documentation for a proposed action.

Comment: A few respondents commented that the terms ''steep slopes'' and ''highly erosive soils'' were ambiguous and out of date.

Response: The agency agrees that these terms could be subjective and has removed them from paragraph 2 in the final policy.

Comment: The addition of proposed and sensitive species to the list of resource conditions for extraordinary circumstances elicited paradoxical responses from respondents. Those generally favoring the overall new language for extraordinary circumstances opposed this specific change, while those generally opposed to the overall new language for extraordinary circumstances endorsed this part of the Interim Directive.

Response: Paragraph 3 of the final Interim Directive emphasizes that the Responsible Official must determine, based on scoping, whether uncertainty exists over the significance of effects of a proposed action. Additionally, paragraph 2 now indicates that the occurrence of sensitive species requires consideration of whether extraordinary circumstances related to the proposed action warrant analysis in an EA or EIS. Together these two paragraphs address the concerns of both those in favor and those who opposed the proposal.

Comment: One respondent suggested defining the term ''sensitive'' in the Interim Directive so that it is not open to interpretation.

Response: Generally, the agency avoids defining terms that are already defined in other places within its directive system. Almost all of the terms used in the definition of extraordinary circumstances are defined in other places in the Forest Service Handbook or Manual. In this case, the terms ''endangered, threatened, and sensitive species'' and ''designated and proposed critical habitat'' are already defined in Forest Service Manual (FSM) 2670. Sensitive species are defined in FSM 2670 as those plant and animal species identified by a Regional Forester for which population viability is a concern.

Comment: Many respondents feel it is inappropriate to use categorical exclusions in some specific areas such as roadless areas, wilderness areas, and municipal watersheds. They point out that, under the proposed interpretation of extraordinary circumstances, the agency could now perform logging, mining, and the construction of roads and motorized trails and utility lines in these areas without the documentation and analysis required by an EA or an EIS.

Response: The agency has responded to this fear by revising proposed paragraphs 2 and 3. Paragraph 3 emphasizes that the Responsible Official must determine, based on scoping whether uncertainty exists over the significance of effects of a proposed action. Paragraph 2 now indicates that occurrence of specific areas such as roadless areas, wilderness areas, and municipal watersheds requires consideration of whether extraordinary circumstances related to the proposed action warrant analysis in an EA or EIS.

Comment: One respondent suggested that the American Indian and Alaska Native religious or cultural sites should be a separate extraordinary circumstance rather than combined with archeological and historic properties or areas.

Response: Paragraph 2 in the final policy separates American Indian and Alaska Native religious or cultural sites from historic properties.

Comment: One respondent objected to the Forest Service proposal to remove the sentences in section 30.3, paragraph 3 that refer to when it is appropriate to document an analysis with an EA or an EIS instead of categorically excluding a proposed action.

Response: After careful consideration, the agency has determined that the direction is clearer if the sentences on EA's and EIS's are included and, therefore, has reinstated them.

Comment: One respondent felt that the language in section 30.3, paragraph 4 regarding when new information triggers additional NEPA analysis was not clear.

Response: After careful review, paragraph 4 has been removed. It may have had purpose during early implementation of NEPA, but it merely repeats direction already contained in Chapter 10, section 18.

Comments on Section 30.5 Definitions

Comment: One respondent was concerned that the new definition of extraordinary circumstances in section 30.5 omitted the phrase ''during scoping''. He felt that phrase was needed in the definition to make it clear that scoping is an important step in determining which projects may be categorically excluded.

Response: The agency shares that concern and has responded by putting these references to scoping back into paragraph 3. The first of these sentences states that if the Responsible Official determines, based on scoping that it is uncertain whether the proposed action may have a significant effect on the environment, an EA must be prepared. The definition of extraordinary circumstances has been removed in the final policy. The agency's final policy relies on the context in which CEQ uses the term and provides for extraordinary circumstances in paragraph 2, as directed by the CEQ regulations at 40 CFR 1508.4.

Environmental Impact

Comment: Some respondents stated that because the Interim Directive addresses extraordinary circumstances, the Forest Service must prepare an environmental assessment or an environmental impact statement on the proposed Interim Directive to comply with NEPA.

Response: Forest Service Handbook 1909.15, section 31.1b (57 FR 43180), excludes from documentation in an environmental assessment or environmental impact statement ''rules, regulations, or policies to establish Service-wide administrative procedures, program processes, or instructions.'' This Interim Directive to FSH 1909.15 falls within this category of actions. The handbook by definition (Forest Service Manual Chapter 1110; 36 CFR 200.4) sets out procedures and technical instructions for complying with CEQ's regulations. Although the proposed clarification directly addresses extraordinary circumstances, it merely provides guidance and does not compel any activities to occur. Therefore, regardless of the interpretation of the agency's 1992 policy, the agency has found that there are no extraordinary circumstances related to this Interim Directive that would result in a significant environmental effect. The procedural and technical nature of the proposed change, and the finding that no extraordinary circumstances exist, lead the agency to conclude that preparation of environmental impact statement or environmental assessment is not required for this Interim Directive. In addition, pursuant to 40 CFR 1505.1 and 1507.3, the agency has consulted with the Council on Environmental Quality (CEQ) to ensure full compliance with the purposes and provisions of NEPA and the CEQ implementing regulations.

Regulatory Impact

This final Interim Directive has been reviewed under USDA procedures and Executive Order 12866, Regulatory Planning and Review. It has been determined that this is not a significant action. This action to clarify agency direction will not have an annual effect of $100 million or more on the economy nor adversely affect productivity, competition, jobs, the environment, public health or safety, nor State or local governments. This action will not interfere with an action taken or planned by another agency nor raise new legal or policy issues. Finally, this action will not alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients of such programs. Accordingly, this action is not subject to Office of Management and Budget review under Executive Order 12866.

Moreover, the final Interim Directive has been considered in light of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), and it is hereby certified that the final Interim Directive will not have a significant economic impact on a substantial number of small entities as defined by the act because it will not impose record-keeping requirements on them; it will not affect their competitive position in relation to large entities; and it will not affect their cash flow, liquidity, or ability to remain in the market.

Federalism and Consultation and Coordination With Indian Tribal Governments

The agency has considered this final Interim Directive under the requirements of Executive Order 13132, Federalism, and has concluded that the final Interim Directive conforms with the federalism principles set out in this Executive order; will not impose any compliance costs on the States; and will not have substantial direct effects on the States or the relationship between the

national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, the agency has determined that no further assessment of federalism implications is necessary.

Moreover, this final Interim Directive does not have tribal implications as defined by Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, and therefore advance consultation with tribes was not required.

No Takings Implications

This final Interim Directive has been analyzed in accordance with the principles and criteria contained in Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights, and it has been determined that the final Interim Directive does not pose the risk of a taking of Constitutionally protected private property.

Civil Justice Reform Act

This final Interim Directive has been reviewed under Executive Order 12988, Civil Justice Reform. It, (1) Preempts all State and local laws and regulations that are in conflict with this proposed Interim Directive or which would impede its full implementation; (2) has no retroactive effects; and (3) does not require administrative proceedings before parties may file suit in court challenging its provisions.

Unfunded Mandates

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), which the President signed into law on March 22, 1995, the agency has assessed the effects of this interim final directive on State, local, and tribal governments and the private sector. This interim final directive does not compel the expenditure of $100 million or more by any State, local, or tribal government or anyone in the private sector. Therefore, a statement under section 202 of the act is not required.

Energy Effects

This final Interim Directive has been reviewed under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. It has been determined that this final Interim Directive does not constitute a significant energy action as defined in the Executive order.

Controlling Paperwork Burdens on the Public

This final Interim Directive does not contain any additional record-keeping or reporting requirements or other information collection requirements as defined in 5 CFR part 1320 that are not already required by law or not already approved for use, and therefore, imposes no additional paperwork burden on the public. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and its implementing regulations at 5 CFR part 1320 do not apply.

Conclusion

Having considered the comments received, the Forest Service is adopting an Interim Directive that clarifies direction regarding consideration of extraordinary circumstances for categories of actions that can be excluded from documentation in an EA or an EIS. This change is being implemented through the issuance of an Interim Directive to FSH 1909.15, Environmental Policy and Procedures Handbook, Chapter 30. Although an Interim Directive (ID) expires in 18 months from its issue date, the clarification of extraordinary circumstances is intended to be a permanent revision. The text of this Interim Directive, along with other Interim Directives, will be incorporated into a revision of the entire Chapter 30 soon.

Dated: August 13, 2002.

Sally Collins,

Associate Chief.

Text of Final Interim Directive

Note: The Forest Service organizes its directive system by alphanumeric codes and subject headings. Only those sections of the Forest Service Handbook (FSH) 1909.15, Environmental Policy and Procedures Handbook, affected by this policy are included in this notice. The intended audience for this direction is Forest Service employees charged with project planning and environmental analysis. Selected headings and existing text are provided to assist the reader in placing the revised direction in context. Paper and electronic copies of this Interim Directive and the entire chapter 30 of FSH 1909.15 are available as set out in the **ADDRESSES** section at the beginning of this notice.

FSH 1909.15—Environmental Policy and Procedures Handbook

Chapter 30—Categorical Exclusion From Documentation

30.3 Policy.

1. A proposed action may be categorically excluded from further analysis and documentation in an environmental impact statement (EIS) or environmental assessment (EA) only if there are no extraordinary circumstances related to the proposed action and if:

a. The proposed action is within one of the categories in the Department of Agriculture (USDA) NEPA policies and procedures in 7 CFR part 1b, or

b. The proposed action is within a category listed in section 31.1b or 31.2.

2. Resource conditions that should be considered in determining whether extraordinary circumstances related to the proposed action warrant further analysis and documentation in an EA or an EIS are:

a. Federally listed threatened or endangered species or designated critical habitat, species proposed for Federal listing or proposed critical habitat, or Forest Service sensitive species;

b. Flood plains, wetlands, or municipal watersheds.

c. Congressionally designated areas, such as wilderness, wilderness study areas, or national recreation areas.

d. Inventoried roadless areas.

e. Research natural areas.

f. American Indian and Alaska Native religious or cultural sites.

g. Archaeological sites, or historic properties or areas.

The mere presence of one or more of these resource conditions does not preclude use of a categorical exclusion. It is the degree of the potential effect of a proposed action on these resource conditions that determines whether extraordinary circumstances exist.

3. Scoping is required on all proposed actions, including those that would appear to be categorically excluded. If the Responsible Official determines, based on scoping, that it is uncertain whether the proposed action may have a significant effect on the environment, prepare an EA (ch. 40). If the Responsible Official determines, based on scoping, that the proposed action may have a significant environmental effect, prepare an EIS (ch. 20).

(Direction in paragraph 4 is removed.)

[FR Doc. 02–21075 Filed 8–22–02; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Otter Creek Watershed Supplemental Plan Number 5, Iowa County, Wisconsin

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Regulations (40 CFR part 1500); and the Natural Resources Conservation Service Regulations (7 CFR part 650); the Natural Resources Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Otter Creek Watershed Supplemental Plan Number 5, Iowa County, Wisconsin.

FOR FURTHER INFORMATION CONTACT: Tom Krapf, Water Resources Staff Leader, Natural Resources Conservation Service, 6515 Watts Road, Suite 200, Madison, Wisconsin, 53719. Telephone (608) 276–8732.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Patricia S. Leavenworth, State Conservationist has determined that the preparation and review of an environmental impact statement are not needed for this project. The project purpose is flood prevention and recreation. The planned works of improvement include the repair of the dam and improvement of the coldwater discharge flow. The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Thomas Krapf.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

Dated: August 15, 2002.

Patricia S. Leavenworth,

State Conservationist.

[FR Doc. 02–21494 Filed 8–22–02; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Proposed Changes to Section IV of the Field Office Technical Guide (FOTG) of the Natural Resources Conservation Service in Indiana

AGENCY: Natural Resources Conservation Service (NRCS), USDA.

ACTION: Notice of availability of proposed changes in Section IV of the FOTG of the NRCS in Indiana for review and comment.

SUMMARY: It is the intention of NRCS in Indiana to issue five revised conservation practice standards in Section IV of the FOTG. The revised standards are: Mulching (484), Lined Waterway or Outlet (468), Conservation Cover (327), Tree/Shrub Establishment (612), and Pest Management (595).

These practices may be used in conservation systems that treat highly erodible land and/or wetlands.

DATES: Comments will be received for a 30-day period commencing with this date of publication.

ADDRESSES: Address all requests and comments to Jane E. Hardisty, State Conservationist, Natural Resources Conservation Service (NRCS), 6013 Lakeside Blvd., Indianapolis, Indiana 46278. Copies of this standard will be made available upon written request. You may submit your electronic requests and comments to *darrell.brown@in.usda.gov*.

FOR FURTHER INFORMATION CONTACT: Jane E. Hardisty, 317–290–3200.

SUPPLEMENTARY INFORMATION: Section 343 of the Federal Agriculture Improvement and Reform Act of 1996 states that after enactment of the law, revisions made to NRCS state technical guides used to carry out highly erodible land and wetland provisions of the law, shall be made available for public review and comment. For the next 30 days, the NRCS in Indiana will receive comments relative to the proposed changes. Following that period, a determination will be made by the NRCS in Indiana regarding disposition of those comments and a final determination of changes will be made.

Dated: July 22, 2002.

Jane E. Hardisty,

State Conservationist, Indianapolis, Indiana.

[FR Doc. 02–21495 Filed 8–22–02; 8:45 am]

BILLING CODE 3410–16–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Additions to and Deletions from Procurement List.

SUMMARY: The Committee is proposing to add to the Procurement List products to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete products previously furnished by such agencies.

COMMENTS MUST BE RECEIVED ON OR BEFORE: September 22, 2002.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Sheryl D. Kennerly, (703) 603–7740.

SUPPLEMENTARY INFORMATION:

This notice is published pursuant to 41 U.S.C 47(a) (2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice for each product will be required to procure the products listed below from nonprofit agencies employing persons who are blind or have other severe disabilities. I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products to the Government.

2. If approved, the action will result in authorizing small entities to furnish the products to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products proposed for addition to the Procurement List. Comments on this

certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following products are proposed for addition to Procurement List for production by the nonprofit agencies listed:

Products

Product/NSN: MOLLE II Carrier Sleep System,
8465–01–465–2124
8465–01–465–7508.
NPA: Alabama Industries for the Blind, Talladega, Alabama.
NPA: Industries of the Blind, Inc., Greensboro, North Carolina.
NPA: Raleigh Lions Clinic for the Blind, Inc., Raleigh, North Carolina.
Contract Activity: Defense Supply Center Philadelphia, Philadelphia, Pennsylvania.

Product/NSN: Mop, Deck, Rayon Refill, M.R. 1028.
NPA: Arizona Industries for the Blind, Phoenix, Arizona.
NPA: Mississippi Industries for the Blind, Jackson, Mississippi.
NPA: New York City Industries for the Blind, Brooklyn, New York.
Contract Activity: Defense Commissary Agency (DeCA), Ft. Lee, Virginia.

Product/NSN: Mop, Deck, Cotton Refill, M.R. 1029.
NPA: Arizona Industries for the Blind, Phoenix, Arizona.
NPA: Mississippi Industries for the Blind, Jackson, Mississippi.
NPA: New York City Industries for the Blind, Brooklyn, New York.
Contract Activity: Defense Commissary Agency (DeCA), Ft. Lee, Virginia.

Deletions

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products to the Government.

2. If approved, the action will result in authorizing small entities to furnish the products to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products proposed for deletion from the Procurement List.

The following products have been proposed for deletion from the Procurement List:

Products

Product/NSN: Executive/Personal Time Management System, 7510–01–450–5423 (Pocket Planning Set—2000), 7510–01–450–5428 (Pocket Planning Set—2001), 7510–01–450–5435 (Pocket Planning Set—2002), 7510–01–463–0798 (2000 Tabbed Monthly—3 hole), 7510–01–463–0799 (2000 Tabbed Monthly—7 hole), 7510–01–463–0801 (Daymax Tabbed Monthly—7 hole), 7510–01–463–0803 (Daymax Tabbed Monthly—3 hole), 7530–01–458–3130 (LE Black), 7530–00-D16–0057 (Organizer, Day Planner, Travel Size).
NPA: The Easter Seal Society of Western Pennsylvania, Pittsburgh, Pennsylvania.
Contract Activity: Office Supplies & Paper Products Acquisition Center, New York.

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. 02–21564 Filed 8–22–02; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and deletions from Procurement List.

SUMMARY: This action adds to the Procurement List a product and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the Procurement List product previously furnished by such agencies.

EFFECTIVE DATE: September 22, 2002.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Sheryl D. Kennerly, (703) 603–7740.

SUPPLEMENTARY INFORMATION:

Additions

On May 17, June 28, and July 5, 2002, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (67 FR 35096, 43482, and 44808) of proposed additions to and deletions from the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the product and services and impact of the additions on the current or most recent contractors, the Committee has determined that the product and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4. I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the product and services to the Government.

2. The action will result in authorizing small entities to furnish the product and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the product and services proposed for addition to the Procurement List.

Accordingly, the following product and services are added to the Procurement List:

Product

Product/NSN: Sash Cord, 4020–00–551–3343.
NPA: East Texas Lighthouse for the Blind, Tyler, Texas.
Contract Activity: GSA, General Products Center, Fort Worth, Texas.

Services

Service Type/Location: Base Supply Center, Headquarters U.S. Army Infantry Center, Fort Benning, Georgia.
NPA: L.C. Industries For The Blind, Inc., Durham, North Carolina.
Contract Activity: Headquarters U.S. Army Infantry Center, Fort Benning, Georgia.

Service Type/Location: Fulfillment Services, Veterans Affairs Blind Rehabilitation Center, Augusta, Georgia.
NPA: Columbia Lighthouse for the Blind, Washington, DC.
Contract Activity: Veterans Affairs Medical Center, Columbia, South Carolina.

Service Type/Location: Janitorial/Custodial, Air Traffic Control Tower, Indianapolis, Indiana.
NPA: Child-Adult Resource Services, Inc., Green Castle, Indiana.
Contract Activity: Federal Aviation Administration, Des Plains, Illinois.

Service Type/Location: Janitorial/Custodial, Air Traffic Control Tower, Peoria, Illinois.
NPA: Community Workshop & Training Center, Peoria, Illinois.
Contract Activity: Federal Aviation Administration, Des Plains, Illinois.

Service Type/Location: Janitorial/Custodial, U.S. Army Reserve Center, Danville, Illinois.
NPA: Rehab Products & Services, Danville, Illinois.
Contract Activity: HQ, 88th Regional Support Command, Fort Snelling, Minnesota.

Service Type/Location: Mailing Services, USDA, Animal and Plant Health Inspection Service, Food Safety Inspection Service, Minneapolis, Minnesota.
NPA: Tasks Unlimited, Inc., Minneapolis, Minnesota.
Contract Activity: Animal & Plant Health Inspection Service, Minneapolis.

Deletions

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action may not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action will not have a severe economic impact on future contractors for the products.

3. The action may result in authorizing small entities to furnish the products to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products deleted from the Procurement List.

After consideration of the relevant matter presented, the committee has determined that the products listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Accordingly, the following products are hereby deleted from the Procurement List:

Products

Product/NSN: Harness Assembly, 1660–00–066–2078.
NPA: Human Technologies Corporation, Utica, New York.
Contract Activity: Defense Supply Center—Richmond, Richmond, Virginia.

Product/NSN: Insert, Foam, Laminated, 8135–00–NSH–0002.
NPA: None currently authorized.
Contract Activity: Bureau of the Mint, Department of the Treasury, Washington, DC.

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. 02–21565 Filed 8–22–02; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

Bureau of the Census

[Docket Number 010209034–2188–06]

Qualifying Urban Areas for Census 2000; Correction

AGENCY: Bureau of the Census, Department of Commerce.

ACTION: Notice.

SUMMARY: On May 1, 2002 (67 FR 21962), the Bureau of the Census (Census Bureau) published a **Federal Register** Notice listing the areas that qualified as urbanized areas and urban clusters based on the results of Census 2000. The Census Bureau is correcting the lists of urbanized areas and urban clusters, and also is modifying the area and population of a few urbanized areas and urban clusters by adding small amounts of territory to selected urbanized areas and urban clusters. Most of the corrections are the results of clerical errors.

EFFECTIVE DATE: August 23, 2002.

FOR FURTHER INFORMATION CONTACT: Robert Marx, Chief, Geography Division, U.S. Census Bureau, 4700 Silver Hill Road, Stop 7400, Washington, DC 20233–7400; telephone (301) 457–2131; e-mail at: *ua@geo.census.gov.*

SUPPLEMENTARY INFORMATION: On May 1, 2002 (67 FR 21962), the Census Bureau published a **Federal Register** Notice listing the areas that qualified as urbanized areas and urban clusters based on the results of Census 2000. The Census Bureau is correcting the lists of urbanized areas and urban clusters, and also is modifying the area and population of a few urbanized areas and urban clusters by adding small amounts of territory to selected urbanized areas and urban clusters.

The Census Bureau is providing the following corrections to the original Notice.

Page 21963, Column 1, Section A.1.: The Census Bureau is removing Hagåtña, GU, from the list of new urbanized areas and designating the area as an urban cluster. The Census Bureau is making this correction as a result of a correction to the ''Urban Area Criteria for Census 2000'' notice (67 FR 11663; March 15, 2002). The criteria correction is being published in a separate Notice in this issue of the **Federal Register**. The criteria correction, which affects only Guam, excludes the criterion for designating urbanized areas in Guam and allows urban clusters in Guam to have a population of 50,000 or more.

Page 21963, Column 1, Section A.1.: The Census Bureau is adding Hanford, CA, to the list of new urbanized areas. The Hanford, CA, Urbanized Area includes the area of the former Census 2000 Hanford, CA, Urban Cluster and the Lemoore, CA, Urban Cluster. The Census Bureau is making this correction to resolve a clerical error.

Page 21963, Column 3, Section A.3.: The Census Bureau is merging the previously identified San Rafael—Novato, CA, Urbanized Area with the San Francisco—Oakland, CA, Urbanized Area. The text will now read, ''Concord, CA; Livermore, CA; San Francisco—Oakland, CA; and Vallejo, CA (San Francisco—Oakland, CA).'' The Census Bureau is making this correction to resolve a clerical error.

Page 21963, Column 3, Section A.5.: The text for the Anchorage, AK, note incorrectly referenced the ''Northwest Anchorage, AK urban cluster (UC).'' The urban cluster name is Anchorage Northeast. The text is corrected to read ''Anchorage, AK: does not include the separate Anchorage Northeast, AK urban cluster (UC), which was defined from part of the 1990 census UA.'' The Census Bureau is making this correction to resolve a clerical error.

Page 21965, Column 3, Section B., List of Urbanized Areas: ''Denver—Aurora, CO 1,984,887'' is corrected to read ''Denver—Aurora, CO 1,984,889.'' This correction is made to resolve a clerical error.

Page 21966, Column 1, Section B., List of Urbanized Areas: ''Fort Collins, CO 206,633'' is corrected to read ''Fort Collins, CO 206,757.'' This correction is being made to resolve a clerical error.

Page 21966, Column 1, Section B., List of Urbanized Areas: Delete ''Hagåtña, GU 132,241'' from the list of urbanized areas. The Census Bureau is making this correction as a result of a correction to the ''Urban Area Criteria for Census 2000'' notice (67 FR 11663; March 15, 2002). The correction Notice changes the designation of Hagåtña, GU, from an urbanized area to an urban cluster. The criteria correction is being published in a separate Notice in this issue of the **Federal Register**.

Page 21966, Column 1, Section B., List of Urbanized Areas: Add ''Hanford, CA 69,639'' to the list of urbanized areas. This correction is made to resolve a clerical error.

Page 21966, Column 1, Section B., List of Urbanized Areas: ''Holland, MI 91,795'' is corrected to read ''Holland, MI 91,921.'' This correction is made to resolve a clerical error.

Page 21967, Column 1, Section B., List of Urbanized Areas: ''San Francisco—Oakland, CA 2,995,769'' is corrected to read ''San Francisco—Oakland, CA 3,228,605.'' This correction is made to resolve a clerical error and reflects the merging of the previously identified San Rafael—Novato, CA Urbanized Area with the San Francisco—Oakland, CA Urbanized Area.

Page 21967, Column 1, Section B., List of Urbanized Areas: Delete ''San Rafael—Novato, CA 232,836'' from the list of urbanized areas. This change is being made to resolve a clerical error and reflects the merger of this previously identified area with the San Francisco—Oakland, CA Urbanized Area.

The Census Bureau is providing the following additional information. The corrections below do not directly affect the text in the original Notice, but they provide important information.

The Census Bureau is merging the Coamo, PR, Urban Cluster and the Salinas—Coco, PR, Urban Cluster to form the Coamo, PR, Urban Cluster with a population of 46,065. This correction is made to resolve a clerical error.

The Census Bureau is adding Hagåtña, GU, to the list of urban clusters. This correction is being made as a result of a correction to the Urban Area Criteria for Census 2000 that changes the

designation of Hagåtña, GU, from an urbanized area to an urban cluster.

The Census Bureau is making very minor changes to several urbanized areas and urban clusters by adding census blocks; most of these blocks consist only of water. These changes are being made to resolve clerical errors. The Denver—Aurora, CO; Fort Collins, CO; and Holland, MI, Urbanized Areas are the only urbanized areas that have changes in population; each is listed separately elsewhere in this Notice.

A list of the other affected urbanized areas and urban clusters is available from the Census Bureau at the Census 2000 Urban and Rural Classification Web page at: *http://www.census.gov/geo/www/ua/ua_2k.html.*

Executive Order 12866

This Notice is not significant for purposes of Executive Order 12866.

Regulatory Flexibility Act

Because a Notice and opportunity for public comment are not required by 5 U.S.C. 553, or any other law, for lists of urbanized areas, this Notice is not subject to the analytical requirements of the Regulatory Flexibility Act. Thus, a Regulatory Flexibility Analysis is not required and none has been prepared (5 U.S.C. 603[a]).

Paperwork Reduction Act

This Notice does not represent a collection of information subject to the requirements of the Paperwork Reduction Act, Title 44, U.S.C., Chapter 35.

Dated: August 20, 2002.

Charles Louis Kincannon,

Director, Bureau of the Census.

[FR Doc. 02–21547 Filed 8–22–02; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of the Census

[Docket Number 010209034–2187–05]

Urban Area Criteria for Census 2000; Correction

AGENCY: Bureau of the Census, Department of Commerce.

ACTION: Notice.

SUMMARY: On March 15, 2002 (67 FR 11663), the Bureau of the Census (Census Bureau) published a **Federal Register** Notice of Final Program Criteria announcing its criteria for defining urban and rural territory based on the results of Census 2000. The Census Bureau is correcting the final criteria as they apply to Guam.

EFFECTIVE DATE: August 23, 2002.

FOR FURTHER INFORMATION CONTACT: Robert Marx, Chief, Geography Division, U.S. Census Bureau, 4700 Silver Hill Road, Stop 7400, Washington, DC 20233–7400; telephone (301) 457–2131; e-mail at: *ua@geo.census.gov.*

SUPPLEMENTARY INFORMATION: On March 15, 2002 (67 FR 11663), the Census Bureau published a **Federal Register** Notice of Final Program Criteria announcing its criteria for defining urban and rural territory based on the results of Census 2000. The Census Bureau is correcting the final criteria as they apply to Guam.

The Census Bureau is providing the following correction to the original Notice.

Page 11667, Column 1, first paragraph under the ''Urban Area Criteria for Census 2000'' heading: ''The following criteria apply to the 50 states, the District of Columbia, Puerto Rico, American Samoa, Guam, the Northern Mariana Islands, and the Virgin Islands of the United States'' is corrected to read, ''The following criteria apply to the 50 states, the District of Columbia, Puerto Rico, American Samoa, the Northern Mariana Islands, and the Virgin Islands of the United States. The criteria also can be applied to Guam, at the request of the Governor. Lacking such a request, all urban population in Guam, regardless of cluster size, will be designated as in ''urban clusters.''

This correction is provided in accordance with an agreement between the Census Bureau and the government of Guam. All urban areas defined within Guam based on the results of Census 2000 are designated as urban clusters regardless of their total population.

Executive Order 12866

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

Regulatory Flexibility Act

Even though we gave the public prior notice and an opportunity for public comment, we were not required to do so by Title 5, United States Code (U.S.C.), Section 553, or any other law. Therefore, a Regulatory Flexibility Analysis is not required and has not been prepared (5 U.S.C. 603[a]).

Paperwork Reduction Act

This program Notice does not represent a collection of information subject to the requirements of the Paperwork Reduction Act, Title 44, U.S.C., Chapter 35.

Dated: August 20, 2002.

Charles Louis Kincannon,

Director, Bureau of the Census.

[FR Doc. 02–21546 Filed 8–22–02; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–337–803]

Correction: Notice of Preliminary Results of Antidumping Duty Administrative Review, Preliminary Determination to Revoke the Order in Part, and Partial Rescission of Antidumping Duty Administrative Review: Fresh Atlantic Salmon from Chile

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: August 7, 2002

SUMMARY: On July 31, 2002, the Department of Commerce (the Department) issued the preliminary results for the administrative review of the antidumping duty order on fresh Atlantic Salmon from Chile for the period of review July 1, 2000, through June 30, 2001. *See Notice of Preliminary Results of Antidumping Duty Administrative Review, Preliminary Determination to Revoke the Order in Part, and Partial Rescission of Antidumping Duty Administrative Review: Fresh Atlantic Salmon from Chile* (Preliminary Results), 67 FR 51182 (August 7, 2002). The notice erroneously stated that the published weighted-average margins applied to the period July 1, 1999, through June 30, 2000. However, the correct period is July 1, 2000, through June 30, 2001. No other changes have been made to the Preliminary Results.

FOR FURTHER INFORMATION CONTACT: Tracy Levstik or Constance Handley, at (202) 482–2815 or (202) 482–0631, respectively; AD/CVD Enforcement Office V, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW, Washington, DC 20230.

Dated: August 19, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–21593 Filed 8–22–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

ACTION: Notice of revocation of Export Trade Certificate of Review No. 99–00006.

SUMMARY: The Secretary of Commerce issued an Export Trade Certificate of Review to T.P. International Expo Services, Inc. Because this certificate holder has failed to file an annual report as required by law, the Secretary is revoking the certificate. This notice summarizes the notification letter sent to T.P. International Expo Services, Inc.

FOR FURTHER INFORMATION CONTACT: Jeffrey Anspacher, Director, Office of Export Trading Company Affairs, International Trade Administration, 202/482–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (''the Act'') (Pub. L. 97–290, 15 U.S.C. 4011–21) authorizes the Secretary of Commerce to issue export trade certificates of review. The regulations implementing Title III (''the Regulations'') are found at 15 CFR part 325 (1999). Pursuant to this authority, a certificate of review was issued on January 11, 2000 to T.P. International Expo Services, Inc.

A certificate holder is required by law to submit to the Department of Commerce annual reports that update financial and other information relating to business activities covered by its certificate (section 308 of the Act, 15 U.S.C. 4018, § 325.14(a) of the Regulations, 15 CFR 325.14(a)). The annual report is due within 45 days after the anniversary date of the issuance of the Certificate of Review (§325.14(b) of the Regulations, 15 CFR 325.14(b)). Failure to submit a complete annual report may be the basis for revocation (§§ 325.10(a) and 325.14(c) of the regulations, 15 CFR 325.10(a)(3) and 325.14(c)).

On January 7, 2002, the Department of Commerce sent to T.P. International Expo Services, Inc. a letter containing annual report questions with a reminder that its annual report was due on February 25, 2002. Additional reminders were sent on April 11, 2002 and on May 21, 2002. The Department has received no written response from T.P. International Expo Services, Inc. to any of these letters.

On July 10, 2002, and in accordance with § 325.10(c)(2) of the Regulations, (15 CFR 325.10 (c)(2)), the Department of Commerce sent a letter by certified mail to notify T.P. International Expo Services, Inc. that the Department was formally initiating the process to revoke its certificate for failure to file an annual report. In addition, a summary of this letter allowing T.P. International Expo Services, Inc. thirty days to respond was published in the **Federal Register** on July 16, 2002 at 67 FR 46634. Pursuant to § 325.10(c)(2) of the regulations (15 CFR 325.10(c)(2)), the Department considers the failure of T.P. International Expo Services, Inc. to respond to be an admission of the statements contained in the notification letter.

The Department has determined to revoke the certificate issued to T.P. International Expo Services, Inc. for its failure to file an annual report. The Department has sent a letter, dated August 19, 2002, to notify T.P. International Expo Services, Inc. of its determination. The revocation is effective thirty (30) days from the date of publication of this notice. Any person aggrieved by this decision may appeal to an appropriate U.S. district court within 30 days from the date on which this notice is published in the **Federal Register** §§ 325.10(c)(4) and 325.11 of the Regulations, 15 CFR 324.10(c)(4) and 325.11 of the Regulations, 15 CFR 325.10(c)(4) and 325.11.

Dated: August 19, 2002.

Jeffrey Anspacher,

Director, Office of Export Trading Company Affairs.

[FR Doc. 02–21594 Filed 8–22–02; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 081402A]

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Receipt of an application to modify an existing scientific research/enhancement permit (1044) and request for comment.

SUMMARY: Notice is hereby given that NOAA Fisheries has received an application for a permit modification for permit number 1044 from the Southwest Fisheries Science Center (SWFSC) in Santa Cruz, CA. The modified permit would affect ten Evolutionarily Significant Units (ESUs) of salmonids identified in **SUPPLEMENTARY INFORMATION** following. This document serves to notify the public of the availability of the permit modification application for review and comment before a final approval or disapproval is made by NOAA Fisheries.

DATES: Written comments on the permit application must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Pacific Standard Time on September 23, 2002.

ADDRESSES: Written comments on the modification request should be sent to the appropriate office as indicated below. Comments may also be sent via fax to the number indicated for the request. Comments will not be accepted if submitted via e-mail or the Internet. The applications and related documents are available for review in the indicated office, by appointment: Daniel Logan, Protected Species Division, NOAA Fisheries, 777 Sonoma Avenue, Room 325, Santa Rosa, CA 95404–6528 (ph: 707–575–6053, fax: 707–578–3435). Documents may also be reviewed by appointment in the Office of Protected Resources, F/PR3, NOAA Fisheries, 1315 East-West Highway, Silver Spring, MD 20910–3226 (301–713–1401).

FOR FURTHER INFORMATION CONTACT: Daniel Logan at phone number 707–575–6053, or e-mail: *dan.logan@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. 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 NOAA Fisheries 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 a 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 NOAA Fisheries.

Species Covered in This Notice

This notice is relevant to the following eight threatened and two endangered salmonid ESUs: threatened Southern Oregon/northern California Coasts coho salmon (*Oncorhynchus kisutch*), threatened Central California Coast coho salmon, threatened California Coastal Chinook salmon (*O. tshawytscha*), threatened Central Valley Spring-run Chinook salmon, endangered Sacramento River Winter-run Chinook salmon, threatened Northern California steelhead (*O. mykiss*), threatened Central California Coast steelhead, threatened Central Valley steelhead, threatened South-central California Coast steelhead, and endangered Southern California steelhead.

Modification Request Received

SWFSC requests a modification to permit 1044 for takes of adult and juvenile ESA-listed coho salmon, chinook salmon, and steelhead associated with population studies, carcass counts, redd surveys, genetic analyses, and habitat association studies. Presently, permit 1044 authorizes intentional takes of adult and juvenile threatened Southern Oregon/northern California Coasts coho salmon, and threatened Central California Coast coho salmon for projects in northern California. This requested modification would add intentional takes of threatened California Coastal chinook salmon, threatened Central Valley Spring-run chinook salmon, endangered Sacramento River Winter-run chinook salmon, threatened Northern California steelhead, threatened Central California Coast steelhead, threatened Central Valley steelhead, threatened South-central California Coast steelhead, and endangered Southern California steelhead to the SWFSC permit.

Dated: August 19, 2002.

Susan L. Pultz,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 02–21590 Filed 8–22–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 021102C]

Taking and Importing of Marine Mammals

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

ACTION: Final organized decision process.

SUMMARY: The Dolphin Protection Consumer Information Act (DPCIA) requires the Secretary of Commerce (Secretary), subject to certain conditions, to amend the ''dolphin-safe'' labeling standard so that tuna from the eastern tropical Pacific Ocean (ETP) purse seine fishery caught in sets in which no dolphins were killed or seriously injured may be labeled ''dolphin-safe.'' The Secretary is required by the Marine Mammal Protection Act (MMPA) to conduct specified scientific research and to make a finding, based on the results of that research, information obtained under the International Dolphin Conservation Program (IDCP), and any other relevant information, as to whether the intentional deployment on or encirclement of dolphins with purse seine nets is having a ''significant adverse impact'' on any depleted dolphin stock in the ETP. ''Significant adverse impact'' is not defined in the statute. On February 15, 2002, NMFS proposed an organized decision process (ODP) for outlining the types of information that will be available to the Secretary and the context in which the Secretary will consider the information in arriving at a final finding. NMFS accepted public comment on the proposed ODP for 60 days. This notice responds to comments and contains the final ODP to be used by the Secretary in making the finding.

FOR FURTHER INFORMATION CONTACT: Nicole R. Le Boeuf, Office of Protected Resources, NMFS, 301–713–2322.

SUPPLEMENTARY INFORMATION:

Background

Since its enactment in 1972, the MMPA (16 U.S.C. 1361 *et seq.*) has been amended several times to address the issue of dolphin mortality in the ETP tuna purse seine fishery. As concern among U.S. consumers grew, the DPCIA (16 U.S.C. 1385) was enacted in 1990 to establish the dolphin-safe labeling standard. The International Dolphin Conservation Program Act (IDCPA), (Public Law 105–42), was enacted in 1997, in response to the success of the ETP tuna purse seine fishery in dramatically reducing dolphin mortality caused by normal fishing operations. The IDCPA amended both the MMPA and the DPCIA. The MMPA, as amended by the IDCPA, requires the Secretary to conduct specified scientific research on dolphin stocks in the ETP. The DPCIA, as amended by the IDCPA, requires the Secretary to make a finding, based on the scientific research, information obtained under the IDCP (the international program of dolphin conservation established by the nations participating in the ETP purse seine fishery), and any other relevant information, as to whether the intentional deployment on or encirclement of dolphins with purse seine nets is having a ''significant adverse impact'' on any depleted dolphin stock in the ETP. There are three depleted dolphin stocks in the ETP: northeastern offshore spotted, eastern spinner, and coastal spotted. The ETP is the area of the Pacific Ocean bounded by 40° N. lat., 40° S. lat., 160° W. long., and the western coastlines of North, Central, and South America.

The Secretary's finding will determine the definition of ''dolphin-safe'' as applicable to tuna harvested by purse seine vessels with carrying capacities of greater than 400 short tons operating in the ETP. Refer to the **Federal Register** Notice at 64 FR 24590 (May 7, 1999), for more information on the dolphin-safe labeling standard.

The DPCIA requires the Secretary to make an initial finding regarding the dolphin-safe label in 1999, and a final finding by December 31, 2002. On April 29, 1999, NMFS made an initial finding that there was insufficient evidence at that time to determine whether the chase and encirclement of dolphins by the tuna purse seine fishery was having a significant adverse impact on any depleted dolphin stock in the ETP (NMFS 1999) (64 FR 24590). The U.S. District Court for the Northern District of California in *Brower* v. *Daley*, 93 F. Supp. 2d 1071 (N. D. Ca. 2000), set aside this determination, and that ruling was affirmed by the Ninth Circuit Court of Appeals in *Brower* v. *Evans*, 257 F. 3d 1058 (9th Cir. 2001). As a result, the dolphin-safe labeling standard (from section (h)(2) of the DPCIA) is currently in effect.

NMFS' IDCPA research activities will provide substantial additional information for the final finding relative to what was available for the initial finding in 1999. Some of this new information will include: dolphin abundance data from 1999 and 2000, updated mortality estimates based on observer data, an updated review of scientific literature on stress in marine mammals, results from a necropsy study of dolphins killed in the fishery, a review of historical demographic and biological data related to dolphins involved in the fishery, results from a required chase-recapture experiment, as well as information regarding variability

in the biological and physical parameters of the ETP ecosystem over time. To accommodate this newly available scientific and other relevant information and based on input received on the initial finding in 1999, NMFS has revised its decision-making process for the final finding.

Responses to Comments

In order to provide the public an opportunity to review and give input regarding the Secretary's revised decision-making process, NMFS solicited public comment on the proposed ODP (67 FR 7134) on February 15, 2002. Prior to publishing the proposed ODP in the **Federal Register**, NMFS provided a copy to the Marine Mammal Commission (MMC), an independent agency created by Congress to review and make recommendations on domestic and international actions and policies of federal agencies charged with marine mammal conservation and protection, and the Inter-American Tropical Tuna Commission (IATTC), the international body responsible for the conservation and management of tuna, dolphins, and billfish found in the ETP, for their initial input. During the public comment period, NMFS received approximately 400 comments on the proposed ODP. Comments were received from environmental organizations, the tuna industry, members of the public, the MMC, the IATTC, the U.S. Department of State, two members of the U.S. House of Representatives, and several foreign nations. While the majority of the comments were duplicates, the substance of all comments on the proposed ODP and responses to comments are described in this notice.

As indicated in the proposed ODP, NMFS required all additional scientific information for the Secretary's consideration to be submitted by May 1, 2002. Along with comments on the proposed ODP, some commenters submitted information for the Secretary's consideration. This information will be considered along with the results of the required research, information obtained under the IDCP, and other relevant information for the final finding. However, only comments pertaining to the proposed ODP are described here. Editorial and/or technical comments are not described in this document. As indicated in the proposed ODP, comments were not accepted when submitted via electronic mail or the Internet. Key issues and concerns are summarized below along with responses:

General Comments

Comment 1: One commenter indicated that NMFS must accommodate comments on the proposed ODP from the IATTC and its members outside of the public comment period, with assurances that those comments will be effectively taken into consideration and made a part of the administrative record on the finding process. Similarly, another commenter stated that all of the views expressed by the IATTC should be fully and effectively taken into account and serve as a basis to make all the necessary corrections that have been identified.

Response: Pursuant to section 304(a)(1) of the MMPA, NMFS is required to consult with the MMC and the IATTC regarding the required scientific studies related to the Secretary's findings. In doing so, NMFS has met with both entities on several occasions throughout the planning and execution of the required research program. While the ODP is a policy guidance document and not directly a part of the research process described in section 304(a), NMFS will take into consideration all comments received from the MMC and the IATTC, as well as other comments received during the 60–day public comment period. As is standard in the public comment process, NMFS will incorporate comments with which it concurs and will explain its rationale for not incorporating the remaining comments. All comments and any other materials used by NMFS as a part of the decision-making process will be a part of the administrative record.

Comment 2: One commenter recommended that the ODP be re-written to consider ''potential unknown'' infractions of the Agreement on the International Dolphin Conservation Program (AIDCP) by foreign tuna vessels.

Response: NMFS believes that infractions of the AIDCP are cause for concern. However, it is not possible for NMFS to quantify or anticipate potential unknown infractions of the AIDCP. For this reason, they have not been considered in the ODP.

Comment 3: One commenter noted that the ODP should reflect a balance between conservation and utilization.

Response: NMFS recognizes the need to balance conservation and management goals with sustainable use of marine living resources. In this particular case, the DPCIA requires the Secretary to focus on the impact of the ETP tuna purse seine fishery on depleted dolphin stocks. The ODP will reflect this mandate and the associated provisions of the IDCPA.

Comment 4: One commenter noted that the IATTC should be meaningfully consulted in the development of the ODP. Two other commenters suggested that the development of a sound ODP can only be done in close cooperation with the IATTC and that discussions should be set up between NOAA and the IATTC Secretariat before adopting the final ODP in order to establish guidelines based on sound science and international standards. Another commenter similarly noted that the ODP should be consistent with the development of regional fisheries bodies.

Response: NMFS agrees that the ODP can benefit from meaningful input from the IATTC, the competent regional fisheries organization in this case, and has consulted with the IATTC as described in the response to comment 1. Additionally, NMFS received and carefully considered comments from the IATTC, including input from its member nations, during the public comment period on the proposed ODP.

Comment 5: One commenter indicated that the ODP should be consistent with goals of ecosystem management and multi-lateral cooperation. Another commenter suggested that the ODP should be developed consistent with the general expectations from the parties involved in the spirit of international cooperation.

Response: NMFS believes that principles of sound ecosystem management and multi-lateral efforts are the key to the long-term conservation of dolphins and other living marine resources in the ETP. As indicated in the response to comment 4, NMFS considered comments submitted by the IATTC that included input from its member nations, as well as comments provided from IATTC-member nations directly, during the public comment period on the proposed ODP.

Comment 6: One commenter indicated that issues of uncertainty and probability must be assessed on balance and handled in an even way in the ODP. Another commenter made a similar statement and went on to note that the proposed ODP departs from such notion.

Response: NMFS agrees that some level of uncertainty is inherent in all aspects of science, including data collection. NMFS will provide this information to the Secretary for his consideration. However, NMFS disagrees that the ODP runs contrary to this concept or should be changed.

Comment 7: One commenter suggested that it is not necessary for the ODP to contain a detailed description of the dolphin-safe definition and recent court cases because this information can be found elsewhere and could easily be mischaracterized.

Response: NMFS agrees and limited discussion of the court rulings to the Background section of the ODP and did not include it within the body of the ODP itself.

Comment 8: One commenter was concerned that the proposed ODP contained elements that could provide a foundation for litigation that might reverse the Secretary's finding with no genuine scientific grounds. The commenter went on to state that the proposed ODP could provide a strong foundation for entities that have historically opposed any modification to the dolphin-safe label to promote adverse litigation and significantly enhance the potential to reverse the final finding by the courts on no genuine scientific grounds.

Response: NMFS disagrees. NMFS believes that the proposal to present the Secretary with the appropriate information for consideration in the final finding conforms with the requirements of the DPCIA.

Comment 9: One commenter indicated that it would be useful if the acronyms such as IDCP, ETP, DPCIA, and others are more clearly explained in the document.

Response: NMFS agrees and has inserted additional language to further explain these and other terms.

Comments on Overview: How to Determine Significance

Comment 10: Two commenters indicated that while the proposed ODP identifies the types of information that will be considered, it does not provide sufficient guidance and/or criteria as to what will be or will not be deemed to be significant. As an example, one commenter noted that there was no indication of what NMFS believes would constitute an ''appreciable delay'' in recovery time in the proposed ODP.

Response: NMFS believes that the ODP provides the Secretary with a sound basis for weighing various types of complex information in a manner that will be informative and transparent. The term ''appreciably delay'' will be interpreted in a manner that is consistent with NMFS policies for managing that recovery of depleted marine mammal stocks that interact with commercial fisheries.

Comments on the Role of Direct Mortality in the Decision Process

Comment 11: One commenter indicated that the Direct Mortality Question and the Abundance Question [now renamed the Growth Rate Question] are narrowly drawn and recommended that this issue be thoroughly reviewed for its legal propriety and impact.

Response: NMFS disagrees that these questions are narrowly drawn or that they should be changed based on legal grounds.

Comments on the Role of Indirect Effects on the Decision Process

Comment 12: NMFS received a comment that direct and indirect mortality should not automatically be considered to have an adverse impact on dolphin stocks, and that doing so would be inconsistent with the Potential Biological Removal (PBR) standard. The commenter went on to suggest that the proposed ODP makes unsubstantiated assumptions that direct mortality caused by the fishery is adverse to dolphin stocks. The commenter indicated that reducing population levels can have beneficial impacts for the stocks.

Response: NMFS disagrees. In the 1970s and 1980s, dolphin mortality caused by the ETP tuna purse seine fishery resulted in the three dolphin stocks at issue here being designated as depleted under the MMPA. Because of this, NMFS sees no plausible way to conclude that either direct mortality or indirect effects can be considered beneficial to these stocks of dolphin. Further, the Secretary is not charged with confirming that mortality is adverse, but with determining whether such adverse impacts are significant to any depleted dolphin stock.

Comment 13: One commenter indicated that the ODP should consider injuries to dolphins and should consider the repeated chase of dolphins.

Response: NMFS agrees. Using criteria developed by the IDCP and the IATTC, NMFS is including in the estimation of mortality, individual injuries that are deemed to be ''serious injuries'' or those which will likely result in mortality. Further, the ODP includes consideration of stress and other indirect effects of the fishery on dolphins. With respect to the repeated chase of dolphins, NMFS is attempting to estimate the rate of capture of individual dolphins and that for each depleted dolphin stock. NMFS will consider these estimates in its evaluation of overall impact.

Comment 14: One commenter indicated that NMFS' evaluation of indirect mortality must take into account the types and magnitude of any stress to dolphins caused by the tuna purse seine fishery and quantify such stresses to the population level using current data. The commenter recommended that the Indirect Effects Question in the ODP must seek to answer, and wherever possible, quantify to the population level using current data on sets per year: (1) estimates of the number of times an individual dolphin may be set upon; (2) mortality attributable to the fishery; and (3) dolphin school size in sets made on dolphins.

Response: NMFS agrees and is making every effort to quantify indirect effects of the fishery on dolphin stocks, including making estimates of the three parameters indicated by the commenter.

Comment 15: One commenter noted that NMFS should consider unobserved and uncounted dolphin mortality for the final finding. The commenter also indicated that stress may be causing serious harm and cryptic death in dolphins and may affect reproduction and physiology and should be considered in the ODP. Two other commenters similarly indicated that cow-calf separation should be considered in the ODP.

Response: NMFS agrees and believes that Indirect Effect Question in the ODP addresses the concern that the tuna purse seine fishery may be impacting depleted dolphin stocks in ways other than through direct and observed mortality, including through cryptic mortality and cow-calf separation.

Comment 16: One commenter recommended that NMFS delete the list of possible indirect effects that the fishery may be having on depleted dolphin stocks found in the proposed ODP.

Response: NMFS disagrees. NMFS believes that the issue of cryptic mortality and indirect effects of the fishery on dolphins may not be entirely intuitive and therefore it is helpful to include examples of indirect mortality and other possible indirect effects in the ODP.

Comment 17: One commenter indicated that the phrase ''cause for concern'' in the Indirect Effects Question was too open-ended.

Response: NMFS agrees and reworded the Indirect Effects Question to read: ''For each stock, is the estimated number of dolphins affected by the tuna fishery, considering data on sets per year, mortality attributable to the fishery, indicators of stress in blood, skin and other tissues, cow-calf separation and other relevant indirect effects information, at a magnitude and

degree that would not risk recovery or appreciably delay recovery to its OSP level (how and to what degree)?≥

Comments on the Role of Ecosystem Change in the Decision Process

Comment 18: One commenter recommended that the ODP take into consideration whether more or less dolphin mortality impacts the health of the entire ETP ecosystem.

Response: Pursuant to the DPCIA, the Secretary is charged with making a determination regarding the impact of the tuna purse seine fishery on any depleted dolphin stock. The Secretary is not required to make a determination on the health of the entire ETP ecosystem. However, ETP ecosystem health is considered in the ODP as it relates to the status of dolphin stocks.

Comment 19: One commenter suggested that NMFS add the phrase, ''taking into consideration the reliability of the abundance estimates and other questions such as the possibility that stock boundaries have changed,'' to the end of the first sentence of the section entitled the ''Role of Ecosystem Change in the Decision Process'' in the proposed ODP.

Response: NMFS disagrees but is aware of the dynamic nature of both dolphin stock distribution and boundaries in the ETP. The definition of dolphin stocks, using distributional, morphological, genetic, and demographic information, is a matter of continuing research. Decades of data provide strong evidence that no such large shifts in dolphin distributions have occurred that would invalidate NMFS abundance estimates. If larger shifts in distribution occurred, they would be detected both by sightings from tuna vessels and by sightings from research vessels. However, dolphin stock boundaries have changed in the past and may change again in the future as more data become available. Because distribution of dolphins also changes each year in response to perturbations in oceanographic conditions, NMFS research vessel surveys were designed to produce valid estimates of abundance even if annual changes in distribution occur. Additionally, NMFS thoroughly considered the reliability of the abundance estimates and will explicitly address the uncertainty in the population model.

Comment 20: Another commenter indicated that the ODP contains an error in logic with respect to the fishery potentially being penalized if there is either an increase or a decrease in carrying capacity of the ETP.

Response: NMFS disagrees. Given the depleted status of ETP dolphin stocks and the mandate of the MMPA to recover depleted stocks to optimum sustainable population (OSP) levels, any adverse impacts that the fishery is having on the stocks must be evaluated for significance in the context of the dolphins' habitat and their subsequent ability to recover. With that in mind, the expectations for dolphin population growth will be appropriately scaled to the information obtained about the state of the ETP carrying capacity. If the carrying capacity has substantially diminished in such a way that would make it more difficult for a depleted stock to recover, then any given effect of the fishery would be considered more significant. Conversely, if the carrying capacity has substantially increased in such a way that is beneficial to the dolphin stocks, then expectations for growth (i.e. recovery) in those stocks will be higher. In either case, apparent carrying capacity changes will be considered in evaluating whether current OSP ranges should continue to apply.

Comment 21: One commenter indicated that NMFS' approach to evaluating changes in the ETP ecosystem and its carrying capacity in the proposed ODP is too simplistic as it is difficult to estimate both historic and current carrying capacity. The commenter went on to note that there are rarely sufficient scientific data available for scientists to examine both ecological changes and marine mammal population trends and the linkages between the two. The commenter suggested that NMFS' scheme set forth in the 1992 Proposed Regime to Govern Interactions Between Marine Mammals and Commercial Fishing Operations, which proposed making determinations with respect to OSP levels using current carrying capacity as adjusted to account for human-caused habitat degradation and destruction, would be more appropriate than the currently proposed approach. The commenter indicated that this was because a lack of dolphin recovery could be due to a change in carrying capacity that has resulted in a density-dependent change through lower population growth levels, compensation, or stabilization. Another commenter expressed concern that the Ecosystem Question is the first question to be addressed by the Secretary, as there is general agreement that scientists know less about the ecosystem and the potential impacts on dolphins than any of the other questions. Another commenter indicated that should the Secretary find that the ecosystem changes have occurred in the ETP, this would indicate a need to provide additional protection to the depleted dolphin populations.

Response: To determine whether a substantial change in the ETP ecosystem has occurred, NMFS has collected a large amount of scientific information, which is undergoing an independent peer review process. NMFS and external expert reviewers are evaluating all available and relevant information to determine whether sufficient information exists to detect a regime shift or change in carrying capacity, should such changes have occurred. With respect to providing depleted dolphin stocks additional protection, NMFS has provided for this in the ODP by indicating that if the ETP carrying capacity for dolphins has substantially declined, dolphin stocks could sustain fewer mortalities and other adverse impacts than if the carrying capacity has remained constant or increased or if the ecological structure of the ETP has not changed.

Comment 22: One commenter indicated that both the Direct and Indirect Effects Questions should not be considered in light of the Ecosystem Question. The commenter indicated that once the status of the dolphin stocks is re-evaluated in light of the ETP's current carrying capacity, an appropriate recovery factory can be inserted into the PBR calculation to take this into account without requiring a separate evaluation of this point in each question in the ODP.

Response: NMFS disagrees with this comment and believes that both the Indirect Effects and Direct Mortality Questions are essential for the Secretary to consider, regardless of the answer to the Ecosystem Question. However, it may not be feasible to quantify the extent to which any changes in the ETP ecosystem have affected the depleted dolphin stocks, and therefore not feasible to assign a value to be inserted into a PBR calculation. Also, as the Secretary will choose the appropriate standard of mortality, PBR levels for the dolphin stocks may or may not be applicable.

Comment 23: One commenter noted that the proposed ODP places too much emphasis on environmental change, and that there is no evidence to support this as a cause of lack of dolphin recovery.

Response: NMFS disagrees because, as indicated in the response to comment 20, substantial changes in an ecosystem can affect the ability of a population or stock of organisms to thrive and/or recover from a previous period of overexploitation such as occurred with these depleted dolphin stocks. As indicated in response to comment 21, NMFS has collected a large amount of

scientific information to determine whether a substantial change in the ecosystem has occurred. Additionally, a panel of independent experts (described at 67 FR 31279) will determine whether evidence exists to attribute ecosystem changes as a cause of any observed lack of dolphin recovery.

Comment 24: One commenter suggested that the following question be added to the end of the Ecosystem Question: ''Or has the carrying capacity increased substantially or has the ecological structure changed in any way that could promote depleted dolphin stocks to grow at rates faster than expected in a static ecosystem?≥

Response: NMFS disagrees that this change is necessary.

Comments on Methods For Determining Significance of Estimated Mortality

Comment 25: One commenter suggested that NMFS should adopt only one appropriate mortality standard against which to measure significance and that doing otherwise could potentially undermine the domestic implementation of the PBR system in U.S. commercial fisheries and could have wide-ranging policy implications.

Response: The ODP does not prescribe that the Secretary use more than one standard of mortality and other impacts in making the final finding. Instead, based on the circumstances of the scientific findings and other relevant information, the ODP allows the Secretary to choose the most appropriate mortality standard with which to assess significance.

Comment 26: One commenter stated that both PBR and stock mortality limit (SML) standards are flawed and violate the MMPA standards for dolphin mortality. The commenter added that the standard for dolphin mortality in the tuna fishery is ''levels approaching zero mortality.'' The commenter went on to indicate that the major cause for concern for these depleted dolphin populations is that the observed mortality is not accurate, and therefore the use of either the PBR or SML standard in the ODP is inappropriate because true mortality levels are unknown.

Response: Both the PBR and the SML systems have proven to be effective at managing fishery impact on marine mammals, and NMFS is making every effort to quantify total impact on the dolphin stocks, including direct mortality and indirect effects.

Comment 27: NMFS received a comment regarding the provision of the ODP that allows the Secretary to consider a mortality standard lower than PBR because a decline in carrying capacity may actually be causing the dolphin stocks to not grow. The commenter indicated that if dolphin populations are declining in connection with a decline in the carrying capacity, the fishery should not be penalized.

Response: See response to comment 20.

Comment 28: One commenter indicated that the ODP fails to define the methodology for calculating PBR, and that this should be established in advance and must be scientifically supportable.

Response: As indicated in the proposed ODP, the standard method for calculating PBR can be found at: *http://nmml.afsc.noaa.gov/library/gammsrep/gammsrep.htm*. Calculating PBR in some other way would only be necessary if the abundance estimates each had very different levels of precision, and they do not.

Comment 29: Several commenters indicated that PBR is the most appropriate standard for assessing the impact of the fishery on dolphin stocks and that references to other mortality standards should be removed from the ODP.

Response: NMFS agrees that the PBR standard is an effective standard for measuring the impact of fisheries on marine mammals, however, NMFS believes the Secretary should have the flexibility to consider other standards of mortality as appropriate.

Comment 30: Three commenters stated that the use of SMLs in the ODP as a measure of mortality is arbitrary and/or irrelevant. The commenters suggested that the use of SMLs in the Secretary's decision would result in the United States not being able to comply with its obligations under the AIDCP. Another commenter went on to indicate that SMLs were not intended to be a standard for measuring impacts on dolphin populations, but reflected a commitment to reduce dolphin mortality to the lowest levels believed to be achievable on a continuing basis and are not biological thresholds for sustainability of dolphin populations.

Response: The SML standard for mortality was developed as a part of the IDCP, and in this respect, NMFS agrees that it represents the lowest levels of mortality believed to be achievable on a continuing basis by the ETP tuna purse seine fishery. However, NMFS disagrees that the SML system is arbitrary, irrelevant, or is not intended to be a standard for managing impacts of the fishery on dolphin populations. In fact, the SML system has proven to be an effective tool for managing dolphin mortality in the ETP tuna purse seine fishery and has been embraced by the ratifying nations of the AIDCP. Moreover, Congressional intent within the MMPA, as amended by the IDCPA, and the goals of the nations that are party to the AIDCP are consistent with the SML standard as more conservative than steps taken under other provisions of the MMPA for reducing marine mammal takes in other commercial fisheries. The applicability of SMLs is found in sections 301(b)(2), 302(a)(1), and 304(b)(2)(A) of the MMPA, with virtually identical statements being found in Article II, sections 1 and 2, and also in Article V, section 1(a) of the AIDCP, further indicating international support for the SML standard as a measure of the impacts of the tuna purse seine fishery on dolphins in the ETP. This system is designed to ensure that a stock's recovery is not appreciably delayed over time. Therefore, NMFS disagrees that the use of the SML system as a measure of the significance of fishery impacts on ETP dolphin stocks lacks biological merit or would prevent the United States from complying with its obligations under the AIDCP.

Comments on the Organized Decision Process

Comment 31: One commenter suggested that even though the data to be used in the final finding have already been collected and analyzed, NMFS should describe its decision framework in detail, including its choices of measures of significance, in the final determination.

Response: NMFS will publish the final ODP and the IDCPA Science Report in advance of the final finding. The latter will contain various confidence intervals and probabilities for the Secretary's consideration in the final finding. Those used by the Secretary to make the final finding will be published in the final decision and made available to the public at that time.

Comment 32: Two commenters indicated that the proposed ODP significantly diminishes the Secretary's ability to consider valuable information and limits his flexibility in making the final finding. Similarly, two other commenters indicated that the proposed ODP constrains the presentation of data to the Secretary and severely limits his ability to benefit from the knowledge of the IATTC. Two commenters noted that the 50–year knowledge of the IATTC should be taken into consideration in the ODP, particularly with respect to the definitions of dolphin stock depletion and stress.

Response: NMFS disagrees that the ODP constrains the Secretary to considering an unduly limited amount

of information for the final finding, especially with respect to input from the IATTC. NMFS works with the IATTC, as the competent regional fisheries organization in the ETP, on many aspects of this issue and has benefitted from its input throughout the IDCPA Research Program, including the consideration of its comments on the proposed ODP. Indeed, NMFS relied upon on the IATTC's data regarding fishing effort and sets on dolphins, as well as on its evaluation of the use of TVOD in estimating dolphin abundance among other things. NMFS is unaware of any IATTC-defined terms for dolphin stock depletion and stress. NMFS relies on the MMPA definition of ''depleted'' and will define stress as appropriate in the IDCPA Science Report.

Comment 33: One commenter stated that the ODP should guide the Secretary's decision, using science, instead of leaving him to make up his own mind.

Response: The DPCIA requires the Secretary to make the final finding based on the scientific research required under section 304(a) of the MMPA, information obtained under the IDCP, and any other relevant information. NMFS believes that the ODP reflects this by providing ample guidance for the Secretary regarding the scope and weighting of such information.

Comment 34: One commenter stated that weaknesses and scientific inconsistencies in the ODP could lead to a conclusion that would further impede the United States' ability to fulfill its obligations under the AIDCP and further endanger the protection of the marine ecosystem and living marine resources.

Response: NMFS disagrees. In fact, NMFS believes that the ODP provides the Secretary with a sound basis for weighing various types of complex information in a manner that will be informative and transparent, and will further confirm the United States' commitment to the AIDCP and other multi-lateral efforts to conserve living marine resources.

Comment 35: One commenter noted that the ODP does not reflect important aspects of NMFS research and should be re-written to reflect the important conclusions previously made by NMFS scientists.

Response: NMFS disagrees. The ODP is specifically tailored to include results from all NMFS research activities conducted under the IDCPA, as well as associated research efforts undertaken in conjunction with the IDCP, and any other relevant information that NMFS believes will address the question of whether the intentional chase and encirclement of dolphins by the ETP tuna purse seine fishery is having a significant adverse impact on any depleted dolphin stock.

Comment 36: One commenter indicated that the questions used in the ODP should be: (1) During the period of the purse seine fishery, has the carrying capacity of the ETP changed? (2) Has this change resulted in a density-dependent response in the depleted dolphin stocks? and (3) Given a change in the carrying capacity, what is the status of the dolphin stocks with respect to optimum sustainable population levels using both current and historic carrying capacity?

Response: NMFS believes that, while worded somewhat differently, the intent of the first question is already included in the ODP. NMFS generally considered questions similar to the remaining two during the development of the ODP, but rejected them because NMFS believes that they do not sufficiently address the statutory question and may be unanswerable with the available data.

Comment 37: Three commenters noted that the third and fourth sentences of the third paragraph under the Organized Decision Process section were in direct contradiction with one another.

Response: NMFS agrees. This contradiction was an oversight and has been corrected by replacing the words ''Direct Mortality Question'' with ''Growth Rate Question.''

Comment 38: Two commenters were concerned that the proposed ODP was not conducive to a sound scientific approach through which the Secretary can obtain adequate guidance. Similarly, another commenter noted that the ODP's questions are not clearly grounded in scientific decision-making, will not answer the statutory question, and should be re-written to provide clear benchmarks for the Secretary.

Response: See responses to comments 33 and 34, as NMFS believes the ODP is specifically tailored to include NMFS research activities under the IDCPA, as well as associated research efforts conducted in conjunction with the IDCP, and any other relevant research that NMFS believes will address the question of whether the intentional chase and encirclement of dolphins by the ETP tuna purse seine fishery is having a significant adverse impact on any depleted dolphin stock.

Comment 39: One commenter suggested that the evaluation of direct mortality in the ODP should be separate from evaluation of quantifiable estimates of indirect mortality.

Response: NMFS disagrees that quantifiable levels of indirect mortality should be considered separately from direct mortality as they will contribute to the total estimate of impact of the fishery on dolphin stocks.

Comment 40: One commenter indicated that the Abundance Question [now the Growth Rate Question] does not easily lend itself to a ''yes'' or ''no'' answer due to the high level of uncertainty inherent in efforts to measure abundance and to estimate growth rates in marine mammal populations. The commenter added that this is especially true given the short 3–year set of observations in the very large ETP. Further, the commenter noted that the ODP is silent on how the Secretary would treat a situation where the abundance data is not definitive in either direction, and that the proposed ODP does not specify how the uncertainty in the data will be taken into account if the Secretary must answer ''yes'' or ''no.'' The commenter indicated that the ODP must take this circumstance into consideration, and that in this case, the Secretary should defer to the answers to the Direct and Indirect Effects Questions in comparison with PBR for each depleted stock.

Response: NMFS agrees that some level of uncertainty is inherent in estimating abundance of marine mammals stocks, however, these levels of uncertainty will be appropriately assessed, accounted for, and presented to the Secretary for consideration. NMFS data include a 12–year time series of abundance estimates covering a 23–year time span: 1979–83, 1986–1990, and 1998–2000, for the best estimates of dolphin growth rates. With regard to a possible less than definitive answer to this question, the Secretary will consider whether each dolphin stock's growth rate is sufficient so as not to risk recovery or appreciably delay recovery to its OSP level with an appropriate level of probability, to be determined by the Secretary.

Comment 41: One commenter indicated that the potential for the courts to overturn the Secretary's finding is dramatically magnified in the ''secretive'' process associated with the assessment model being developed to ''filter'' the science even before it is reviewed under the proposed ODP.

Response: NMFS disagrees. The ODP has been specifically developed with an eye to providing an appropriate level of guidance to the Secretary in making a final finding that is informed, transparent, and defensible. The assessment model is being developed as a part of the IDCPA Research Program and is undergoing rigorous independent peer review. The assessment model and all other aspects of NMFS' IDCPA

Research Program will be fully described in the IDCPA Science Report.

Comment 42: One commenter suggested adding the statement, ''and what are the reliability of the abundance estimates given the probability of changes in stock distribution resulting from environmental and other factors without concomitant adjustments in the NMFS population cruise patterns during the three most recent years of research'' to the end of the Abundance Question [now the Growth Rate Question].

Response: NMFS disagrees. See the response to comment 18 for NMFS views on the likely effects on abundance estimates of dolphin stock distribution.

Comment 43: One commenter suggested that NMFS delete the two sentences following the Abundance Question [now the Growth Rate Question] containing references to the population model, the possible use of TVOD, and the pending analyses of abundance data.

Response: NMFS disagrees and sees no reason to delete this text.

Comment 44: One commenter indicated that the proposed ODP ignores NMFS' 1999 Report to Congress. Another commenter expressed concern that the proposed ODP might cause the Secretary to arrive at an answer inconsistent with the findings of the 1999 Report to Congress.

Response: The ODP is designed to take into consideration all of the research findings in the 1999 IDCPA Science Report as well as the remaining results obtained under the IDCPA and the IDCP, along with other relevant information in the final finding.

Comment 45: Two commenters noted that the proposed ODP contains less specific decision guidelines than the decision analysis framework used in 1999. In a similar statement, another commenter encouraged NMFS to draw upon its previous efforts to the greatest extent possible to develop specific decision criteria to assess whether dolphin stocks are being adversely affected by the fishery and whether any such impacts are significant. The latter commenter went on to indicate that the development and use of explicit decision-making criteria would provide the best way to ensure that the Secretary's finding is well supported, understandable to the public, and likely to withstand judicial scrutiny if challenged under the Administrative Procedure Act.

Response: NMFS believes that the ODP provides the Secretary with a sound basis for weighing many different types of complex information in an appropriate manner so as to result in a final finding that is informed, transparent, and defensible.

Comment 46: Two commenters indicated that the proposed ODP focused on a biased precautionary principle in order to overprotect individual dolphins by any means, without taking into account whether the overall dolphin populations are growing, or whether other living marine species in the ecosystem are being adversely affected.

Response: NMFS believes that the ODP is based on sound conservation and decision-making principles and follows the letter and spirit of the DCPIA and the MMPA, as amended by the IDCPA.

Comment 47: One commenter suggested changing the name of the Abundance Question to the Growth Rate Question as this name better describes the nature of the question.

Response: NMFS agrees and made the change.

Comments on the Appointment of Scientific Expert Panels

Comment 48: One commenter was concerned about the independence of the expert panels and wanted the panel selection criteria to be explained in the ODP.

Response: NMFS agrees that the expert panels should be comprised of independent experts and has developed a process for selecting the panelists in a way that allows for much outside involvement of established scientific organizations. On May 9, 2002, NMFS published a notice in the **Federal Register** to solicit nominations for scientists to serve on the Ecosystem and the Indirect Effects Expert Panels (67 FR 31279). The notice solicits nominations and describes the process that NMFS, the IATTC, the MMC, and an individual from an independent reviewing agency with advice from professional societies will follow to select qualified candidates for each panel and recommend them for appointment by the Secretary. NMFS sees no reason to repeat this description in the ODP.

Comment 49: One commenter recommended removing language associating the appointment of the Scientific Expert Panels with NMFS and instead inserting reference to the U.S. Department of Commerce (DOC), suggesting that the appointments should be made by the DOC directly without NMFS input.

Response: NMFS disagrees with this suggestion as one of NMFS' primary roles is to provide guidance to the Secretary on technical matters under its purview. Given the highly technical fields of expertise of the panelists, NMFS believes it to be appropriate for NMFS and established professional organizations to assist the Secretary in the panelist selection process.

Comments on the Consideration of Available Scientific Information

Comment 50: One commenter indicated that the phrase ''and has been published in a reputable scientific journal, to include the IATTC Fishery Bulletin'' be added to the third part of the paragraph before the description of how scientific information will be weighed.

Response: NMFS disagrees with this comment. As is often the case, the most up-to-date and peer-reviewed information may not have yet been published in a journal, a process that can take some time. Therefore, NMFS believes that including the first part of the suggested language may unduly diminish the weight of important and up-to-date information from being considered by the Secretary.

Comment 51: One commenter indicated that the description of how scientific information will be weighed in the proposed ODP limits the discretion of the Secretary to consider valuable and valid information in making the final finding. Similarly, another commenter suggested that the proposed ODP would put the Secretary at risk of taking into account irrelevant information and not taking into account other relevant information, specifically indicating that the description of how scientific information will be weighed should be removed from the ODP.

Response: NMFS disagrees. While the Secretary will consider all information submitted, a mechanism for weighing scientific information is essential to the Secretary's ability to make the most informed decision. Rather than limit the information before the Secretary, explicit weighting criteria will enhance the quality and integrity of the final finding. The Secretary will consider the best scientific information available. The relative weight that any particular scientific information will carry in the Secretary's decision process will be based on the degree to which it satisfies the criteria set forth and defined at the end of this notice. Information that does not meet any of the criteria will be considered, but will be given less weight as information that meets some or all of the criteria.

Comment 52: One commenter indicated that the ODP must outline what we know and how the best scientific evidence can be used to make the final finding.

Response: NMFS agrees and believes that the ODP fully outlines that the

Secretary will consider the best available scientific information in making the final finding. Further, the ODP fully describes how that information will be weighed to provide the Secretary with an informed and appropriate decision-making environment.

Comment 53: One commenter suggested that the Secretary should be able to look at information first-hand and not have it vetted through NMFS first because doing so would put the Secretary at risk of not considering relevant information.

Response: NMFS disagrees. One of NMFS' primary roles is to provide guidance to the Secretary on technical matters under its purview. Given the large amount of highly technical information that will likely be under consideration, it is important that NMFS be able to review and assess this information so that it can be appropriately incorporated into its analyses and provided to the Secretary.

Comment 53: One commenter indicated that the MMPA clearly calls for the Secretary to consider not only information collected by NMFS but ''any other relevant information.'' The commenter went on to note that the information developed by NMFS has been subjected to considerable scrutiny, both by its own scientists and by panels of outside experts, and that the weight accorded information provided by outside sources should reflect the quality of the methods used to collect it and the extent to which it has passed peer review. The commenter further indicated that data should not be discounted entirely because they have yet to pass peer review. However, the commenter noted that it is imperative that, before any information is factored into the Secretary's final determination, NMFS be given the opportunity to review it for purposes of verification.

Response: NMFS agrees for the reasons outlined by the commenter, as well as those stated in response to comments 48 and 51.

Comment 55: One commenter suggested that the ODP require that only information that is determined to be the best available science be considered by the Secretary in making the final finding, as was required by the *Brower* v. *Evans* ruling, and that this standard should be reflected in the ODP.

Response: NMFS agrees that the Secretary should utilize the best available science and will apply the description of how information will be weighed to all scientific information that will be considered by the Secretary.

Comment 56: One commenter indicated that the May 1, 2002, deadline for submitting information to NMFS is reasonable and should enable NMFS to complete its review and verification of outside information in time to consider it in making the final determination.

Response: NMFS agrees for the reasons articulated by the commenter and in the response to comment 51.

Comment 57: One commenter indicated that the deadline of May 1, 2002, could preclude valuable information from being submitted to the Secretary and would significantly limit the Secretary's ability to make an informed decision. The commenter stated that as long as the information is received within reasonable time, it should be considered by the Secretary. Another commenter indicated that the deadline of information to be submitted to the Secretary is an arbitrary and unnecessary restriction.

Response: NMFS disagrees. Setting a deadline for submission of all information will ensure that NMFS has sufficient opportunity to review, assess, and verify the information, for the Secretary's informed consideration. As indicated in the response to comment 50, one of NMFS' primary roles is to provide guidance to the Secretary on technical matters under its purview. Given the large amount of complex and technical information that will likely be submitted for the Secretary's consideration, sufficient time is required for NMFS to adequately review the materials and to properly consider them along with information already in-hand. Additionally, NMFS believes that the May 1, 2002, definition of timely for submission of outside information is reasonable given that the DPCIA allows the Secretary to make the final finding as early as July 1, 2001, but no later than December 31, 2002.

Comment 58: Two commenters indicated that the time between the adoption of the final ODP and the submission of information prior to the May 1, 2002, deadline is unclear.

Response: As indicated in the proposed ODP, the May 1, 2002, deadline for submitting information for the Secretary's consideration is final, even though the proposed ODP itself was still under development upon the announcement of the deadline.

Overview: How to Determine Significance

It is widely known that the tuna fishery in the ETP, using intentional deployment on or encirclement of dolphins in tuna purse seine nets, causes dolphin mortality. The question for the Secretary is whether the fishery is having a ''significant adverse impact'' on any depleted dolphin stock in the ETP. There is also general agreement that the number of mortalities and other adverse effects that can be sustained by the dolphin stocks before they become significant depends on the state of the ETP ecological structure for dolphins. In essence, if the ETP carrying capacity for dolphins has declined or the ecological structure of the ETP has substantially changed, dolphin stocks could sustain fewer mortalities and other effects than if the carrying capacity has remained constant or increased or if the ecological structure of the ETP has not changed. Moreover, because it is clear that direct mortality (and potentially some level of indirect effects) can be attributed to the fishery, the population growth rates of the dolphin stocks should be sufficient so as not to indicate a risk or an appreciable delay in recovery. The remainder of this document describes how these factors will be assessed by the Secretary in making the final finding regarding whether the tuna purse seine fishery is having a significant adverse impact on any depleted dolphin stock in the ETP.

The Role of Ecosystem Changes in the Decision Process

Because substantial changes in an ecosystem can affect a depleted population or stock's recovery, the Secretary will consider scientific evidence of whether a significant ecosystem change has occurred in the ETP. Particularly, the Secretary will determine whether any change is likely to have increased or decreased (1) the ecological structure or carrying capacity for the three depleted stocks or (2) the rate at which the stocks are able to reach their OSP level. OSP is the level at which the number of animals in a population are sufficient to achieve the maximum productivity of the population or species, keeping in mind the carrying capacity of the habitat and the health of the ecosystem of which they form a constituent element.

The Role of Direct Mortality in the Decision Process

To assist the Secretary in reaching a final finding in 2002, NMFS is examining various effects of the tuna purse seine fishery on depleted ETP dolphin stocks, pursuant to the MMPA. The Secretary will consider information on direct mortality in making the final finding. The Role of Indirect Effects in the Decision ProcessWhile direct mortality by the tuna fishery is a known impact on dolphin stocks, there are several other possible means by which the fishery could be impacting them. These possible means are often not observed (sometimes termed ''cryptic''

or indirect) and may include: (1) delayed mortality from effects of stress or injuries caused by chase and capture; (2) impaired reproduction from effects of stress or injuries resulting from chase and capture; (3) calf mortality owing to cow-calf separation during fishing operations; (4) social structure disruption attributable to chase and capture; (5) facilitated mortality by making the dolphins more vulnerable to predation after the chase; and (6) interference with dolphin feeding. To measure the impact of indirect effects, the MMPA specifically requires the Secretary to conduct stress studies, including: (1) a review of stress-related research; (2) a 3–year necropsy study of dolphins killed in the tuna fishery; (3) a 1–year review of relevant historical demographic and biological data; and (4) an experiment involving the repeated chasing and capturing of dolphins by means of intentional encirclement. Results of studies conducted under the MMPA, as amended by the IDCPA, information obtained under the IDCP, and other available scientific information should provide insights into the nature and the magnitude of fishery-induced impacts related to these specific sources in addition to those caused by direct mortality. Upon reviewing this information, the Secretary will determine whether the intentional deployment on or encirclement of dolphins with purse seine nets is having a significant adverse impact on any depleted dolphin stock in the ETP.

The Role of Dolphin Growth Rates in the Decision Process

In addition to measuring direct mortality, estimating abundance and growth rates of the depleted dolphin stocks involved in the ETP tuna purse seine fishery is necessary to understand the impacts of the fishery on dolphin stocks. This is because potential subtle effects of chase and encirclement, such as on reproduction or survival, may be difficult to detect and may not be directly observed. For this reason, the MMPA, as amended by the IDCPA in 1997, specifically requires NMFS to conduct annual abundance surveys. Estimates of abundance and projected growth rates for the depleted dolphin stocks, given quantifiable levels of mortality caused by the fishery, will be assessed to determine if the dolphin stocks are growing (i.e. recovering to OSP levels) at an acceptable rate. The impact of the fishery on dolphin abundance and growth rates will be evaluated, while taking into consideration natural mortality and environmental factors that may also be affecting dolphin recovery.

Methods For Determining Significance of Estimated Mortality

To assess the significance of estimated mortality in the fishery, the Secretary will use established standards of marine mammal mortality under the MMPA. These ''mortality standards'' may include the PBR and the SML systems, as well as other standards as appropriate.

NMFS relies on the PBR system, developed as a tool for implementation of the MMPA, for regulating incidental mortality of marine mammal stocks by U.S. fisheries other than the tuna purse seine fishery in the ETP. The PBR level of a marine mammal stock is the maximum number of animals, in addition to natural mortalities, that may be removed while allowing that stock to reach or maintain OSP. The PBR system was developed in a series of workshops with participation of experts from NMFS and was refined following input from the MMC, outside experts, and the public. PBR serves as a valuable mortality standard to measure significance of mortality in marine mammal-fishery interactions because it is a risk averse method of incorporating uncertainty in management models for marine mammals. The formula for calculating PBR can be found in Wade and Angliss (1997), available at: *http://nmml.afsc.noaa.gov/library/gammsrep/gammsrep.htm*.

In examining estimated mortality, the Secretary may also consider other systems for calculating dolphin mortality standards, such as those utilized under the AIDCP, to manage fishery-induced dolphin mortality levels in the ETP. The AIDCP, a legally binding instrument for dolphin conservation and ecosystem management in the ETP, was negotiated in 1998. The SML system was conceived by nations participating in the IDCP and several non-governmental conservation organizations, in consultation with the IATTC. Nations participating in the AIDCP currently use the SML system for managing dolphin mortality in the ETP. The SML system uses substantially lower limits for dolphin mortality than the PBR approach. Pursuant to the MMPA, as amended by the IDCPA, the SMLs (per-stock per-year dolphin mortality limits) beginning in calendar year 2001 are set at less than or equal to 0.1 percent of the minimum population estimate of each dolphin stock. Additional information on SMLs can be found in Annex III of the AIDCP, available at: *http://www.nmfs.noaa.gov/prot__res/PR2/Tuna__Dolphin/AIDCP.html*

The established standards of PBR and SML are incorporated into the ODP as a mechanism for assessing whether the intentional deployment on or encirclement of dolphins with purse seine nets is having a significant adverse impact on any depleted dolphin stock in the ETP. Similar to previous work (Gerrodette 1996), NMFS will make calculations of PBR levels and SMLs for the final finding, based on recent dolphin abundance estimates from surveys conducted under the IDCPA research program. Further discussion of how the PBR, SML, or other appropriate mortality standards will be used in the final finding decision process can be found below.

The Organized Decision Process

NMFS has developed the ODP to provide the Secretary with a systematic approach for evaluating multiple types of data in a situation complicated by uncertainty. The decision process described here consists of separate measures of fishery and environmental effects on dolphins that the Secretary will consider in reaching a final decision on whether the fishery is having a significant adverse impact on any depleted dolphin stock in the ETP.

The ODP consists of a series of questions that the Secretary will consider in reaching a final decision. These questions are as follows:

(1) Ecosystem Question
(2) Direct Mortality Question
(3) Indirect Effects Question
(4) Growth Rate Question

The answer to the Ecosystem Question will provide an ecological context (as described above) for the Secretary to consider the remaining three questions. For the Direct Mortality and the Growth Rate Questions, the ODP provides basic thresholds that will result in a ''yes'' or ''no'' answer. If the Secretary answers ''yes'' to the Direct Mortality Question, the Secretary will conclude that the fishery is having a significant adverse impact. If the Secretary answers ''no'' to the Growth Rate Question, the Secretary will conclude that the fishery is having a significant adverse impact. For the Ecosystem and the Indirect Effects Questions, the Secretary will review the available information as well as the evidence presented by members of two expert panels (see below) in reaching final conclusions.

Details on how the Secretary will consider the four questions are as follows:

(1) *The Ecosystem Question*. During the period of the fishery, has the

carrying capacity of the ETP for dolphins declined substantially or has the ecological structure of the ETP changed substantially in any way that could impede depleted dolphin stocks from growing at rates expected in a static ecosystem? Or has the carrying capacity increased substantially or has the ecological structure changed in any way that could promote depleted dolphin stocks to grow at rates faster than expected in a static ecosystem?

To determine the answer to these questions, the Secretary will consider scientific information collected and/or evaluated by NMFS, as well as information rendered individually from members of a panel of independent scientific experts in biological oceanography and ecology (the Ecosystem Panel). The panel members' assessments will be based on their review of relevant oceanographic and ecosystem data (physical and biological habitat and distribution, abundance, and ecology of other organisms in the ETP) from the period of the fishery.

(2) *The Direct Mortality Question*. For any depleted stock, does the estimate of the total fishery-attributed dolphin mortality, obtained by adding together estimates of direct mortality and, where appropriate, quantifiable levels of indirect mortality, exceed the mortality standard considered appropriate by the Secretary?

NMFS scientists will calculate, from the three recent abundance estimates (1998, 1999, and 2000), the PBR levels for each depleted dolphin stock in the ETP and provide them, along with measures of uncertainty, to the Secretary. Estimates of direct mortality and indirect mortality (where appropriate) will be compared to the PBR and other mortality standards to be considered by the Secretary. The Secretary will also take into account the assessments from the Ecosystem Panel members regarding possible changes in the carrying capacity and/or the ecosystem structure of the ETP. When evaluating the impact of mortality levels on dolphin stocks, the Secretary may also consider the SML standard as well as other standards as appropriate. The Secretary will consider the information with the understanding that adverse effects from unfavorable changes in the ecosystem may require the use of a mortality standard below PBR.

(3) *The Indirect Effects Question*. For each stock, is the estimated number of dolphins affected by the tuna fishery, considering data on sets per year, mortality attributable to the fishery, indicators of stress in blood, skin and other tissues, cow-calf separation, and other relevant indirect effects information, at a magnitude and degree that would risk recovery or appreciably delay recovery to its OSP level (how and to what degree)?

The answer to this question will be based on information collected and/or evaluated by NMFS, as well as from information rendered individually from members of a panel of independent scientific experts in veterinary science, physiology, and other stress-related fields (Indirect Effects Panel). The panel members' assessments will be based on their review of relevant behavioral, ecological, immunological, pathological, and other information with respect to the dolphin stocks involved. For this question, the Secretary will also consider the evidence presented by the Ecosystem Panel members regarding possible changes in the carrying capacity and/or the ecosystem structure of the ETP and how the evidence relates to indirect adverse effects attributable to the fishery on dolphins stocks as described above.

(4) *The Growth Rate Question*. For each depleted dolphin stock, is the observed population growth rate sufficient to ensure that each stock's recovery to OSP is not risked or appreciably delayed?

To answer this question, the Secretary will consider results from calculations in which NMFS scientists fit a population model to the time series of NMFS research vessel abundance estimates using the time series of estimates of the incidental mortality from the TVOD collected by IATTC and national program observers. If pending analysis indicates that the time series of relative abundance estimates from the TVOD are sufficiently reliable, they will also be used to estimate trends in dolphin abundance. NMFS scientists will estimate growth rates for each dolphin stock and determine measures of uncertainty for each estimate and provide this information to the Secretary. The Secretary will also take into account assessments from the members of the Ecosystem Panel when considering the estimated growth rates.

Appointment of Scientific Expert Panels

As indicated above in explanations of the Ecosystem and the Indirect Effects Questions, the Secretary will appoint two panels of independent scientific experts to provide individual assessments in determining the answers to these two questions. The independent experts will base their conclusions on a review of the results from the IDCPA research program, information obtained under the IDCP, and other relevant information. The use of independent expert judgment in obtaining guidance on complex and highly technical bodies of information, such as those relevant to the Ecosystem and the Indirect Effects Questions, is consistent with science-based, decision-making processes like that described here. NMFS published a notice in the **Federal Register** (67 FR 31279) soliciting nominations for the Ecosystem Expert Panel and the Indirect Effects Expert Panel. Based on these nominations, NMFS selected panelists in close consultation with professional scientific organizations.

Consideration of Available Scientific Information

The Secretary will make the final finding based on information available from studies conducted under the IDCPA research program, information obtained under the IDCP, and other relevant information. While NMFS is conducting much of the research that will form the basis of the final finding, there may be other sources of information that the Secretary will consider pursuant to the MMPA. Since NMFS will need time to properly assess and evaluate information to be considered by the Secretary, the deadline for submission of information was May 1, 2002, as indicated in the proposed ODP. The Secretary will consider and weigh all quantitative information, as accompanied by associated statistical measures of certainty and confidence, as appropriate in making the final finding.

The weight given to the available scientific information will be determined by the degree to which it meets the following elements: (1) relevance, (2) timeliness, (3) passed independent peer-review, and (4) available to NMFS for verification.

Scientific information means the results of properly designed scientific research. *Author(s)* means the originator(s) of the scientific information whose names appear on the written document. *Independent(ly)* means that the action was undertaken by one or more individuals that do not have any fiduciary, supervisory, subordinate, or other geographically close organizational relationship to the author(s). *Peer* means a scientist practicing in the same or very closely related field of study as the scientific information. *Relevance* means the scientific information is pertinent to the use of the information. *Timeliness* means the relevancy of scientific information least degraded by the passage of time. *Passed independent peer review* means the scientific information has been published in a refereed scientific journal in its field or independently read and criticized in

writing by at least two peers; the criticism was disposed of either by acceptance or rebuttal, as appropriate, by the author(s); and the disposition of the criticism by the author(s) was independently determined to be appropriate and adequate. *Verification* means that the data, procedures, methods, equipment, mathematics, statistics, models, computer software, and anything else used to produce the scientific information are to be submitted to NMFS in a timely manner such that the scientific information may be replicated or rejected. For the final finding, ''in a timely manner'' means as of May 1, 2002.

References

Gerrodette, T. 1996. A comparison of mortality limits for eastern tropical Pacific dolphins under the Declaration of Panama and under Potential Biological Removal (PBR) management. NMFS Administrative Report LJ–96–18.

NMFS 1999. Report to Congress on the initial finding, required under the Marine Mammal Protection Act of 1972 as amended by the International Dolphin Conservation Program Act of 1997, regarding whether the intentional deployment on or encirclement of dolphins with purser seine nets is having a significant adverse impact on any depleted dolphin stock in the eastern tropical Pacific Ocean. Southwest Fisheries Science Center, National Marine Fisheries Service, National Oceanic Atmospheric Administration.

Wade, P.R. and R.P. Angliss. 1997. Guidelines for assessing marine mammal stocks: Report of the GAMMS workshop April 3–5, 1996, Seattle, Washington. U.S. Department of Commerce, NOAA Technical Memorandum NMFS–OPR–12.

Dated: August 13, 2002.

Donald R. Knowles,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 02–21587 Filed 8–22–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 081402C]

Endangered Species; File No. 1374; Marine Mammals; File Nos. 781–1666, 1035–1688

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

ACTION: Withdrawal of application, return of application, and receipt of application for permit.

SUMMARY: Notice is hereby given that the following applicants have applied in due form for a permit to take marine mammals and/or endangered species for the purposes of scientific research:

Dr. Andrew J. Read, Duke University Marine Laboratory, 135 Duke Marine Lab Road, Beaufort, NC 28516–9721 (File No. 1374);

NMFS Northwest Fisheries Science Center, 2725 Montlake Blvd. E, Seattle, WA 98112–2097 (Dr. Cynthia Tynan, Principal Investigator) (File No. 781–1666); and

Dr. Cynthia Tynan, School of Oceanography, University of Washington, Box 357940, Seattle, WA 98195–7940 (File No. 1035–1688).

DATES: Written or telefaxed comments on the new application must be received on or before September 23, 2002.

ADDRESSES: The applications and related documents are available for review upon written request or by appointment (See **SUPPLEMENTARY INFORMATION**).

FOR FURTHER INFORMATION CONTACT: Carrie Hubard or Ruth Johnson, (301)713–2289.

SUPPLEMENTARY INFORMATION: The subject permits are requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–227), and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

Application Withdrawn

On March 25, 2002 a notice was published in the **Federal Register** (67 FR 13607) that an application had been filed by Dr. Andrew J. Read of Duke University Marine Laboratory. The purpose of this research was 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. Up to 30 loggerhead, 10 green and 10 Kemp's ridley sea turtles would be monitored via satellite telemetry. The applicant has requested that the application be withdrawn and will now work on a similar project already authorized under NMFS Southeast Region scientific research Permit No. 1260.

Application Returned

On April 25, 2002 a notice was published in the **Federal Register** (67 FR 20491) that an application had been filed by NMFS, Northwest Fisheries Science Center, (Dr. Cynthia Tynan, Principal Investigator). The applicant requested permission to conduct photo-identification, prey sampling and line-transect surveys of marine mammals in U.S. waters of the North Pacific. Because the principal investigator on the permit application has changed affiliations and no longer works at NWFSC, the application has been returned.

Application Received

For File No. 1035–1688, the applicant requests permission to conduct shipboard line-transect surveys of marine mammals in U.S. waters of the North Pacific. The applicant proposes to take various species of cetaceans and five species of pinnipeds via harassment during photo-identification from small boats or larger research vessels, line-transect surveys from ships, and collection of prey near cetaceans. Cetacean prey will be collected via dip nets and towed zooplankton nets. The goal of this research is to provide temporal (seasonal) and spatial (mesoscale and fine-scale) variability in euphausiid and forage fish occurrence patterns necessary to identify the important bio-physical linkages between top-predator distributions and the density and availability of their prey. Line-transect data will also provide updated abundance estimates.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Written comments or requests for a public hearing on this application should be mailed to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Comments may also be submitted by facsimile at (301)713–0376, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the

comment period. Please note that comments will not be accepted by e-mail or by other electronic media.

Concurrent with the publication of this notice in the Federal Register, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Documents are available in the following offices:

All documents: Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)713–0376;

For File Nos. 781–1666, 1035–1688: Northwest Region, NMFS, 7600 Sand Point Way NE, BIN C15700, Bldg. 1, Seattle, WA 98115–0700; phone (206)526–6150; fax (206)526–6426;

For File Nos. 781–1666, 1035–1688: Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213; phone (562)980–4001; fax (562)980–4018; and

For File No. 1374: Southeast Region, NMFS, 9721 Executive Center Drive North, St. Petersburg, FL 33702–2432; phone (727)570–5301; fax (727)570–5320.

Dated: August 19, 2002.

Eugene T. Nitta,

Acting Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 02–21591 Filed 8–22–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 080902C]

Marine Mammals; File No. 1007–1629

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

ACTION: Issuance of permit amendment.

SUMMARY: Notice is hereby given that Leszek Karczmarski, Ph.D., Marine Mammal Research Program, Texas A&M University, 4700 Avenue U, Building 303, Galveston, Texas 77551 has been issued an amendment to scientific research Permit No. 1007–1629–00.

ADDRESSES: The amendment and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NOAA Fisheries, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)713–0376; and

Protected Species Coordinator, Pacific Area Office, NOAA Fisheries, 1601 Kapiolani Blvd., Room 1110, Honolulu, HI 96814–4700; phone (808)973–2935; fax (808)973–2941.

FOR FURTHER INFORMATION CONTACT: Jill Lewandowski or Trevor Spradlin, (301)713–2289.

SUPPLEMENTARY INFORMATION: On June 28, 2002, notice was published in the **Federal Register** (67 FR 43586) that an amendment of Permit No. 1007–1629–00, issued August 13, 2001 (66 FR 42523), had been requested by the above-named individual. The requested amendment has been granted under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

Permit No. 1007–1629–01 now authorizes the take of 5,000 individual Hawaiian spinner dolphins (*Stenella longirostris*) annually by behavioral observation and photo-identification, 600 individuals annually through genetic sampling, and an unlimited number of individuals by close approach incidental to research activities. The purpose of the research is to compare population structure, genetic flow and social behavior between groups of Hawaiian spinner dolphins. The amended permit expands the geographic area of study to include vessel-based research in all the Northwestern and Main Hawaiian Islands.

Dated: August 19, 2002.

Eugene T. Nitta,

Acting Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 02–21592 Filed 8–22–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 081902B]

Draft Code of Conduct for Responsible Aquaculture in the U. S. Exclusive Economic Zone

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

ACTION: Notice of availability; schedule change; request for comments.

SUMMARY: The National Marine Fisheries Service (NMFS) announces the availability of a draft Code of Conduct for Responsible Aquaculture in the U. S. Exclusive Economic Zone (Code of Conduct). The purpose of the Code of Conduct is to provide general guidance for siting and operating aquaculture facilities in the Exclusive Economic Zone (EEZ) seaward of coastal state boundaries and authorities. NMFS solicits written comments on the Code of Conduct. NMFS also announces a schedule change for the publication of a final Code of Conduct.

DATES: Submit written comments on the draft Code of Conduct to the appropriate address or fax number by 5 p.m. on September 23, 2002.

ADDRESSES: The draft Code of Conduct is available on the NMFS Web site: *www.nmfs.gov/aquaculture.htm*. The document will also be provided in hard copy upon request (see **FOR FURTHER INFORMATION CONTACT**). Comments on the Code of Conduct may be sent to Colin Nash, NMFS/WASC, P.O. Box 130, Manchester, WA 98353 or by fax to 206–842–8364. Comments may also be hand-delivered during business hours to: NMFS Manchester Research Station, 7305 Beach Drive East, Port Orchard, WA, 98366–8204. Comments will not be accepted via telephone, e-mail, or Internet.

FOR FURTHER INFORMATION CONTACT: Susan Bunsick, Office of Sustainable Fisheries, 1315 East-West Highway, Silver Spring, MD 20910 or call 301–713–2334 Extension 102. You may also fax your request to 301-713-0596 or send an e-mail to *susan.bunsick@noaa.gov*. Comments on the Code of Conduct will not be accepted at these contact points.

SUPPLEMENTARY INFORMATION:

Background

NMFS has Federal responsibility for the living marine resources of the United States. Under authority of the Magnuson-Stevens Fishery Conservation and Management Act, NMFS has responsibility for federally managed species and for the conservation and enhancement of essential fish habitat in the zone seaward of coastal state boundaries to the 200-nautical mile limit of the EEZ. NMFS has additional responsibilities for threatened and endangered species and for marine mammals under authorities of the Endangered Species Act and the Marine Mammal Protection Act.

The United States was an active participant in the 1993–1995 consultations that led to the adoption by the Food and Agriculture Organization

of the United Nations (FAO) of the Code of Conduct for Responsible Fisheries (FAO Code). While the FAO Code is a voluntary and non-binding instrument, the United States has consistently supported its usefulness as an internationally agreed upon statement of principles that should govern the policies of FAO members in all sectors of the fishing industry, including aquaculture, which is addressed in Article 9 of the FAO Code. Although the Code of Conduct for the U.S. EEZ does not have to follow the FAO model, the FAO Code is an important reference instrument. A copy of the aquaculture section (Article 9) of the FAO Code can be obtained from the contact person listed above, and can be found on the Internet at *http://www.fao.org/fi/agreem/codecond/ficonde.asp*.

Stakeholder Input

NMFS held a series of six regional workshops during 2000 to obtain stakeholder input on the development of the draft Code of Conduct. These were held in Seattle (WA), Danvers (MA), and Galveston (TX) in September 2000, and in Honolulu (HI), Miami (FL), and Silver Spring (MD) in November 2000. NMFS announced the meetings in two separate **Federal Register** notices, dated August 24, 2000 (65 FR 51591), and October 30, 2000 (65 FR 64682), and encouraged stakeholder participation through more than 200 contacts in state and Federal agencies, Sea Grant College Program Centers, education and research institutions, non-governmental organizations, and commercial enterprises. NMFS specifically asked for input on the scope, content, specificity and use of a Code of Conduct that can be used to help guide aquaculture development in the EEZ. Areas for discussion included, but were not limited to, species choices, siting, transboundary considerations, design and construction of facilities, disease prevention and control, feeds and feeding protocols, effluents and pollution, interactions with wild species and protected resources, general operations, stock enhancement, use conflict resolution, and on-shore impacts. The workshops were open to all interested persons, and a total of 181 persons attended. In addition, NMFS received written comments from an additional 23 contributors.

The Code of Conduct

The Code of Conduct provides guidance to potential users of the U.S. EEZ for aquaculture. It provides general guidance to the aquaculture industry for siting and operating aquaculture facilities in this zone, and provides NMFS with a framework that can be used to ensure a more consistent review of aquaculture projects that require agency actions. NMFS may also use the Code of Conduct as a starting point for the development of regulatory standards in the future.

The Code of Conduct was developed with input secured from stakeholders and in consultation with other Federal agencies with authorities in Federal waters. Public comments received regarding this document will be addressed in the notice of availability of the final Code of Conduct, which will be published in the **Federal Register** within 60 days of the closing of the public comment period. The two previous **Federal Register** notices, dated August 24, 2000 (65 FR 51591), and October 30, 2000 (65 FR 64682), provided a tentative time frame for the production of a Code of Conduct. The time frame has been revised as provided here.

Time Frame

August 2002: Release draft Code of Conduct for public comment via posting of the document on the NMFS Web site (*www.nmfs.gov/aquaculture.htm*). The document will also be provided in hard copy upon request (see **FOR FURTHER INFORMATION CONTACT**).

September 2002: Public comment period on draft Code of Conduct ends.

November 2002: Release final Code of Conduct via a Federal Register notice of availability and posting on the NMFS Web site (*www.nmfs.gov/aquaculture.htm*). The document will also be provided in hard copy upon request (see **FOR FURTHER INFORMATION CONTACT**).

Dated: August 20, 2002.

Virginia M. Fay,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 02–21588 Filed 8–22–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Department of the Army

Secretarial Authorization for a Member of the Department of Defense To Serve on the Board of Directors, National Commission on Certification of Physician Assistants (NCCPA)

AGENCY: Department of the Army, DoD.

ACTION: Notice.

SUMMARY: In accordance with 10 U.S.C. 1033(b), the General Counsel of the Department of Defense has designated the National Commission on Certification of Physician Assistants, and has concurred with the Secretary of the Army's authorization of LTC William L. Tozier to serve, without compensation, on the Board of Directors for the National Commission on Certification of Physician Assistants.

Authorization to serve on the Board of Directors has been made for the purpose of providing oversight and advice to, and coordination with the National Commission on Certification of Physician Assistants. Participation of the above official in the activities of the Commission will not extend to participation in day-to-day operations.

FOR FURTHER INFORMATION CONTACT: Mr. Matt Reres, Deputy General Counsel (Fiscal & Ethics), Department of the Army. 703–697–5105.

SUPPLEMENTARY INFORMATION: None.

John A. Hall,

Alternate Army Federal Register Liaison Officer.

[FR Doc. 02–21480 Filed 8–22–02; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Western Hemisphere Institute for Security Cooperation Board of Visitors Curriculum Subcommittee Meeting

AGENCY: Department of the Army, DoD.

ACTION: Notice of open meeting.

SUMMARY: This notice sets forth the schedule and summary agenda for the Curriculum Subcommittee meeting of the Western Hemisphere Institute for Security Cooperation (WHINSEC) Board of Visitors (BoV). Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92–463). The WHINSEC board was chartered on February 1, 2002 in compliance with the requirements set forth in 10 U.S.C. 2166. This Subcommittee was created on June 4, 2002 during the full BoV inaugural session.

DATES: September 10–12, 2002.

Time: 9 a.m. to 11:45 a.m. and 1 p.m. to 4:30 p.m. on September 10; 9 a.m. to 12 p.m. and 1 p.m. to 5 p.m. on September 11; and 9 a.m. to 11 p.m. on September 12, 2002.

Location: Pratt Hall, Building 35, 7011 Morrison Ave., Fort Benning, GA 31905

Proposed Agenda: The WHINSEC BoV Curriculum Subcommittee will review the WHINSEC curriculum (courses and classes) for compliance with the authorizing legislation.

FOR FURTHER INFORMATION CONTACT: Ken LaPlante, Core Processes, Inc., Army G–

3 (Room 2D337), 400 Army Pentagon, Washington, DC 20310, telephone (703) 692–7419 or LTC Andres Toro at (703) 692–7421.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. There will be time, specified, for public comments by individuals and organizations at the end of the meeting on September 12. Public comment and presentations will be limited to two minutes each and must be provided in writing and received before Friday, September 6, 2002. Mail written presentations and requests to register to attend the public sessions to: LTC Andres Toro, DAMO–SSR (Rm. 2D337), 400 Army Pentagon, Washington, DC 20301–0400. Public seating is limited, and is available on a first come, first served basis.

John A. Hall,

Alternate Federal Register Liaison Officer.

[FR Doc. 02–21478 Filed 8–22–02; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Availability of a Draft Environmental Impact Statement to Consider Issuance of a Department of the Army Permit Pursuant to Section 404 of the Clean Water Act for Aluminum Company of America (Alcoa) Inc.'s Proposal To Construct and Operate Three Oaks Mine in Lee and Bastrop Counties, TX

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of availability.

SUMMARY: In accordance with the requirements of the National Environmental Policy Act (NEPA), the U.S. Army Corps of Engineers (USACE) Fort Worth District has prepared a Draft Environmental Impact Statement (DEIS). This DEIS evaluates potential impacts to the natural, physical and human environment as a result of the proposed mining activities associated with Aluminum Company of America (Alcoa) Inc.'s proposed Three Oaks Mine. The USACE regulates this proposed project pursuant to Section 404 of the Clean Water Act. The proposed activity would involve the discharge of dredged and fill material into waters of the United States associated with the proposed construction and operation of a surface lignite mine.

DATES: Submit comments by October 22, 2002. A public hearing regarding this DEIS will be held on October 2, 2002 (*see* **SUPPLEMENTARY INFORMATION**).

ADDRESSES: Send written comments and suggestions concerning this proposal to Ms. Jennifer Walker, Regulatory Project Manager, Regulatory Branch, CESWF–PER–R, U.S. Army Corps of Engineers, Fort Worth District, P.O. Box 17300, Fort Worth, TX 76102–0300 or via e-mail: *3oakseis@swf02.usace.army.mil.* Requests to be placed on the mailing list should also be sent to this address.

FOR FURTHER INFORMATION CONTACT: Ms. Jennifer Walker, Regulatory Project Manager at (817) 886–1733 or via e-mail: *3oakseis@swf02.usace.army.mil.*

SUPPLEMENTARY INFORMATION: Discharges of fill material into waters of the United States are regulated under Section 404 of the Clean Water Act, with the permitting responsibility administered by the USACE. The proposed project must also address environmental impacts relative to the Clean Air Act, Clean Water Act, Endangered Species Act and the Fish and Wildlife Coordination Act (FWCA). In accordance with the NEPA, the DEIS evaluates practicable alternatives for the USACE's decision making process. As required by NEPA, the USACE also analyzes the ''no action'' alternative as a baseline for gauging potential impacts.

As part of the public involvement process, notice is hereby given by the USACE Fort Worth District of a public hearing to be held at the Elgin High School, in Elgin, Bastrop County, TX, from 6:30 to 10 p.m., on October 2, 2002. The public hearing will allow participants the opportunity to comment on the DEIS prepared for the proposed Three Oaks Mine. Written comments should be sent to Ms. Jennifer Walker (*see* **ADDRESSES**). The comments are due 60 days from the date of publication of this notice. Copies of the DEIS may be obtained by contacting USACE Fort Worth District Regulatory Branch at (817) 886–1731 or printed from the Fort Worth District USACE Internet home page at *http://www.swf.usace.army.mil.*

Copies of the DEIS are also available for inspection at the locations identified below:

(1) Bastrop City Hall, 902 Main Street, Bastrop, TX 78602.

(2) Lexington City Hall, P.O. Box 56, Lexington, TX 78947.

(3) Austin City Hall, 124 West 8th Street, P.O. Box 1088, Austin, TX 78767.

(4) Rockdale City Hall, P.O. Box 586, Rockdale, TX 76567.

(5) Elgin City Hall, P.O. Box 591, Elgin, TX 78621.

(6) Giddings City Hall, 118 E. Richmond Street, Giddings, TX 78942.

(7) Lee County Courthouse, P.O. Box 390, Giddings, TX, 78942.

(8) Milam County Courthouse, P.O. Box 1008, Cameron, TX 76520.

(9) Bastrop County Courthouse, 804 Pecan Street, Bastrop, TX 78602.

(10) Travis County Courthouse, 1000 Guadalupe Street, P.O. Box 1748, Austin, TX 78767.

(11) City of Austin Library—Milwood Branch, 12500 Amherst Drive, Austin, TX 78727.

(12) City of Austin Library—John Henry Faulk Branch, 800 Guadalupe, Austin, TX 78701.

(13) City of Austin Library—Will Hampton at Oak Hill Branch, 5125 Convict Hill Road, Austin, TX 78749.

(14) City of Bastrop Public Library, 1100 Church Street, Bastrop, TX 78602.

(15) City of Elgin Public Library, 404 North Main Street, Elgin, TX 78621.

(16) City of Giddings Public Library, 177 South Madison Street, Giddings, TX 78942.

(17) City of Rockdale Public Library, 201 Ackerman Street, Rockdale, TX 76567.

After the public comment period ends, USACE will consider all comments received, revise the DEIS as appropriate, and issue a final Environmental Impact Statement.

Wayne A. Lea,

Chief, Regulatory Branch.

[FR Doc. 02–21307 Filed 8–22–02; 8:45 am]

BILLING CODE 3710–20–M

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Notice of Availability of a Draft Supplemental Environmental Impact Statement (SEIS), for #200000380(IP–DEB), Phipps Ocean Park Beach Restoration Project, Town of Palm Beach, Palm Beach County, FL

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of availability.

SUMMARY: In accordance with the requirements of National Environmental Policy Act (NEPA), the U.S. Army Corps of Engineers (USACE or Corps) Jacksonville District, announces the availability of a Regulatory Program SEIS for the Phipps Ocean Park Beach Restoration Project. The Town of Palm Beach, Florida is seeking Corps regulatory authorization for the proposed project pursuant to section 404 of the Clean Water Act and section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403). In accordance with 40

CFR 1506.5 and Appendix B, 33 CFR part 325, the applicant has prepared the Draft SEIS on the requested permit action under the direct supervision of the Corps pursuant to a ''third party contract.''

The general environmental impacts of beach restoration and erosion control activities on the Southeast Atlantic Coast of Florida were previously evaluated in the ''*Coast of Florida, Erosion and Storm Effects Study—Region III, with Final Environmental Impact Statement, U.S. Army Corps of Engineers, Jacksonville District*'', October 1996. The applicant's proposed project is located within a segment of the Region III area evaluated in the Coast of Florida FEIS and the Phipps Ocean Park Draft SEIS is a supplement to the Coast of Florida FEIS. The applicant's proposed is consistent with the Town's ''*Comprehensive Coastal Management Plan Update—Palm Beach Island, Florida*'' (June 1998).

As required by NEPA, the Draft SEIS describes the applicant's preferred alternative and other alternatives evaluated to provide shore protection for Phipps Ocean Park within the Town of Palm Beach, Florida. The applicant's preferred alternative is intended to: (1) Mitigate the long-term erosion impacts of Lake Worth Inlet and armored coastline north of the Project area; (2) provide and maintain storm protection to upland improvements; (3) restore and maintain the beach for public recreational use; and (4) restore and maintain the beach for marine turtle nesting habitat.

The applicant's preferred alternative includes placement of approximately 1.5 million cubic yards of fill over approximately 1.9 miles of beach, between DEP Monuments R–116 and R–126 and installation of 3.1 acres of hardbottom reef to mitigate for unavoidable impacts to nearshore hardbottom. Sand compatible with the existing beach has been identified and will be obtained from borrow areas located approximately 3,500 feet offshore and between 1.5 and 2.6 miles south of the fill area. Geotechnical analysis of the borrow area indicates that the material is suitable for the restoration of Phipps Ocean Park beach. The proposed borrow areas have been designed with buffer zones to avoid impact to hardbottom communities in the vicinity of the borrow areas. Mitigation of hardbottom resources within the fill area is required and has been incorporated into the plan.

The Draft SEIS also identifies and evaluates the potential direct, indirect, and cumulative environmental consequences of the applicant's preferred alternative, including potential impacts on Essential Fish Habitat, hardbottom resources and other specific issues identified in the scoping process. Cooperating agencies for the proposed project are the Florida Department of Environmental Protection, U.S. Fish and Wildlife Service, National Marine Fisheries Service, and the U.S. Environmental Protection Agency.

DATES: The public comment period on the Draft SEIS shall commence upon publication of the Notice of Availability in the **Federal Register.** Written comments must be received at the address listed below no later than 5 p.m. EST, 45 calendars days from the date of publication. A public meeting regarding the Draft SEIS will be held on September 12, 2002 (*See* **SUPPLEMENTARY INFORMATION.**

ADDRESSES: Copies of the Draft SEIS document may be obtained by contacting Lois Edwards, SEIS Public Involvement Coordinator/Third Party Contractor, Coastal Technology Corp., 3625 20th Street, Vero Beach Florida, 32960, telephone (888) 562–8580; facsimile (772) 562–8432 or by e-mail to *ledwards@coastaltechcorp.com.* This document may also be found on the Corps' Web site by accessing the following address: *www.saj.usace.army.mil/permit/hot_topics/PhippsEIS/phippsindex.htm.* Written comments and questions concerning this proposal must be submitted to Dale Beter, Phipps SEIS Project Manager, USACE, Regulatory Branch, 400 North Congress Avenue, Suite 130, West Palm Beach, Florida 33401; telephone (561) 683–1814, facsimile (561) 683–4941, or e-mail at *Dale.E.Beter@saj02.usace.army.mil.* Requests to be placed on the mailing lists should be sent to Mrs. Edwards at the Vero Beach address.

FOR FURTHER INFORMATION CONTACT: Dale Beter at the above address or Peter A. Ravella, SEIS Project Manager/Third Party Contractor, Coastal Technology Corp., 2306 Lake Austin Blvd., Austin, Texas 78703; telephone (512) 236–9494; facsimile (800) 321–9673, or e-mail at *pravella@coastaltechcorp.com.*

SUPPLEMENTARY INFORMATION: The Draft SEIS examines potential impacts on Essential Fish Habitat (EFH) and also includes a comprehensive examination of potential cumulative impacts of the project and other projects from Lake Worth Inlet to South Lake Worth Inlet. In accordance with the NEPA, the Draft SEIS evaluates reasonable alternatives for the USACE's decision-making process, including the ''no action'' alternative as a baseline for gauging potential impacts.

The Florida Department of Environmental Protection (FDEP) has designated all of the Project area from R–116 to R–126 as an area of ''critical erosion.'' This designation is based on (a) the erosion attributable to the influence of Lake Worth Inlet and the adjacent armored shoreline and (b) the existing headland features surrounding the Project area.

Shoreline conditions and structures updrift of the Project area exacerbate erosion and, if action is not taken, will lead to significant future erosion of the Project area and the shoreline further south. Net longshore sand transport in the region is to the south. Construction of the Inlet and Inlet jetties interrupts the longshore flow of sand and sand starves the region south of the Inlet leading to the construction of seawalls, groins, and eventually a rock revetment constructed by the Florida Department of Transportation (FDOT) north of Sloan's Curve in 1987. The revetment has cut-off the sand supply from the dune landward of the revetment. These conditions are expected to continue to contribute to the erosion within the Project area in the future.

The three miles of shoreline immediately north of Sloan's Curve are fronted by numerous armoring structures including rock revetments, seawalls, and groins. The existing groins north of Phipps Ocean Park deter southerly longshore transport to Phipps Ocean Park and the Project area. The Mid-Town Beach Restoration Project (unrelated to the project for which the applicant seeks authorization) is located to the north of this three-mile segment; the groins and armoring have impeded the southerly migration of the Mid-Town sand. In combination with the effects of Lake Worth Inlet, armoring structures have caused a longshore transport and sediment deficit to the Project area, resulting in erosion, loss of the recreational beach, increase in the storm damage risk to upland property, and loss of sea turtle nesting habitat.

Copies of the Draft SEIS are also available for inspection at the locations identified below:

(1) Town of Palm Beach Clerk's Office, Town Hall, 360 South County Road, Palm Beach, FL 33480.

(2) Town of Palm Beach Public Works Department, 951 Old Okeechobee Road, West Palm Beach, FL 33401.

(3) Town of Palm Beach Fire Rescue Station 3, 2185 South Ocean Blvd., Palm Beach, FL 33480.

(4) USACE West Palm Beach Regulatory Office, 400 North Congress

Avenue, Suite 130, West Palm Beach, FL 33401.

(5) Palm Beach County Government Center, Front Lobby Information Desk, 215 North Olive Avenue, West Palm Beach, FL 33401.

After the public comment period ends, USACE will consider all comments received, revise the Draft SEIS as appropriate, and issue a Final Supplemental Environmental Impact Statement. As part of the public involvement process, notice is hereby given by the USACE-Jacksonville District of a public meeting to be held at Town Hall Council Chambers, 360 S. County Road, Town of Palm Beach, Florida, beginning at 7 p.m. on September 12, 2002. The public meeting will allow participants the opportunity to comment on the Draft SEIS.

John A. Hall,

Alternate Federal Register Liaison Officer.

[FR Doc. 02–21481 Filed 8–22–02; 8:45 am]

BILLING CODE 3710–AJ–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare a Draft Supplemental Environmental Impact Statement for the Boston Harbor Navigation Improvement Project

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent.

SUMMARY: The U.S. Army Corps of Engineers (Corps), New England District is conducting a feasibility study and Supplemental Environmental Impact Statement (SEIS) to determine the navigation-related needs of the harbor, port facilities, and harbor users of Boston Harbor. This study will analyze deepening various shipping channels in Boston Harbor, Massachusetts. These include the entrance channel, main ship channel, Presidents Roads anchorage area, and the lower Reserved Channel, all from −40 feet mean lower low water (MLLW) up to −50 feet MLLW, the Chelsea River from −38 feet to −40 feet MLLW, and a portion of the Mystic River channel from −35 to −40 feet MLLW. Without deepening portions of Boston Harbor, the ships and port of Boston will be affected in three ways. (1) Existing shippers and their vessels will continue to experience tidal related inefficiencies with the current channel depths, including negating the full advantage of Massport's deeper 45-foot berths at the Conley Terminal. (2) The port will be unable to accommodate the very large container vessels now beginning to serve the east coast of the United States from southern Asia via the Suez Canal. These vessels will not be able to use Boston efficiently with the current −40-foot channel depth. (3) As larger container and bulk vessels continue to come into service to replace existing vessels, Boston's lack of channel depth will erode its share of tonnage as New England cargo is redirected to the ports of New York-New Jersey and Halifax, Nova Scotia, and transported to New England by other means. Deepening the navigation channels in Boston Harbor would allow Boston to maintain a safe and efficient port.

DATES: September 5, 2002 from 1 to 4 p.m. at the Black Falcon Cruise Ship Terminal in South Boston, MA.

ADDRESSES: If you wish to be placed on the mailing list for this project, contact Mr. Michael Keegan, Project Manager, U.S. Army Corps of Engineers, New England District, Navigation Section, 696 Virginia Road, Concord, MA 01742.

FOR FURTHER INFORMATION CONTACT: If you have questions about the proposed action and the Draft SEIS, contact Mr. Keegan at (978) 318–8087.

SUPPLEMENTARY INFORMATION: The Corps participation in this study is authorized by a resolution of the Senate Subcommittee on Public Works dated September 12, 1969. This study was initiated at the request of the Massachusetts Port Authority (Massport), the study sponsor, using funds provided in the Fiscal Year 2000 Energy and Water Development Appropriations Bill.

Major navigation channel improvements (deepening) were made in 1999 through 2002 in the Reserved Channel, the Mystic River, Inner Confluence and the Chelsea River. A final Environmental Impact Statement (EIS) was prepared for the previous navigation improvement project in June of 1995. The current study would investigate the feasibility of deepening the main shipping channels in the port of Boston to a depth greater than the current authorized depths. This study, which will include the preparation of SEIS to the 1995 Record of Decision, will examine the engineering feasibility, economic justification, social and cultural resource impacts, and environmental acceptability of the proposed channel deepening. The existing −40-foot MLLW main harbor entrance channel from Broad Sound, through President Roads, and up to the Marine Terminal just seaward of the Ted Williams Tunnel will be examined for depths up to −50 feet MLLW, as will the Reserved Channel. Deepening of a small area of the Mystic River Channel upstream of the Moran Terminal, from the current −35-foot depth to −40 feet will also be examined, as will deepening the Chelsea River Channel from the current −38-foot depth to −40 feet.

Alternatives: Dredging alternatives would examine the incremental depths from −40-feet to −50-feet MLLW (−38 feet in Chelsea River, and −35 feet in portions of the Mystic River) to determine the optimum economic plan. In addition, disposal alternatives would be determined based on the suitability of the material for open water disposal. Material suitable for ocean disposal would likely be disposed at the Massachusetts Bay Disposal Site. Material unsuitable for ocean disposal would most likely be disposed within a confined aquatic disposal (CAD) cell within the federal navigation channels above the Ted Williams Tunnel. The draft and final EIS for the previous Boston Harbor navigation improvement project investigated other alternative disposal sites for the disposal of dredged material.

The study will take about three years to complete and Massport and the Corps will share the study cost.

Scoping: Full public participation by interested federal, state, and local agencies as well as other interested organizations and the general public is invited. All interested parties are encouraged to submit their names and addresses (*see* **ADDRESSES**), to be placed on the mailing list for reviewing any fact sheets, newsletters, and related public notices. Massport will host a public meeting on the study on September 5, 2002 (*see* **DATES**). The public is invited to attend and further identify issues that should be addressed in the SEIS.

Dated: August 12, 2002.

Thomas L. Koning,

Colonel, Corps of Engineers, New England District.

[FR Doc. 02–21308 Filed 8–22–02; 8:45 am]

BILLING CODE 3710–24–M

DEPARTMENT OF ENERGY

National Energy Technology Laboratory; Notice of Availability of a Financial Assistance Solicitation

AGENCY: National Energy Technology Laboratory, Department of Energy (DOE).

ACTION: Notice of availability of a Financial Assistance Solicitation.

SUMMARY: Notice is hereby given of the intent to issue Financial Assistance

Solicitation No. DE–PS26–02NT41613 entitled Development of Technologies and Capabilities for Developing Coal, Oil, and Gas Energy Resources. The Department of Energy (DOE), National Energy Technology Laboratory (NETL), is conducting this solicitation to competitively seek cost-shared applications for research and development of technologies enabling development of energy resources needed to ensure the availability of affordable energy for the Nation's future.

DATES: Potential applicants are required to submit a technical application, not to exceed twenty-five (25) pages. Based on the technical application, applicants will be selected to enter into negotiations leading to award of a cooperative agreement (financial assistance) for the project. All applications must be submitted through the Industry Interactive Procurement System (IIPS) system in accordance with the instructions in the solicitation. The solicitation will be available on DOE/NETL's Internet address at *http://www.netl.doe.gov/business* and on the ''Industry Interactive Procurement System'' (IIPS) webpage located at *http://e-center.doe.gov* on or about August 21, 2002. The deadline for submission of technical applications for each of the three evaluation periods will be identified in the solicitation.

FOR FURTHER INFORMATION CONTACT: Larry D. Gillham, MS 921–162, U.S. Department of Energy, National Energy Technology Laboratory, P.O. Box 10940, 626 Cochrans Mill Road, Pittsburgh, PA 15236–0940, e-mail Address: *gillham@netl.doe.gov.* Telephone Number: (412) 386–5817.

SUPPLEMENTARY INFORMATION: Through this solicitation, NETL seeks applications in the following thirteen (13) separate (*i.e.,* stand alone) Areas of Interest:

Coal & Environmental Systems

(1) Combustion Systems.

(2) Environmental and Water Resources.

(3) Carbon Sequestration.

(4) Power Systems Advanced Research.

(5) Vision 21 Technologies.

(6) Coal Fuels and Hydrogen.

(7) Gasification—*Not Available for Evaluation Period 1.*

Strategic Center for Natural Gas

(8) Fuel Cells.

(9) Gas Exploration, Production, Storage, and Hydrates.

(10) Infrastructure Reliability for Natural Gas.

Petroleum

(11) Oil and Gas Environmental: Upstream.

(12) Petroleum Fuels.

(13) Transportation Fuels and Chemicals * * *.

Applicants must select and target only one (1) Area of Interest per application. DOE anticipates the award of multiple cost-sharing cooperative agreements under each Area of Interest. Approximately $23.85 million of DOE funds is planned for this solicitation which will cover all Areas of Interest and all evaluation periods. It is anticipated that a total of 50–75 awards will be made as a result of this solicitation. In accordance with Section 3002 of the Energy Policy Act (EPAct), a minimum of 20% cost share will be required for each project. This solicitation includes multiple closing dates. Applicants will submit a technical application and after agency evaluation, the applicant will receive an e-mail notification that they have or have not been selected for negotiations leading to award. Those applicants selected for negotiations leading to award will be instructed in the notification e-mail that they must submit cost and other documentation as described in the solicitation. Selected applicants will generally have less than 30 days to submit the required cost and other documentation. Once released, the solicitation will be available for downloading from the IIPS Internet page, *http://e-center.doe.gov.* At this Internet site you will also be able to register with IIPS, enabling you to submit an application. If you need technical assistance in registering or for any other IIPS function, call the IIPS Help Desk at (800) 683–0751 or E-mail the Help Desk personnel at *IIPS_HelpDesk@e-center.doe.gov.* The solicitation will only be made available in IIPS. No hard (paper) copies of the solicitation and related documents will be made available.

Prospective applicants who would like to be notified as soon as the solicitation is available should subscribe to the Business Alert Mailing List at *http://www.netl.doe.gov/business.* Once you subscribe, you will receive an announcement by E-mail that the solicitation has been released to the public. Telephone requests, written requests, E-mail requests, or facsimile requests for a copy of the solicitation package will not be accepted and/or honored. Applications must be prepared and submitted in accordance with the instructions and forms contained in the solicitation. The actual solicitation document will allow for requests for explanation and/or interpretation.

Issued in Pittsburgh, PA on August 16, 2002.

Dale A. Siciliano,

Deputy Director, Acquisition and Assistance Division.

[FR Doc. 02–21513 Filed 8–22–02; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6632–3]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or *http://www.epa.gov/compliance/nepa/.*

Weekly receipt of Environmental Impact Statements

Filed August 12, 2002 Through August 15, 2002

Pursuant to 40 CFR 1506.9.

EIS No. 020348, Final EIS, AFS, UT, Ray's Valley Road Realignment, Proposal to Reduce or Eliminate Adverse Impacts to Watershed and Aquatic Species and Provide Safer Driving Conditions, Uinta National Forest, Spanish Fork Ranger District, Utah County, UT, Wait Period Ends: September 29, 2002, Contact: Renee Flanagan (801) 342–5100. This document is available on the Internet at: *http://www.fs.fed.us/r4/uinta.*

EIS No. 020349, Draft EIS, FHW, MN, IA, Trunk Highway 60 Reconstruction Project, Improvements from 1.8 miles south of the Minnesota-Iowa Border (120th Street) to Interstate 90 north of the City of Worthington, Funding, COE Section 404 and NPDES Permits, Nobles County, MN and Osceola County, IA, Comment Period Ends: October 14, 2002, Contact: Tamara Cameron (651) 291–6121.

EIS No. 020350, Draft EIS, COE, TX, Three Oaks Mine Project, Construction and Operation of Surface Lignite Mine, Permits Required are Railroad Commission of Texas under Title 16, Part 1 and Section 404, Lee and Bastrop Counties, TX, Comment Period Ends: October 22, 2002, Contact: Ms. Jennifer Walker (817) 886–1733. This document is available on the Internet at: *http://www.swf.usace.army.mil.*

EIS No. 020351, Draft EIS, NOA, AK, OR, WA, CA, Programmatic EIS—Pacific Salmon Fisheries Management Plan, Off the Coasts of Southeast Alaska, Washington, Oregon and California, and the Columbia River

Basin, Implementation, Magnuson-Stevens Act, AK, WA, OR and CA, Comment Period Ends: October 22, 2002, Contact: D. Robert Lohn (206) 526–6150.

EIS No. 020352, Final EIS, BLM, CA, Northern and Eastern Mojave Planning Area (NEMO), Implementation, California Desert Conservation Area Plan Amendments, Mojave Desert, CA, Wait Period Ends: September 29, 2002, Contact: Edythe Seehafer (760) 252–6021.

EIS No. 020353, Draft Supplement, COE, FL, Coast of Florida Erosion and Storm Effects Study Region III, Construction, Operation and Maintenance, Shore Protection Project, Palm Beach, Broward and Dade Counties, FL, Comment Period Ends: October 14, 2002, Contact: Dale Beter (561) 686–3441.

Amended Notices

EIS No. 020275, Draft EIS, GSA, WI, Badger Army Ammunition Plant, Property Disposal, Implementation, Townships of Sumpter and Merrimac, Sauk County, WI, Comment Period Ends: September 30, 2002, Contact: Mark N. Lundgren (312) 353–0302. Revision of FR Notice Published on 7/5/2002: CEQ Comment Period Ending 08/19/2002 Has Been Extended to 09/30/2002.

Dated: August 20, 2002.

B. Katherine Biggs,

Associate Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 02–21562 Filed 8–22–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6632–4]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in the **Federal Register** dated April 12, 2002 (67 FR 17992).

Draft EISs

ERP No. D–AFS–J65013–MT Rating EC2, Moose Post-Fire Project, Proposal to Decrease Potential Mortality from Bark Beetles to Remaining Live Douglas-fir and Spruce Trees, Recover Merchantable Wood Fiber, Reduce Future Fire Risk and Modify Existing Road Access, Glacier View Ranger District, Flathead National Forest, Flathead County, MT.

Summary: While EPA supports road decommissioning, EPA expressed environmental concerns about potential effects on roadless characteristics from timber harvests in roadless areas, and about potential water quality impacts to a 303(d) listed stream. EPA recommended additional seeding and planting in severely burned areas.

ERP No. D–AFS–L65401–ID Rating EC2, Sixshooter Project, Reduction of Threats from Insect Infestation and Wildfire, Sixmile and West Fork Creek, Boise National Forest, Emmett Ranger District, Gem County, ID.

Summary: EPA expressed environmental concerns with potential adverse environmental impacts to old growth forest habitat and water quality. The final EIS should fully disclose these impacts and any appropriate mitigation measures.

ERP No. D–FHW–H40174–IA Rating LO, Avenue G Viaduct and Connecting Corridor, Access Improvement for Local Emergency Services and Safety Through Expanded Capacity across the Trail Corridor, Funding and NPDES Permit, Pottawattamie County, IA.

Summary: EPA has no objection to the proposed action. However, applicability and compliance with the National Emission Standards for Hazardous Air Pollutants (asbestos) should be clarified in the FEIS.

ERP No. D–NRC–E06021–NC Rating EC1, Generic EIS—McGuire Nuclear Power Station Units 1 and 2, Supplement 8 to NUREG–1437, Located on the Shore of Lake Norman, Mecklenburg County, NC.

Summary: EPA expressed environmental concerns about and requested clarification on anticipated waste quantities and the status of groundwater wells.

ERP No. DR–AFS–K65203–CA Rating LO, Sirretta Peak Trail Project to Explore Locations for the Construction of Trail Routes Open to Off-Highway Vehicles and New Information Relating to the Sierra Nevada Forest Plan Amendment, Cannell Meadow Ranger District, Sequoia National Forest, Tulare County, CA.

Summary: EPA has no objections to the proposed action.

ERP No. D1–DOE–A09824–00 Rating EO2, Hanford Site Solid (Radioactive and Hazardous) Waste Program, Waste Management Practices Enhancement for Low-Level Radioactive Waste, Mixed Low-Level Radioactive Waste and Transuranic Waste, Richland, Benton County, WA.

Summary: EPA has environmental objections to both action alternatives because they are predicted to exceed MCLs of Iodine-129 and contribute to exceedances of MCLs for other radionuclides, thereby worsening contamination in the groundwater and vadose zone. EPA also notes that the draft provides insufficient information to fully describe existing and predicted impacts. EPA recommends that the EIS expand its alternative discussion to include changes in design or waste acceptance criteria to meet environmental standards and that it include additional information about the affected environment and environmental impacts.

Final EISs

ERP No. F–AFS–G65062–NM Agua/Caballos Timber Sale, Harvesting Timber and Managing Existing Vegetation, Implementation, Carson National Forest, El Rito Ranger District, Taos County, NM.

Summary: EPA expressed lack of objections.

ERP No. F–AFS–L65389–OR Shore 'Nuf Timber Sale, Timber Harvesting on the Detroit Ranger District, Willamette National Forest, Linn and Marion Counties, OR.

Summary: No formal comment letter was sent to the preparing agency.

ERP No. F–APH–A65169–00 Programmatic—EIS Rangeland Grasshopper and Mormon Cricket Suppression Program, Authorization, Funding and Implementation in 17 Western States, AZ, CA, CO, ID, KS, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA and WY.

Summary: EPA expressed lingering concerns with the FEIS with respect to mitigation measures for human exposure, water quality and pesticide drift mitigation. EPA suggested that APHIS consider these concerns as it proceeds to develop a Record of Decision for the Cricket Suppression Program.

ERP No. F–FHW–E40790–00 Corridor 18/I–69 Proposed Improvements from the US 412/US 51 Interchange to the US 51 Fulton Bypass/Purchase Parkway Interchange, Funding, Dyer and Obion Counties, TN and Fulton County, KY.

Summary: EPA expressed no objections to this project, provided that mitigation measures and monitoring programs, as described in the Final EIS, are implemented as applicable.

Dated: August 20, 2002.

B. Katherine Biggs,

Associate Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 02–21563 Filed 8–22–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2002–0228; FRL–7196–9]

FIFRA Scientific Advisory Panel; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: There will be a 1–day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and Food Quality Protection Act (FQPA) Scientific Advisory Panel (FIFRA SAP)) to consider and review a proposed methodology for projecting domestic percent-crop-treated with pesticides for dietary risk assessment.

DATES: The meeting will be held on October 1, 2002, from 8:30 a.m. to approximately 5 p.m., eastern standard time.

For dates on requests to present oral comments, submission of written comments, or requests for special seating arrangements, see Unit I.C. of the **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The meeting will be held at Sheraton Crystal City Hotel, 1800 Jefferson Davis Hwy., Arlington, VA. The telephone number for the Sheraton Crystal City Hotel is: (703) 486–1111.

Requests to present oral comments, submission of written comments, or requests for special seating arrangements may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your request must identify docket ID number OPP–2002–0228 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Steven Knott, Designated Federal Official (DFO), Office of Science Coordination and Policy (7201M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564–8450; fax number: (202) 564–8382; e-mail addresses: knott.steven@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to persons who are or may be required to conduct testing of chemical substances under the Federal Food, Drug, and Cosmetic Act (FFDCA), FIFRA, and FQPA. 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 DFO listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**— Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

A meeting agenda, EPA's background paper, questions to FIFRA SAP, and FIFRA SAP composition (i.e., members and consultants) will be available as soon as possible, but no later than early September. In addition, the Agency may provide additional background documents as the materials become available. You may obtain electronic copies of these documents, and certain other related documents that might be available electronically, from the FIFRA SAP Internet Home Page at http://www.epa.gov/scipoly/sap.

2. *In person*. The Agency has established an official record for this meeting under docket ID number OPP–2002–0228. The official record consists of the documents specifically referenced in this notice, any public comments received during an applicable comment period, and other material information, 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. In addition, the Agency may provide additional background documents as the material becomes available. The public version of the official record, which includes printed, paper versions of any electronic comments that may be 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 May I Participate in this Meeting?

You may submit requests to present oral comments, written comments, or requests for special seating arrangements through the mail, in person, or electronically. Do not submit any information in your request that is considered CBI. To ensure proper receipt by EPA, it is imperative that you identify docket ID number OPP–2002–0228 in the subject line on the first page of your request.

1. *Oral comments*. Although requests to present oral comments are accepted until the date of the meeting (unless otherwise stated), to the extent that time permits, interested persons may be permitted by the Chair of FIFRA SAP to present oral comments at the meeting. Each individual or group wishing to make brief oral comments to FIFRA SAP is strongly advised to submit their request to the DFO listed under **FOR FURTHER INFORMATION CONTACT** no later than noon, eastern standard time, September 24, 2002, in order to be included on the meeting agenda. The request should identify the name of the individual making the presentation, the organization (if any) the individual will represent, and any requirements for audiovisual equipment (e.g., overhead projector, 35 mm projector, chalkboard). Oral comments before FIFRA SAP are limited to approximately 5 minutes unless prior arrangements have been made. In addition, the speaker should bring to the meeting 30 copies of the oral comments and presentation slides for distribution to FIFRA SAP at the meeting.

2. *Written comments*. Although submission of written comments are accepted until the date of the meeting (unless otherwise stated), the Agency encourages that written comments be submitted no later than noon, eastern standard time, September 24, 2002, to provide FIFRA SAP the time necessary to consider and review the written comments. There is no limit on the extent of written comments for consideration by FIFRA SAP. Persons

wishing to submit written comments at the meeting should contact the DFO listed under **FOR FURTHER INFORMATION CONTACT** and submit 30 copies.

3. *Seating at the meeting*. Seating at the meeting will be on a first-come basis. Individuals requiring special accommodations at this meeting, including wheelchair access, should contact the DFO at least 5 business days prior to the meeting using the information under **FOR FURTHER INFORMATION CONTACT** so that appropriate arrangements can be made.

D. Submission of Requests and Written Comments

1. *By mail*. Submit your request or written 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.

b. *In person or by courier*. Deliver your request or written 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.

c. *Electronically*. You may submit your request or written comments electronically by e-mail to: opp-docket@epa.gov. Do not submit any information electronically that you consider to be CBI. Use WordPerfect 6.1/8.0/9.0 or ASCII file format and avoid the use of special characters and any form of encryption. Be sure to identify by docket ID number OPP–2002–0228. You may also file a request online at many Federal Depository Libraries.

II. Background

A. Purpose of the FIFRA SAP

The FIFRA SAP is an independent scientific peer review group that provides technical advice for EPA's consideration. Amendments to the FIFRA, enacted November 28, 1975, (7 U.S.C. 136w(d)), include a requirement under section 25(d) that notices of intent to cancel or reclassify pesticide regulations pursuant to section 6(b)(2), as well as proposed and final forms of rulemaking pursuant to section 25(a), be submitted to a SAP prior to being made public or issued to a registrant. In accordance with FIFRA section 25(d), the SAP is to have an opportunity to comment on the health and environmental impact of such actions. The Panel shall also make comments, evaluations, and recommendations for operating guidelines to improve the effectiveness and quality of analyses made by Agency scientists. Members are scientists who have sufficient professional qualifications, including training and experience, to be capable of providing expert comments as to the impact on health and the environment of regulatory actions under sections 6(b) and 25(a) of FIFRA. The Deputy Administrator appoints seven individuals to serve on the Panel for staggered terms of 4 years, based on recommendations from the National Institute of Health (NIH) and the National Science Foundation (NSF).

B. Purpose of the Meeting

The FIFRA SAP will meet to consider and review a proposed methodology for projecting domestic percent-crop-treated with pesticides for dietary risk assessment. The percentage of a given crop which is treated (or, more precisely, not treated) is a critical parameter in OPP's recently instituted, probabilistic human health exposure assessments because this factor determines the proportion of a crop which is assumed to have (or not have) residues. These residues, or expected residues, determine the dietary exposure to pesticides, which is a key component of dietary risk assessment.

EPA has historical data on domestic percent-crop-treated for a large number of crop/chemical combinations. This data can provide a basis for projecting future usage of pesticides (e.g., percent-crop-treated) for regulatory decisions based on dietary risk. Given EPA's mandate to assess pesticide food tolerances on a periodic basis, it is important for EPA to be able to project expected percent-crop-treated using these historical data. There are a number of statistical and/or mathematical methods for projecting future values from a historical record. EPA currently has methods for conducting these projections, but believes that EPA's refinements in these methods are warranted. Therefore, EPA has explored and developed methods that EPA believes, could serve the purpose for refining projected domestic percent-crop-treated, and is seeking SAP input on these method developments.

Previously, EPA has analyzed percent-crop-treated data using a distributed lag, whereby 1–year projections of percent-crop-treated were based on weighted historical data, with older data receiving lower weight and more recent data receiving higher weight. The confidence intervals associated with these projections are based on the variability of these historical data. While these methods have been shown to generate reasonable estimates, in cases where usage is trending upwards (or downwards), the uncertainty of the estimates can increase substantially. Therefore, EPA is seeking to develop a more robust method for projecting/estimating percent-crop-treated.

EPA is proposing to use exponential smoothing as the analytical tool for projecting percent-crop-treated to better reflect upward or downward trends in the data. The size of existing data sets (usually 10 or fewer observations) precludes some regression techniques, and exponential smoothing has been shown to be a robust method in settings where small data sets are common. EPA is also proposing a method for estimating prediction intervals that is consistent with exponential smoothing projections. As part of the development of these techniques, EPA has been working with and testing sets of historical data and plans to present comparisons of results in addition to the theoretical discussion.

C. FIFRA SAP Meeting Minutes

The FIFRA SAP will prepare meeting minutes summarizing its recommendations to the Agency in approximately 60 days. The report will be posted on the FIFRA SAP web site or may be obtained by contacting the Public Information and Records Integrity Branch at the address or telephone number listed in Unit I. of the **SUPPLEMENTARY INFORMATION.**

D. Request for Nominations to Serve on Food Quality Protection Act Science Review Board (SRB)

The Agency solicits nominations of scientists to serve on the SRB for this meeting. Any interested person or organization may nominate qualified individuals to serve on the SRB. No interested person shall be ineligible to serve on the SRB by reason of their membership on any other advisory committee to a Federal department or agency or their employment by a Federal department or agency (except EPA). Individuals should have expertise in one or more of the following areas: agricultural economics, pesticide use, pesticide exposure, and forecasting. In addition, nominees should be scientists who have sufficient professional qualifications, including training and experience, to be capable of providing expert comments as to the impact on

health and the environment of regulatory actions under sections 6(b) and 25 (a) of FIFRA. Nominees should be identified by name, occupation, position, address, and telephone number. To be considered, all nominees should include a current resume providing the nominee's background, experience and qualifications.

The criteria for selecting scientists to serve on the SRB are that these persons be recognized experts in their fields; that they be as impartial and objective as possible; that they represent an array of backgrounds and perspectives (within their disciplines); and that they be available to participate fully in the review, which will be conducted over a relatively short time frame. Nominees will be asked to attend one public meeting and to participate in the discussion of key issues and assumptions at this meeting. Finally, they will be asked to review and to help finalize the products and outputs of the FIFRA SAP.

If a SRB nominee is considered to assist in a review by the SAP for a particular session, the SRB nominee is subject to the provisions of 5 CFR part 2634, Executive Branch Financial Disclosure, as supplemented by the EPA in 5 CFR part 6401. As such, the SRB nominee is required to submit a Confidential Financial Disclosure Report, which shall fully disclose, among other financial interests, the nominee's employment, stocks and bonds, and where applicable, sources of research support. EPA will evaluate the nominee's financial disclosure form prior to the nominee being appointed to a panel reviewing agency actions. This evaluation will identify conflicts that may arise between the member's financial interests and the agency actions under review. If the SRB nominee's financial disclosure form is approved by the EPA, the nominee will be assigned to a SAP session and be hired as a special government employee.

Nominations should be provided to the DFO listed under **FOR FURTHER INFORMATION CONTACT** by September 6, 2002. The Agency will not formally acknowledge or respond to nominations.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: August 20, 2002.

Sherella Sterling,

Acting Director, Office of Science Coordination and Policy.

[FR Doc. 02–21569 Filed 8–20–02; 4:01 pm]

BILLING CODE 6560–50–S

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

DATE AND TIME: Thursday, August 29, 2002 at 10 a.m.

PLACE: 999 E Street, NW., Washington, DC (ninth floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.

Alternative Dispute Resolution Program Evaluation.

Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 694–1220.

Mary W. Dove,

Secretary of the Commission.

[FR Doc. 02–21694 Filed 8–21–02; 2:51 pm]

BILLING CODE 6715–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Activities: Submission for OMB Review; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency (FEMA) has submitted the following collection of information to the Office of Management and Budget (OMB) for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507). The collection of information, which is contained in FEMA's interim final rule 44 CFR parts 201 and 206 and published in the **Federal Register** February 26, 2002, was approved by OMB February 15, 2002, under OMB's emergency processing procedures. We are requesting a 3-year approval to continue using the collection of information.

Title: State/Local/Tribal Hazard Mitigation Plans-Section 322 of the Disaster Mitigation Act of 2000.

Type of Information Collection: Extension of a currently approved collection.

OMB Number: 3067–0297.

Abstract: To obtain Federal grant assistance through Federal programs such as the Hazard Mitigation Grant Program (HMGP) and Fire Management Assistance Program, State, local and tribal governments are required to establish a process for developing and implementing a comprehensive state mitigation plan and provide a framework for State and federally sponsored mitigation activity resources.

Affected Public: State, Local or Tribal Government.

Number of Respondents: 556—56 States and 500 Local or Tribal Governments.

Estimated Time per Respondent:

Type of collection/forms	Number of respondents	Hours per response	Annual burden hours
Update State or tribal mitigation plans (standard state mitigation plans)	18	320	5,760
State review of local plans	500	8	4,000
States develop Enhanced State Mitigation Plans	7	100	700
Local or tribal governments develop mitigation plans	[1] 500	300	150,000

[1] Local plans.

Estimated Total Annual Burden Hours: 160,460.

Frequency of Response: On Occasion.

Comments

Interested persons are invited to submit written comments on the collection of information to the Desk Officer for the Federal Emergency Management Agency, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 within 30 days of the date of this notice.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Muriel B. Anderson, Chief, Records Management Section, Program Services and Systems Branch, Facilities Management and Services

Division, Administration and Resource Planning Directorate, Federal Emergency Management Agency, 500 C Street, SW., Room 316, Washington, DC 20472, telephone number (202) 646–2625 or facsimile number (202) 646–3347 or e-mail *InformationCollections@fema.gov.*

Dated: August 12, 2002.

Reginald Trujillo,

Branch Chief, Program Services and Systems Branch, Facilities Management and Services Division, Administration and Resource Planning Directorate.

[FR Doc. 02–21502 Filed 8–22–02; 8:45 am]

BILLING CODE 6718–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1425–DR]

Texas; Amendment No. 12 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Texas, (FEMA–1425–DR), dated July 4, 2002, and related determinations.

EFFECTIVE DATE: August 13, 2002.

FOR FURTHER INFORMATION CONTACT: Rich Robuck, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705 or *Rich.Robuck@fema.gov.*

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Texas is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of July 4, 2002:

Dimmit County for Public Assistance and Individual Assistance, including direct Federal assistance under section 408 of the Stafford Act, 42 USC 5174.

Duval and San Patricio Counties for Public Assistance (already designated for Individual Assistance, including direct Federal assistance under section 408 of the Stafford Act, 42 USC 5174).

Burnet and Coleman Counties for Individual Assistance, including direct Federal assistance under section 408 of the Stafford Act, 42 USC 5174 (already designated for Public Assistance).

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 02–21501 Filed 8–22–02; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

Assistance to Firefighters—Fire Prevention and Safety Program

AGENCY: U.S. Fire Administration, Federal Emergency Management Agency (FEMA).

ACTION: Notice of availability of funds.

SUMMARY: FEMA gives notice of the availability of funds for FY 2002 under the Assistance to Firefighters Fire Prevention and Safety Program (the Program) as authorized the Federal Fire Prevention and Control Act of 1974. The Program will make available up to $10,000,000 of the total appropriated amount of $360,000,000 for fire prevention activities. FEMA will fund such activities based upon proposals that address the Program's priorities and maximize the benefits to be derived from the funds. FEMA is statutorily mandated to provide these funds to national, State, local, or community organizations that are recognized for their experience and expertise with respect to fire prevention or fire safety programs and activities. In selecting recipients, FEMA will give priority to organizations that focus on prevention of fire (or fire-related) injuries to children.

Authority: Federal Fire Prevention and Control Act of 1974 (Federal Fire Prevention and Control Act) 1701(a), 15 U.S.C. 2229 (2000).

DATES: This notice of funds availability is effective August 23, 2002.

FOR FURTHER INFORMATION CONTACT: Brian Cowan, Director, Grants Program Office, U.S. Fire Administration, Federal Emergency Management Agency, Room 304, 500 C St. SW., Washington DC 20472, 1–866–274–0960, or *brian.cowan@fema.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

The purpose of this notice is to advise of the availability of funds for carrying out fire prevention activities pursuant to section 1701(a) of the Federal Fire Prevention and Control Act, 15 U.S.C. 2229. Up to ten million dollars ($10,000,000) will be available for this purpose. FEMA reserves the right to use a portion of these funds to supplement previously awarded prevention grants.

B. Eligibility

National, State, local, or community organizations that are recognized for their experience and expertise in fire prevention or safety programs and activities are eligible to apply for funding through the Program.

C. Program Requirements

1. Recipients of grants or parties entering into cooperative agreements through the Program may not receive more than $750,000 and must agree to maintain in the fiscal year for which the assistance will be received their aggregate expenditures for fire prevention activities at or above the average level of such expenditures in the two fiscal years preceding the fiscal year for which the assistance will be received. They must also agree to a match with non-Federal funds an amount of 30 percent of the assistance received or, in the case of fire departments whose personnel serve jurisdictions of 50,000 or fewer residents, an amount of 10 percent of the assistance received. The matching requirement may be met through in-kind contributions.

2. FEMA may, in its discretion, also enter into contracts for fire prevention activities in order to achieve overall program goals. These contracts may not be subject to the limitations and requirements set forth in the previous paragraph.

3. Fire Departments that receive assistance through the Program must provide information to the national fire incident reporting system (NFIRS) for the period covered by the assistance.

4. Grantees must submit a report to the Director describing how their assistance was used and of the benefits derived from the funded activities.

D. Application Process

Through the interim final rule for the Assistance to Firefighters Program published on February 27, 2002 in the **Federal Register**, FEMA invited letters of interest from organizations that wished to be considered for the funding through the Program. Letters were requested to reflect in general terms the content and context of proposed activities. FEMA will send application packets to organizations that submitted letters of interest and to organizations known to be experienced in the fire prevention/safety field. Additionally, other eligible organizations, as specified above in Section B, may request

applications by e-mail usfagrants@fema.gov or by phone 866–274–0960. Completed application packages must be received by FEMA on or before September 23, 2002.

Applicants will be required to submit an application to FEMA that includes the following:

1. Application for Federal Assistance, Standard Form 424;
2. Budget Information—Non-construction Program, FEMA Form 20–20;
3. Direct Deposit Sign-up Form, Standard Form 1199A;
4. Summary Sheet for Assurances and Certification, FEMA Form 20–16, 20–16A, and 20–16C;
5. Disclosure of Lobbying Activities, Standard Form LLL; and
6. Program Narrative: The narrative describing the activities for which the funding is requested should not exceed 10 pages (double-spaced with one-inch margins and 12-point font). The narrative should also address the eligible activities, program priorities, and evaluation criteria included in Sections E and F.

Application packages will be reviewed for completeness and responsiveness to the following program requirements:

(a) General Information such as the history and description of your organization; a statement regarding the financial need of your organization and funding sources; your organization's capability to achieve proposed objectives and past successes at achievement of project goals; your organization's experience as it specifically relates to fire and injury prevention issues; and the qualifications of the project manager and primary team members.

(b) A project overview, which includes, but is not limited to: a problem statement, including the issues to be addressed, project goals and objectives or tasks to achieve the goals; a description of what will be accomplished during the grant performance period and an explanation of how the project will address the stated problem; a project description addressing the following questions as applicable:

(1) Will this establish a new program, expand an existing program into new areas; or augment an existing fire prevention program?

(2) Who is the target audience: FEMA-identified target population (children under the age of 14, seniors over 65 years of age, and firefighters), or another high-risk population?

(3) Will this program enhance the FEMA fire safety campaign to assist Americans in installing smoke alarms (as well as checking detectors and batteries to make sure they work), planning and practicing escape routes, and conducting home fire safety walkthroughs? If so, describe how.

(4) Will this program establish a multi-organization partnership with other groups in the community? If so describe how.

(c) List of Project benchmarks, phases, or milestones.

(d) Describe the method or procedure for implementation of your project.

(e) Include a detailed explanation of your project's budget including a cost-benefit assessment. The explanation should compare the benefits to be realized with the costs of achieving those benefits.

(f) If the program will be continued beyond the grant period, include an explanation of the means with which it will be sustained.

(g) Describe the methodology that will be used to assess and evaluate the effectiveness of the program.

E. Eligible Activities and Program Priorities

Fire prevention and safety programs are the only eligible activities under the Program and, in particular, those that will reach a significant number of individuals.

FEMA will give priority to programs that focus on the prevention of fire-related injuries to children. Although other programs that address fire prevention and safety may also be considered, the following list provides examples of programs that FEMA deems to be a high funding priority:

(1) Projects that focus on distributing smoke detectors and checking to assure detectors are operational, planning and practicing escape routes, or conducting home fire safety walkthroughs;

(2) Fire prevention programs targeting high-risk audiences, including those that:

(a) Enhance national, state, or local efforts to reduce fires and burn injuries affecting children under the age of 14 or adults over 65.

(b) Target geographical areas with a higher incidence of fire related deaths and injuries based on a five-year history of data from NFIRS or other national data centers (either in absolute numbers or per capita).

(c) Include the translation or development of public education materials aimed at high-risk populations. There is a higher emphasis on development of educational materials in languages other than English or Spanish (because development of these types of materials were funded in FY 01), although purchasing and distributing educational materials in any language are eligible.

(d) Develop fire prevention material using universal signs and symbols that do not include any language or are complete regardless of the language.

(3) Projects in urban neighborhoods that target at-risk populations, involve a partnership or consortium made up of local organizations, such as fire departments, civic organizations, high schools or citizen's task forces, and that include conducting door-to-door home safety checks and distributing smoke detectors and batteries to at least 50 percent of the residents of the neighborhood.

(4) Projects that affect the entire community such as educating the public about residential sprinklers, promoting residential sprinklers, and demonstrating working models of residential sprinklers, adopting or strengthening building codes and enforcement, improving engineering, and enacting fire-related ordinances for new construction are encouraged.

(5) FEMA will consider innovative projects that have a high probability of successfully achieving the Program goals. FEMA reserves the right to work with applicants in developing programs proposed in their applications.

F. Evaluation Criteria

Proposals will be reviewed to determine the degree to which they address the following:

(1) Involves a partnership between the fire department and the community in planning and practicing escape routes or conducting home fire safety walkthroughs;

(2) Targets geographical areas with a higher incidence of fire related deaths and injuries based on a five-year history of data from NFIRS or other national data centers (either in numbers or in per capita);

(3) Is designed to correct problems based on regional or local trends based on fire loss data;

(4) Proposes a program that will be sustained beyond the grant performance period and has a greater potential for long-term benefits;

(5) The Project describes a sound planned approach for getting the prevention message to targeted audiences;

(6) The Project presents a high benefit for the cost incurred and has minimal overhead or administrative costs;

(7) Comes from an organization with a successful track record and is capable of implementing the fire safety program that will help achieve program goals;

(8) Contributes to the national or local effort on fire and burn injury prevention to children under the age of 14 or other at-risk groups; and

(9) Has a high potential for achieving the overall goals and priorities of the Firefighters Assistance Grant Program and the USFA.

FEMA will use the above criteria in making the funding decisions. FEMA considers these criteria to be of equal weight. In general, proposals that adequately address more of the criteria, and meet the program priorities, will be more likely to receive favorable consideration. FEMA intends to use non-federal experts to assist with the preliminary review of proposals. FEMA will use the expert analysis as part of the basis for its decisions. In addition, in making final decisions on funding, FEMA reserves the right to fund a variety of projects consistent with section E above.

Dated: August 19, 2002.

R. David Paulison,

Administrator, United States Fire Administration.

[FR Doc. 02–21504 Filed 8–22–02; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 20, 2002.

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs Officer) 600 Atlantic Avenue, Boston, Massachusetts 02106-2204:

1. Bridgewater Financial, MHC, Raynham, Massachusetts; to become a bank holding company by acquiring 100 percent of the voting shares of Bridgewater Savings Bank, Bridgewater, Massachusetts.

Board of Governors of the Federal Reserve System, August 20, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–21549 Filed 8–22–02; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 16, 2002.

A. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. TransCommunity Bankshares Incorporated, Richmond, Virginia; to acquire 100 percent of the voting shares of Bank of Goochland, National Association, Goochland, Virginia (in organization).

B. Federal Reserve Bank of Atlanta (Sue Costello, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309–4470:

1. Wheeler Bancshares, Inc., Alamo, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of Wheeler County State Bank, Alamo, Georgia.

Board of Governors of the Federal Reserve System, August 19, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–21550 Filed 8–22–02; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 02–20398) published on pages 52722 and 52723 of the issue for Tuesday, August 13, 2002.

Under the Federal Reserve Bank of Kansas City heading, the entry for Morrill Bancshares, Inc., Sabetha, Kansas, is revised to read as follows:

A. Federal Reserve Bank of Kansas City (Susan Zubradt, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. Morrill Bancshares, Inc., Sabetha, Kansas; to acquire and merge with Morrill & Janes Bancshares, Inc., Hiawatha, Kansas, Onaga Bancshares Inc., Merriam, Kansas; and thereby acquire shares of Morrill & Janes Bank & Trust Co., Hiawatha, Kansas; The First National Bank of Onaga, Onaga, Oklahoma; Century Capital Financial, Inc., Kilgore, Texas; Century Capital Financial—Delaware, Inc., Wilmington, Delaware; and City National Bank, Kilgore, Texas.

In connection with this application, Applicant also has applied to acquire FBC Financial Corporation, Claremore,

Oklahoma, and thereby indirectly acquire 1st Bank Oklahoma, Claremore, Oklahoma, and thereby engage in operating a savings association, pursuant to § 225.28(b)(4)(ii) of Regulation Y.

In addition, Applicant also has applied to engage *de novo* through First Trust Company of Onaga, Onaga, Oklahoma, in trust company functions, pursuant to § 225.28(b)(5) of Regulation Y.

Comments on this application must be received by September 6, 2002.

Board of Governors of the Federal Reserve System, August 19, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–21551 Filed 8–22–02; 8:45 am]

BILLING CODE 6210–01–U

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 02-20398) published on pages 52722 and 52723 of the issue for Tuesday, August 13, 2002.

Under the Federal Reserve Bank of Kansas City heading, the entry for Morrill Bancshares, Inc., Sabetha, Kansas, is revised to read as follows:

A. Federal Reserve Bank of Kansas City (Susan Zubradt, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. Morrill Bancshares, Inc., Sabetha, Kansas; to acquire and merge with Morrill & Janes Bancshares, Inc., Hiawatha, Kansas, Onaga Bancshares Inc., Merriam, Kansas; and thereby acquire shares of Morrill & Janes Bank & Trust Co., Hiawatha, Kansas; The First National Bank of Onaga, Onaga, Oklahoma; Century Capital Financial, Inc., Kilgore, Texas; Century Capital Financial - Delaware, Inc., Wilmington, Delaware; and City National Bank, Kilgore, Texas.

In connection with this application, Applicant also has applied to acquire FBC Financial Corporation, Claremore, Oklahoma, and thereby indirectly acquire 1st Bank Oklahoma, Claremore, Oklahoma, and thereby engage in operating a savings association, pursuant to § 225.28(b)(4)(ii) of Regulation Y.

In addition, Applicant also has applied to engage *de novo* through First Trust Company of Onaga, Onaga, Oklahoma, in trust company functions, pursuant to § 225.28(b)(5) of Regulation Y.

Comments on this application must be received by September 6, 2002.

Board of Governors of the Federal Reserve System, August 19, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–21552 Filed 8–22–02; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–2140–FN]

RIN 0938–ZA13

Medicare and Medicaid Programs; Approval of Deeming Authority for Critical Access Hospitals by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO)

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Final notice.

SUMMARY: This final notice announces our decision to approve the Joint Commission on Accreditation of Healthcare Organization's (JCAHO's) application as a national accrediting organization for critical access hospitals (CAHs) seeking to participate in the Medicare program. Following our evaluation of the organizational and programmatic capabilities of JCAHO, we have determined that JCAHO standards for CAHs meet or exceed the Medicare conditions of participation. Therefore, CAHs accredited by JCAHO will be granted deemed status under the Medicare program.

EFFECTIVE DATE: This final notice is effective November 21, 2002 through November 21, 2008.

FOR FURTHER INFORMATION CONTACT: Cindy Melanson, (410) 786–0310.

SUPPLEMENTARY INFORMATION:

I. Background

Statutory Provisions and Regulations

Under the Medicare program, eligible beneficiaries may receive covered services in a critical access hospital (CAH), provided that the hospital meets certain requirements. Sections 1820(c)(2)(B) and 1820(e) of the Social Security Act (the Act) establish distinct criteria for facilities seeking CAH designation. Under this authority, the Secretary has set forth in regulations minimum requirements that a CAH must meet to participate in Medicare. The regulations at 42 CFR part 485, subpart F (Conditions of Participation: Critical Access Hospitals (CAHs)) determine the basis and scope of CAH-covered services. Conditions for Medicare payment for critical access services can be found at § 413.70. Applicable regulations concerning provider agreements are at 42 CFR part 489 (Provider Agreements and Supplier Approval) and those pertaining to facility survey and certification are at 42 CFR part 488, subparts A and B.

Verifying Medicare Conditions of Participation

In general, we approve a CAH for participation in the Medicare program, if it is participating as a hospital at the time it applies for CAH designation, and is in compliance with parts 482 (Conditions of Participation for Hospitals), and 485, subpart F (Conditions of Participation: Critical Access Hospitals (CAHs)). Section 403 of the Medicare, Medicaid and SCHIP Balanced Budget Refinement Act of 1999 expanded this criterion to allow a limited number of additional entities to become eligible for CAH designation under certain circumstances. Specifically, a rural health clinic previously downsized from an acute care hospital, or a closed hospital that requests to reopen as a CAH, need only meet the provisions of 42 CFR part 485, subpart F (at the time they apply for CAH designation) to be eligible to participate in Medicare.

For a CAH to enter into a provider agreement, a State survey agency must certify that the CAH is in compliance with the conditions or standards set forth in the statute and part 485 subpart F of our regulations. Then, the CAH is subject to ongoing review by a State survey agency to determine whether it continues meeting Medicare requirements. There is, however, an alternative to State compliance surveys. Certification by a nationally recognized accreditation program can substitute for ongoing State review.

Section 1865(b)(1) of the Act provides that, if a provider is accredited by a national accreditation body under standards that meet or exceed the Medicare conditions of participation, the Secretary can ''deem'' the provider as having met the Medicare requirements for those conditions. Accreditation is voluntary and not required for participation in Medicare; providers have the option to undergo State surveys or pursue accreditation. The American Osteopathic Association (AOA) is currently the only CMS-approved national accreditation organization for CAHs.

II. Deeming Application Approval Process

Section 1865(b)(3)(A) of the Act provides a statutory timetable to ensure that our review of deeming applications is conducted in a timely manner. The Act provides us with 210 calendar days to complete our survey activities and application review process. Within 60 days of receiving a completed application, we must publish a notice in the **Federal Register** that identifies the national accreditation body making the request, describes the nature of the request, and provides no less than a 30-day public comment period.

III. Proposed Notice

On March 22, 2002, we published a proposed notice at 67 FR 13344 announcing the JCAHO's request for approval as a deeming organization for CAHs. In the notice, we detailed our evaluation criteria. Under section 1865(b)(2) of the Act and § 488.4, we conducted a review of the JCAHO application in accordance with the criteria specified by our regulation, which includes, but is not limited to the following:

- An onsite administrative review of JCAHO's (1) corporate policies; (2) financial and human resources available to accomplish the proposed surveys; (3) procedures for training, monitoring, and evaluation of its surveyors; (4) ability to investigate and respond appropriately to complaints against accredited facilities; and (5) survey review and decision-making process for accreditation.
- A comparison of JCAHO's CAH accreditation standards to our current Medicare CAH conditions of participation standards.
- A documentation review of JCAHO's survey processes to do the following:
- Determine the composition of the survey team, surveyor qualifications, and the ability of JCAHO to provide continuing surveyor training.
- Compare JCAHO's processes to those of State survey agencies, including survey frequency, and the ability to investigate and respond appropriately to complaints against accredited facilities.
- Evaluate JCAHO's procedures for monitoring providers or suppliers found to be out of compliance with JCAHO program requirements. The monitoring procedures are used only when the JCAHO identifies noncompliance. If noncompliance is identified through validation reviews, the survey agency monitors corrections as specified at § 488.7(b)(2).
- Assess JCAHO's ability to report deficiencies to the surveyed facilities and respond to the facility's plan of correction in a timely manner.
- Establish JCAHO's ability to provide us with electronic data in ASCII-comparable code and reports necessary for effective validation and assessment of JCAHO's survey process.
- Determine the adequacy of staff and other resources.
- Review JCAHO's ability to provide adequate funding for performing required surveys.
- Confirm JCAHO's policies with respect to whether surveys are announced or unannounced.
- Obtain JCAHO's agreement to provide us with a copy of the most current accreditation survey together with any other information related to the survey as we may require, including corrective action plans.

In accordance with section 1865(b)(3)(A) of the Act, the proposed notice also solicited public comments regarding whether JCAHO's requirements met or exceeded the Medicare conditions of participation for CAHs. We received no public comments in response to our proposed notice.

IV. Provisions of the Final Notice

A. Differences Between JCAHO and Medicare's Conditions and Survey Requirements

We compared the standards contained in the JCAHO's ''Critical Access Hospital (CAH) Manual'' and its survey process in the ''Critical Access Hospital Surveyor Handbook'' with the Medicare CAH conditions of participation and CMS's ''State and Regional Operations Manual.'' Our review and evaluation of JCAHO's deeming application, which were conducted as described in section III of this notice yielded the following:

- JCAHO provided an updated crosswalk (a table showing the match between their standards and our standards) of recommended revisions or clarifications to its requirements to ensure that the requirements meet or exceed CMS requirements.
- JCAHO adjusted language to consistently refer to CAHs as opposed to hospitals.
- JCAHO modified and adjusted its standards for CAHs to more clearly document the JCAHO standard and intent statement. The reformatted version presents the standards in their entirety and facilitates a comparison to the Medicare COPs.
- JCAHO added language to each chapter of the CAH Manual stating, ''Critical Access Hospitals going through a deemed status survey are expected to meet the standards and the full intent of the standards.'' This added language eliminates CMS's concern about JCAHO's intent statements not carrying the same weight as the Medicare standards.
- JCAHO modified its standard and intent statement to include a list of drugs and biologicals commonly used in life-saving procedures in order to meet the requirements of § 485.618.
- In order to meet the requirements of § 485.639, JCAHO added to its standard and intent statement the language that surgery can only be performed by: (1) A doctor of medicine or osteopathy, including an osteopathic practitioner recognized under section 1101(a)(7) of the Act; (2) a doctor of dental surgery or dental medicine; or (3) a doctor of podiatric medicine.
- JCAHO standards previously indicated resurvey of a CAH every 3 years. JCAHO modified its standards to indicate in the resurvey requirements that a 1-year-follow-up visit after the initial accreditation survey is required. After the 1-year-follow-up, CAHs will be resurveyed every 3 years.
- JCAHO provided a list of currently accredited facilities and schedule of surveys to be performed to meet the requirements of § 488.4(a)(9) and (10).
- JCAHO addressed our regulations at § 485.623 and specifically, § 485.623(d)(1), by recognizing that assessing compliance with the life safety code (LSC) is a JCAHO responsibility. The LSC, published on an ongoing basis by the National Fire Prevention Association, contains building and construction standards designed to promote fire-safe structures. In addition to the JCAHO requirement that the CAH complete a Statement of Conditions (SOC), which allows the CAH to report any known deficiencies in the physical plant, a JCAHO trained surveyor also surveys the CAH using the JCAHO environment-of-care standards. During the JCAHO survey process, a surveyor will conduct a building tour, including above-the-ceiling inspections, and will validate what the organization has reported on its SOC. As a result of the inspection, JCAHO findings may be cited as requirements for improvement and may impact the score and survey outcome. JCAHO requires that all findings on the SOC be remediated in the same manner as those found independently by JCAHO surveyors. The CMS Financial Report to Congress, published in 2002, includes a report on ''Medicare's Validation Program for Hospitals Accredited by the JCAHO''. This report showed a large discrepancy between the LSC survey findings made by the State survey agencies and JCAHO surveys. JCAHO regularly failed to identify LSC deficiencies. We expect

that the current JCAHO LSC survey process will be reviewed when CMS adopts the 2000 edition of the LSC, which was published as a proposed rule on October 26, 2001 (66 FR 54178). The final rule is under development. Insofar as there may be differences between state survey standards and JCAHO standards based on the 2000 LSC, we want to provide both JCAHO and the states with an opportunity to bring their procedures into alignment with the new LSC. If, after reviewing JCAHO's performance under such standards, significant discrepancies continue to occur, we will address the matter at that time.

B. Term of Approval

Based on the review and observations described in section III of this final notice, we have determined that JCAHO's requirements for CAHs meet or exceed our requirements. Therefore, we recognize the JCAHO as a national accreditation organization for CAHs that request participation in the Medicare program, effective November 21, 2002 through November 21, 2008.

V. Collection of Information Requirements

This final notice does not impose any information collection and recordkeeping requirements subject to the Paperwork Reduction Act (PRA). Consequently, it does not need to be reviewed by the Office of Management and Budget (OMB) under the authority of the PRA. The requirements associated with granting and withdrawal of deeming authority to national accreditation organizations, codified in 42 CFR part 488, (Survey, Certification, and Enforcement Procedures) are currently approved by OMB under OMB approval number 0938–0690, with an expiration date of September 30, 2002.

VI. Regulatory Impact Statement

We have examined the impact of this notice as required by Executive Order 12866 (September 1993, Regulatory Planning and Review), the Regulatory Flexibility Act (RFA) (Pub. L. 98–354), section 1102(b) of the Social Security Act, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), and Executive Order 13132.

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects; distributive impacts; and equity). The RFA requires agencies to analyze options for regulatory relief for small businesses. For purposes of the RFA, States and individuals are not considered small entities.

Also, section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis for any notice that may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we consider a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 100 beds.

This final notice recognizes JCAHO as a national accreditation organization for CAHs that request participation in the Medicare program. There are neither significant costs nor savings for the program and administrative budgets of Medicare. Therefore, this notice is not a major rule as defined in Title 5, United States Code, section 804(2) and is not an economically significant rule under Executive Order 12866. We have determined, and the Secretary certifies, that this notice will not result in a significant impact on a substantial number of small entities and will not have a significant effect on the operations of a substantial number of small rural hospitals. Therefore, we are not preparing analyses for either the RFA or section 1102(b) of the Act.

Section 202 of the Unfunded Mandates Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule that may result in expenditure in any 1 year by State, local, or tribal governments, in the aggregate, or by the private sector, of $110 million. This notice will not result in an impact of $110 million on the governments mentioned or on the private sector.

In an effort to better assure the health, safety, and services of beneficiaries in CAHs already certified as well as provide relief to State budgets in this time of tight fiscal restraints, we deem CAHs accredited by JCAHO as meeting our Medicare requirements. Thus, we continue our focus on assuring the health and safety of services by providers and suppliers already certified for participation in a cost-effective manner.

In accordance with the provisions of Executive Order 12866, this notice was not reviewed by the Office of Management and Budget. In accordance with Executive Order 13132, we have determined that this notice will not significantly affect the rights of States, local or tribal governments.

Authority: Section 1865 of the Social Security Act (42 U.S.C. 1395bb).

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program; No. 93.773 Medicare—Hospital Insurance Program; and No. 93.774, Medicare—Supplemental Medical Insurance Program).

Dated: August 16, 2002.

Thomas A. Scully,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 02–21372 Filed 8–22–02; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–3098–N]

Medicare Program; Meeting of the Executive Committee of the Medicare Coverage Advisory Committee—September 25, 2002

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice of meeting.

SUMMARY: This notice announces a public meeting of the Executive Committee (the Committee) of the Medicare Coverage Advisory Committee (MCAC). The Committee provides advice and recommendations to us about clinical issues. The Committee will act upon recommendations from the Medical and Surgical Procedures Panel of the MCAC regarding the use of deep brain stimulation for the treatment of Parkinson's disease. The Committee will also discuss approaches to assessing clinical evidence in diagnosis and treatment of rare diseases.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. App. 2, section 10(a)(1) and (a)(2)).

DATES: *The Meeting:* September 25, 2002 from 8 a.m. until 4:30 p.m., E.D.T.

Deadline for Presentations and Comments: September 12, 2002, 5 p.m., E.D.T.

Special Accommodations: Persons attending the meeting who are hearing or visually impaired, or have a condition that requires special assistance or accommodations, are asked to notify the Executive Secretary by September 4, 2002 (see **FOR FURTHER INFORMATION CONTACT**).

ADDRESSES:

The Meeting: The meeting will be held at the Baltimore Convention Center, Room 321–322, One West Pratt Street, Baltimore, MD 21201.

Presentations and Comments: Submit formal presentations and written

comments to Janet A. Anderson, Executive Secretary; Office of Clinical Standards and Quality; Centers for Medicare & Medicaid Services; 7500 Security Boulevard; Mail Stop C1–09–06; Baltimore, MD 21244.

Website: You may access up-to-date information on this meeting at *http://www.cms.gov/coverage.*

Hotline: You may access up-to-date information on this meeting on the CMS Advisory Committee Information Hotline, 1–877–449–5659 (toll free) or in the Baltimore area (410) 786–9379.

FOR FURTHER INFORMATION CONTACT: Janet A. Anderson, Executive Secretary, 410–786–2700.

SUPPLEMENTARY INFORMATION: On December 14, 1998 and February 7, 2002, we published a notice in the **Federal Register** (63 FR 68780 and 66 FR 9349) to describe the Medicare Coverage Advisory Committee (MCAC), which provides advice and recommendations to us about clinical issues. This notice announces the following September 25, 2002 public meeting of the Executive Committee (the Committee) of the MCAC.

Current Panel Members

Harold C. Sox, M.D.; Daisy Alford-Smith, Ph.D.; Wade Aubry, M.D.; Linda Bergthold, Ph.D.; Ronald M. Davis, M.D.; John H. Ferguson, M.D.; Leslie P. Francis, J.D., Ph.D.; Alan M. Garber, M.D., Ph.D.; Thomas V. Holohan, M.D., M.A.; Michael D. Maves, M.D., M.B.A.; Barbara J. McNeil, M.D., Ph.D.; Robert L. Murray, Ph.D.; Frank J. Papatheofanis, M.D., Ph.D.; Randel E. Richner, M.P.H.

Meeting Topic

The Committee will act on recommendations from the Medical and Surgical Procedures Panel of the MCAC regarding the use of deep brain stimulation for treatment of Parkinson's disease. The Committee will also discuss methods for assessing clinical evidence concerning diagnosis and treatment of diseases that affect a small population of patients.

Procedure and Agenda

This meeting is open to the public. The Committee will hear oral presentations from the public for approximately 90 minutes. The Committee may limit the number and duration of oral presentations to the time available. If you wish to make a formal presentation, you must notify the Executive Secretary named in the **FOR FURTHER INFORMATION CONTACT** section of this notice, and submit the following by the *Deadline for Presentations and Comments* date listed in the **DATES** section of this notice: A brief statement of the general nature of the evidence or arguments you wish to present, and the names and addresses of proposed participants. A written copy of your presentation must be provided to the Executive Secretary before offering your public comments. We will request that you declare at the meeting whether or not you have any financial involvement with manufacturers of any items or services being discussed (or with their competitors).

After the public and CMS presentations, the Committee will deliberate openly on the topic. Interested persons may observe the deliberations, but the Committee will not hear further comments during this time except at the request of the chairperson. The Committee will also allow approximately a 30-minute open public session for any attendee to address issues specific to the topic. At the conclusion of the day, the members will vote, and the Committee will make its recommendation.

Authority: 5 U.S.C. App. 2, section 10(a)(1) and (a)(2).

(Catalog of Federal Domestic Assistance Program No. 93.774, Medicare—Supplementary Medical Insurance Program).

Dated: August 13, 2002.

Robert A. Streimer,

Acting Director, Office of Clinical Standards and Quality, Centers for Medicare & Medicaid Services.

[FR Doc. 02–21373 Filed 8–22–02; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–1216–N]

Medicare Program; September 23 and 24, 2002, Meeting of the Practicing Physicians Advisory Council and Request for Nominations

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice.

SUMMARY: In accordance with section 10(a) of the Federal Advisory Committee Act, this notice announces a meeting of the Practicing Physicians Advisory Council and invites all organizations representing physicians to submit nominees for membership on the Council. There will be several vacancies on the Council as of February 28, 2003. The meetings are open to the public.

Meeting Registration: Persons wishing to attend this meeting must contact the meeting coordinator Diana Motsiopoulos at *dmotsiopoulos@cms.hhs.gov* or (410) 786–3379 at least 72 hours in advance to register. Persons who are not registered in advance will not be permitted into the CMS Headquarters and thus will not be able to attend the meeting. Persons attending the meeting will be required to show a photographic identification, preferably a valid driver's license, before entering the building.

DATES: The meeting is scheduled for September 23, 2002 from 8:30 a.m. until 5 p.m. e.s.t. and September 24, 2002 from 8:30 a.m. until 1 p.m. e.s.t.

Nominations: Nominations will be considered if receive at the appropriate address, provided below no later than 5 p.m. e.s.t., September 30, 2002.

ADDRESSES: The meeting will be held at CMS Headquarters' Multipurpose Room, 7500 Security Boulevard, Baltimore, MD 21224–1750.

Nominations: Mail or deliver nominations to the following address: Centers for Medicare & Medicaid Services, Center for Medicare Management, Office of Professional Relations, Attention: Paul Rudolf, M.D. J.D., Executive Director, Practicing Physicians Advisory Council, 7500 Security Boulevard, Mail Stop C4–10–07, Baltimore, MD 21244–1850.

Website: You may access the Internet at *http://www.hcfa.gov/medicare/ppacsite.htm* for additional information and updates on committee activities.

Advisory Committees Information Line: (1–877–449–5659 toll free)/(410–786–9379 local).

FOR FURTHER INFORMATION CONTACT: Paul Rudolf, M.D., J.D., Executive Director, Practicing Physicians Advisory Council, 7500 Security Boulevard., Mail Stop C4–10–07, Baltimore, MD 21244–1850, (410) 786–3379. News media representatives should contact the CMS Press Office, (202) 690–6145.

SUPPLEMENTARY INFORMATION: The Secretary of the Department of Health and Human Services (the Secretary) is mandated by section 1868 of the Social Security Act (the Act) to appoint a Practicing Physicians Advisory Council (the Council) based on nominations submitted by medical organizations representing physicians. The Council meets quarterly to discuss certain proposed changes in regulations and carrier manual instructions related to physicians' services, as identified by the Secretary. To the extent feasible and consistent with statutory deadlines, the consultation must occur before publication of the proposed changes. The Council submits an annual report on its recommendations to the Secretary and the Administrator of the Centers for

Medicare & Medicaid Services not later than December 31 of each year.

The Council consists of 15 physicians, each of whom has submitted at least 250 claims for physicians' services under Medicare in the previous year. Members of the Council include both participating and nonparticipating physicians, and physicians practicing in rural and underserved urban areas. At least 11 of the members of the Council shall be physicians described in section 1861(r)(1) of the Act. The remaining members may include dentists, podiatrists, optometrists, and chiropractors. Members serve for overlapping 4-year terms; terms of more than 2 years are contingent upon the renewal of the Council by appropriate action before its termination. Section 1868(a) of the Act provides that nominations to the Secretary for Council membership must be made by medical organizations representing physicians.

The Council held its first meeting on May 11, 1992. The current members are: James Bergeron, M.D.; Richard Bronfman, D.P.M.; Ronald Castellanos, M.D.: Rebecca Gaughan, M.D.; Joseph Heyman, M.D.; Stephen A. Imbeau, M.D.; Joe Johnson, D.O.; Christopher Leggett, M.D.; Dale Lervick, O.D.; Angelyn L. Moultrie-Lizana, D.O.; Barbara McAneny, M.D.; Michael T. Rapp, M.D. (Chairman); Amilu Rothhammer, M.D.; Victor Vela, M.D.; and Douglas L. Wood, M.D.

Council members will be updated on the status of recommendations made during the past year. The agenda will provide for discussion and comment on the following topics:

- Physician's Regulatory Issues Team (PRIT) update.
- Update on the Physician Fee Schedule.
- Beneficiary access.
- Funding for provider education.
- Medicaid access provision.
- Evaluation and management guidelines.
- Health Insurance Portability and Accountability Act.
- Local medical review policy-variation.
- Self-administered drug policy.
- Preventative services.

For additional information and clarification on the topics listed, call the contact person in the ''For Further Information Contact'' section of this notice. Individual physicians or medical organizations that represent physicians wishing to make 5-minute oral presentations on agenda issues should contact the Executive Director by 12 noon, Friday, September 13, 2002, to be scheduled. Testimony is limited to agenda topics. The number of oral presentations may be limited by the time available. A written copy of the presenter's oral remarks should be submitted to the meeting coordinator at *dmotsiopoulos@cms.hhs.gov* no later than 12 noon, September 13, 2002, for distribution to Council members for review before the meeting. Physicians and organizations not scheduled to speak may also submit written comments to the Executive Director and Council members. The meeting is open to the public, but attendance is limited to the space available. Individuals requiring sign language interpretation for the hearing impaired or other special accommodation should contact Diana Motsiopoulos at *dmotsiopoulos@cms.hhs.gov* or (410) 786–3379 at least 10 days before the meeting.

This notice also serves as an invitation to all organizations representing physicians to submit nominees for membership on the Council. Each nomination must state that the nominee has expressed a willingness to serve as a Council member and must be accompanied by a short resume or description of the nominee's experience. To permit an evaluation of possible sources of conflicts of interest, potential candidates will be asked to provide detailed information concerning financial holdings, consultant positions, research grants, and contracts. Section 1868(b) of the Act provides that the Council meet quarterly, as requested by the Secretary, to discuss proposed changes in regulations and manual issuances that relate to physicians' services. Council members are expected to participate in all meetings. Section 1868(c) of the Act provides for payment of expenses and a per diem allowance for Council members at a rate equal to payment provided members of other advisory committees. In addition to making these payments, the Department of Health and Human Services/Centers for Medicare & Medicaid Services provides management and support services to the Council. The Secretary will appoint new members to the Council from among those candidates determined to have the expertise required to meet specific agency needs and in a manner to ensure appropriate balance of membership.

(Section 1868 of the Social Security Act (42 U.S.C. 1395ee) and section 10(a) of Public Law 92–463 (5 U.S.C. App. 2, section 10(a)); 45 CFR part 11)

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: August 16, 2002.

Thomas A. Scully,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 02–21371 Filed 8–22–02; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Statement of Organization, Functions, and Delegations of Authority

Part F of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services, Centers for Medicare & Medicaid Services (CMS), (FR, Vol. 67, No. 125, pp. 43632–43633 dated June 28, 2002) is amended to reflect a change to the Office of Communications and Operations Support.

The specific amendments to part F are described below:

- Section F.10. (Organization) is amended to read as follows:

1. Public Affairs Office (FAC)
2. Center for Beneficiary Choices (FAE)
3. Office of Legislation (FAF)
4. Center for Medicare Management (FAH)
5. Office of Equal Opportunity and Civil Rights (FAJ)
6. Office of Research, Demonstration, and Information (FAK)
7. Office of Clinical Standards and Quality (FAM)
8. Office of the Actuary (FAN)
9. Center for Medicaid and State Operations (FAS)
10. Northeastern Consortium (FAU)
11. Southern Consortium (FAV)
12. Midwestern Consortium (FAW)
13. Western Consortium (FAX)
14. Office of Operations Management (FAY)
15. Office of Internal Customer Support (FBA)
16. Office of Information Services (FBB)
17. Office of Financial Management (FBC)
18. Office of Strategic Operations and Regulatory Affairs (FGA)

- Section F.20. (Functions) is amended by restructuring the Office of Communications and Operations Support and changing their title to the Office of Strategic Operations and Regulatory Affairs. The new functional statement reads as follows:

18. Office of Strategic Operations and Regulatory Affairs (FGA)

- Manages the Agency's decision-making and regulatory process.

• Serves in a neutral broker coordination role which includes: Scheduling meetings and briefings for the Administrator and coordinating communications between and among central and regional offices to ensure that emerging issues are identified early, all concerned components are directly and fully involved in policy development/decision making, and that all points of view are presented.

• Provides leadership, direction, and advocacy, on behalf of top CMS officials in connection with official policy matters for presentation to the Administrator and Deputy Administrator/Chief Operating Officer to insure that all points of view and program interests of concern to the Administrator and Deputy Administrator/Chief Operating Officer are developed and properly presented for consideration. Reviews policy statements by component Directors and others to anticipate potential problems or inconsistencies with views of the Administrator, Deputy Administrator/Chief Operating Officer, and the Administration. Assists in resolving these matters to the satisfaction of the Agency and top management.

• Manages meeting requests for or on behalf of the Administrator, and Deputy Administrator/Chief Operating Officer. Coordinates the preparation of briefing materials for the Administrator, Deputy Administrator/Chief Operating Officer, and the Department in advance of the Administrator and Deputy Administrator/Chief Operating Officer's participation in meetings, appointments with major groups, etc. Works with CMS components to assure that appropriate briefing materials are presented to Senior Leadership. Senior officials in CMS and the Department, as well as officials of other Federal agencies, state and local governments, and outside interest groups attend these meetings.

• Coordinates the preparation of manuals and other policy instructions to ensure accurate and consistent implementation of the Agency's programs.

• Manages the Agency's system for developing, clearing and tracking regulations, setting regulation priorities and corresponding work agendas; coordinates the review of regulations received for concurrence from departmental and other government agencies, and develops routine and special reports on the Agency's regulatory activities.

• Manages the regulations development process to ensure timely decision making by the Administrator and Deputy Administrator/Chief Operating Officer on CMS regulations.

• Provides leadership and management of the Agency's Executive Correspondence system. Operates the agency-wide correspondence tracking and control system and provides guidance and technical assistance on standards for content of correspondence and memoranda.

• Manages the agency-wide clearance system to ensure appropriate involvement from Agency components and serves as a primary focal point for liaison with the Executive Secretariat in the Office of the Secretary.

• Provides management and administrative support to the Office of the Attorney Advisor and staff.

• Acts as audit liaison with the General Accounting Office (GAO) and the HHS Office of Inspector General (OIG).

• Monitors and coordinates major CMS legislative initiatives such as tracking the status of the Agency's implementation of Balanced Budget Act, Balanced Budget Refinement Act, and the Benefits Improvement and Protection Act provisions.

• Coordinates and prepares the advance planning reports for the Secretary and the Administrator (Secretary's Forecast Report).

• Acts as the liaison with the Office of the Secretary for Reports to the Congress and maintains a tracking system to monitor status. Also serves as the CMS liaison with the Small Business Administration's Office of the National Ombudsman.

• Develops standard processes for all CMS FACA committees and provides operational and logistical support to CMS components for conferences and on all matters relating to Federal Advisory Committees.

• Conducts activities necessary to the receipt, management, response, and reporting requirements of the Department under the Freedom of Information Act (FOIA) regarding all requests received by CMS.

• Maintains a log of all FOIA requests received by the central office, refers requests to the appropriate components within headquarters, the regions or among carriers and intermediaries for the collection of the documents requested. Makes recommendations and prepares replies to requesters, including denials of information as permitted under FOIA, and drafts briefing materials and responses in connection with appeals of denial decisions.

• Directs the maintaining and amending of CMS-wide records for confidentiality and disclosure to the Privacy Act to include: planning, organizing, initiating and controlling privacy matching assignments.

Dated: August 12, 2002.

Ruben J. King-Shaw, Jr.,

Deputy Administrator and Chief Operating Officer, Centers for Medicare & Medicaid Services.

[FR Doc. 02–21370 Filed 8–22–02; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center on Minority Health and Health Disparities; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Advisory Council on Minority Health and Health Disparities.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable 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 Advisory Council on Minority Health and Health Disparities.

Date: September 12–13, 2002.

Open: September 12, 2002, 8:30 AM to 1:30 PM.

Agenda: The agenda will include the Director's Report, NCMHD, NCMHD Staff reports including the NCMHD Organization/Structure/Resources, NIH Strategic Research Plan, NCMHD Programs, Peer Review Process, Grants Management, Ethics, and other business of the Council.

Place: Pooks Hill Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Closed: September 12, 2002, 1:30 PM to Adjournment.

Agenda: To review and evaluate grant applications.

Place: Pooks Hill Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Jean L. Flagg-Newton, PhD, Deputy Director, National Center on Minority Health and Health Disparities, 6707 Democracy Boulevard, Democracy 2, Suite 800, Bethesda, MD 20892–5465. (301) 402–2518. *flaggnej@od.nih.gov.*

Dated: August 16, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–21496 Filed 8–22–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Inherited Disease Research Access Committee.

Date: September 9–10, 2002.

Time: September 9, 2002, 7 p.m. to 9 p.m.

Agenda: To review and evaluate grant applications.

Place: The River Inn, 924 Twenty-Fifth Street, NW., Washington, DC 20037.

Time: September 10, 2002, 8:30 AM to 2 PM.

Agenda: To review and evaluate grant applications.

Place: The River Inn, 924 Twenty-Fifth Street, NW., Washington, DC 20037.

Contact Person: Jerry Roberts, PhD, Scientific Review Administrator, Office of Scientific Review, National Institutes of Health, Building 38A, Bethesda, MD 20892. 301–402–0838.

Name of Committee: Center for Inherited Disease Research Access Committee, Subcommittee B.

Date: September 10, 2002.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: The River Inn, 924 Twenty-Fifth Street, NW., Washington, DC 20037.

Contact Person: Camilla E. Day, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2208, MSC 7890, Bethesda, MD 20892. (301) 435–1037. *dayc@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: August 16, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–21497 Filed 8–22–02; 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 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 Child Health and Human Development Special Emphasis Panel, The Mechanical Prosthetic Hands in Children of the Developing Countries.

Date: September 24, 2002.

Time: 12 p.m. to 1:30 p.m.

Agenda: To review and evaluate contract proposals.

Place: 6100 Executive Blvd. 5th Floor, Rockville, MD 20852. (Telephone Conference Call).

Contact Person: Hameed Khan, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, National Institutes of Health, 6100 Executive Blvd., Room 5E01, Bethesda, MD 20892. (301) 496–1485.

(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: August 16, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–21498 Filed 8–22–02; 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 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 Environmental Health Sciences Special Emphasis Panel, Review of Program Project Applications.

Date: October 9–11, 2002.

Time: 7 p.m. to 11 a.m.

Agenda: To review and evaluate grant applications.

Place: Radisson Hotel, 808 20th Street, South, Birmingham, AL 35205.

Contact Person: Janice B. Allen, PhD, Scientific Review Branch, Division of Extramural Research and Training, National Institute of Environmental Health Science, PO Box 12233, MD EC–30/Room 3170 B, Research Triangle Park, NC 27709. 919/541–7556.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, Transition To Independent Positions (K22s)—RFA ES–02–006.

Date: October 18, 2002.

Time: 8:30 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: NIEHS, South Campus, Bldg 101, Conference Room–A, Research Triangle Park, NC 27709.

Contact Person: Janice B. Allen, PhD, Scientific Review Branch, Division of Extramural Research and Training, National Institute of Environmental Health Science, PO Box 12233, MD EC–30/Room 3170 B, Research Triangle Park, NC 27709. 919/541–7556.

(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: August 16, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–21499 Filed 8–22–02; 8:45 am]

BILLING CODE 4140–10–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: October 3, 2002.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: NIEHS, South Campus, Bldg 101, Conference Room-A, Research Triangle Park, NC 27709.

Contact Person: Leroy Worth, PhD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research and Training, National Institute of Environmental Health Sciences, PO Box 12233, MD EC–30/Room 3171, Research Triangle Park, NC 27709. 919/541–0670. *worth@niehs.nih.gov.*

(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: August 16, 2002

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–21500 Filed 8–22–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

The President's New Freedom Commission on Mental Health; Notice of Meeting

Pursuant to Executive Order 13263, notice is hereby given of a meeting of the President's New Freedom Commission on Mental Health in September 2002.

The meeting will be open and will consider how to accomplish the Commission's mandate to conduct a comprehensive study of the United States mental health service delivery system and to make recommendations on improving the delivery of public and private mental health services for adults and children. The Commission meeting will focus on issues relating to children and families including access to and coordination of mental health services, family engagement efforts, school-based services, the juvenile court system and trauma-related issues.

Attendance by the public will be limited to space available. Public comments are welcome. Please communicate with the individual listed as contact below to make arrangements to comment or to request special accommodations for persons with disabilities.

Additional information and a roster of Commission members may be obtained either by accessing the Commission Web site, *http://www.mentalhealthcommission.gov,* or by communicating with the contact whose name and telephone number is listed below.

Committee Name: The President's New Freedom Commission on Mental Health.

Meeting Date/Time: Open: September 11, 2002, 8:30 a.m. to 3:30 p.m., *Open:* September 12, 2002, 8:30 a.m. to 2:30 p.m.

Place: Embassy Suites Hotel Chicago Downtown, 600 North State Street, Chicago, Illinois 60610.

Contact: Claire Heffernan, Executive Secretary, 5600 Fishers Lane, Parklawn Building, Room 13C–26, Rockville, MD 20857, Telephone: (301) 443–1545; Fax: (301) 480–1554 and e-mail: *Cheffern@samhsa.gov.* Web site: *http://www.mentalhealthcommission.gov.*

Dated: August 19, 2002.

Toian Vaughn,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 02–21510 Filed 8–22–02; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4734–N–36]

Notice of Submission of Proposed Information Collection to OMB; the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) Regulations

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* September 23, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2502–0514) and should be sent to: Lauren Wittenberg, OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503; Fax number (202) 395–6974; E-mail *Lauren_Wittenberg@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail *Wayne_Eddins@HUD.gov*; telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection

proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice also lists the following information:

Title of Proposal: The Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) Regulations.

OMB Approval Number: 2502–0514.

Form Numbers: None.

Description of the Need for the Information and its Proposed Use: Fannie Mae and Freddie Mac referred to as Government Sponsored Enterprises or GSEs provide reports to comply with established performance-based housing goals.

Respondents: Business or other for-profit.

Frequency of Submission: On occasion.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting burden	2	43.5		64.75		5,632

Total Estimated Burden Hours: 5,632.

Status: Extension of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: August 16, 2002.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 02–21488 Filed 8–22–02; 8:45 am]

BILLING CODE 4210–72–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR –4734–N–37]

Notice of Submission of Proposed Information Collection to OMB; Single Family Mortgage Insurance on Hawaiian Homelands

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* September 23, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2502–0358) and should be sent to: Lauren Wittenberg, OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503; Fax number (202) 395–6974; e-mail *Lauren_Wittenberg@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail *Wayne_Eddins@HUD.gov;* telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice also lists the following information:

Title of Proposal: Single Family Mortgage Insurance on Hawaiian Homelands.

OMB Approval Number: 2502–0358.

Form Numbers: None.

Description of the Need for the Information and its Proposed Use: This information collection is needed to collect information pursuant to determining eligibility for the Hawaiian Homelands program.

Respondents: Individuals or household, Business or other for-profit.

Frequency of Submission: On occasion.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting burden	112	16		0.14		253

Total Estimated Burden Hours: 253.

Status: Reinstatement, without change.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S. C. 35, as amended.

Dated: August 16, 2002.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 02–21489 Filed 8–22–02; 8:45 am]

BILLING CODE 4210–72–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4734–N–38]

Notice of Submission of Proposed Information Collection to OMB; Schedule of Subscribers and Ginnie Mae Guaranty Agreement

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* September 23, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2503–0009) and should be sent to: Lauren Wittenberg, OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503; Fax number (202) 395–6974; E-mail *Lauren_Wittenberg@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail *Wayne_Eddins@HUD.gov;* telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice also lists the following information:

Title of Proposal: Schedule of Subscribers and Ginnie Mae Guaranty Agreement.

OMB Approval Number: 2503–0009.

Form Numbers: HUD–11705.

Description of the Need for the Information and its Proposed Use: This information establishes the agreement and contract between the issuer of securities and Ginnie Mae with respect to the pool or loan package and the related pooled mortgages and securities. It identifies the subscribers/purchasers of the mortgage-backed securities and provides information necessary to prepare the securities.

Respondents: Business or other for-profit.

Frequency of Submission: On occasion.

	Number. of respondents	Total annual responses	×	Hours per response	=	Burden hours
Reporting burden	297	31,482		0.17		5,352

Total Estimated Burden Hours: 5,352.

Status: Extension of a currently approved information collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: August 16, 2002.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 02–21490 Filed 8–22–02; 8:45 am]

BILLING CODE 4210–72–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4734–N–39]

Notice of Submission of Proposed Information Collection to OMB; Application for Commitment To Guarantee Mortgage-Backed Securities

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* September 23, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2503–0001) and should be sent to: Lauren Wittenberg, OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503; Fax number (202) 395–6974; E-mail *Lauren_Wittenberg@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail *Wayne_Eddins@HUD.gov;* telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as decribed below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable, (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice also lists the following information:

Title of Proposal: Application for Commitment to Guarantee Mortgage-Backed Securities.

OMB Approval Number: 2503–0001.

Form Numbers: HUD–11704.

Description of the Need for the Information and its Proposed Use: The HUD Form 11704 is used by Ginnie Mae Mortgage-Backed Securities (MBS) issuers to apply for commitment authority to guarantee mortgage-backed securities.

Respondents: Business or other for-profit.

Frequency of Submission: On occasion.

	Number of respondents	Total annual responses	×	Hours per response	=	Burden hours
Reporting burden	297	1,188		0.25		297

Total Estimated Burden Hours: 297.

Status: Extension of a currently approved information collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: August 16, 2002.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 02–21491 Filed 8–22–02; 8:45 am]

BILLING CODE 4210–72–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4730–N–34]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

EFFECTIVE DATE: August 23, 2002.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, Department of Housing and Urban Development, Room 7262, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition of the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: August 15, 2002.

Mark R. Johnston,

Deputy Director, Office of Special Needs Assistance Programs.

[FR Doc. 02–21231 Filed 8–22–02; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Intent To Prepare a Comprehensive Conservation Plan and Environmental Impact Statement for the Rocky Flats National Wildlife Refuge, Golden, CO

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent.

SUMMARY: This notice advises that the U.S. Fish and Wildlife Service (Service) intends to gather information necessary to prepare a Comprehensive Conservation Plan (CCP) and Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act (NEPA) and its implementing regulations.

A CCP will be prepared for the future Rocky Flats National Wildlife Refuge (NWR) located in Jefferson County, Colorado. The purpose of the CCP is to describe the future conditions of the Rocky Flats NWR and provide long-term guidance and management direction to achieve the refuge's purpose and restore its ecological integrity.

In the EIS, the Service will describe and evaluate a range of reasonable alternatives and the anticipated impacts of each. This information will be used in the draft CCP for the Rocky Flats NWR. The Service is furnishing this Notice in compliance with Service CCP policy to advise other agencies and the public of its intentions and to obtain suggestions and information on the scope of issues to be considered in the planning process.

DATES: Public scoping meetings will be held in surrounding communities in September 2002. Written scoping comments must be received by October 31, 2002.

ADDRESSES: Comments and inquiries should be directed to Rocky Flats NWR Comprehensive Conservation Plan, Attn: Laurie Shannon, Planning Team Leader, Rocky Mountain Arsenal NWR, Building 111, Commerce City, Colorado 80022. Comments also may be mailed electronically to *rockyflats@fws.gov.* The Draft and Final CCP, Draft and Final EIS, Record of Decision, and final rule will be available for viewing and downloading at *http://rockyflats.fws.gov/.*

FOR FURTHER INFORMATION CONTACT: Laurie Shannon, Planning Team Leader (see address above) at (303) 289–0980, or Fax (303) 289–0579.

SUPPLEMENTARY INFORMATION: The Service has initiated Comprehensive Conservation Planning for the future Rocky Flats NWR in Jefferson County, Colorado. Each national wildlife refuge

has specific purposes for which it was established and for which legislation was enacted. Those purposes are used to develop and prioritize management goals and objectives within the National Wildlife Refuge System mission and to guide those public uses proposed for the Refuge. The planning process is a way for the Service and the public to evaluate management goals and objectives for the best possible conservation of this important wildlife habitat, while providing for wildlife-dependent recreation opportunities that are compatible with each Refuge's establishing purposes and the mission of the National Wildlife Refuge System. The Rocky Flats National Wildlife Refuge Act of 2001 mandates that the refuge will be managed for the purposes of: (1) Restoring and preserving native ecosystems; (2) providing habitat for, and population management of, native plants and migratory and resident wildlife; (3) conserving threatened and endangered and candidate species under the Endangered Species Act of 1973; and 4) providing opportunities for compatible scientific research.

The Federal Government acquired 2,519 acres of the 6,300-acre Rocky Flats site in 1951 for use as a nuclear weapons production facility. The remaining acreage was acquired in 1974–1976. In 1992, the mission of the Rocky Flats site changed to site cleanup and closure in a manner that is safe, environmentally and socially responsible, physically secure, and cost-effective. The majority of the site has generally remained undisturbed since its acquisition, and provides habitat for many wildlife species, including a resident, federal-listed threatened species. Within the site is a rare xeric tallgrass prairie plant community. Establishing the site as a unit of the National Wildlife Refuge System will promote the preservation and enhancement of its natural resources for present and future generations.

By Federal law, all lands within the National Wildlife Refuge System are to be managed in accordance with an approved CCP. A CCP describes the desired future conditions of the refuge and provides long-range guidance and management direction to accomplish the purposes of the refuge, contribute to the mission of the National Wildlife Refuge System, and meet other relevant mandates. The planning process will consider many elements including habitat and wildlife management, wildlife-dependent recreation opportunities, environmental education, and other wildlife-dependent uses. Public input into this process is essential. The Service is requesting input for issues, concerns, ideas, and suggestions for the future management of Rocky Flats NWR. Anyone interested in providing input is invited to respond to the following three questions:

(1) What makes the Rocky Flats NWR special or unique to you?

(2) What problems or issues do you want to see addressed in the CCP?

(3) What are your recommendations for future management of Rocky Flats NWR?

The above questions were designed to stimulate thinking about Rocky Flats and its future management. The Service invites any relevant comments or ideas and does not require that participants provide any specific information. Comments received by the planning team will be used as part of the planning process.

An opportunity will be given to the public to provide input at public meeting to scope issues and concerns. These public scoping meetings will be held in nearby communities in September 2002. The meetings will take place in facilities meeting accessibility requirements outlined in the Americans with Disabilities Act. Citizens with disabilities that may require accommodation to participate in or to understand the meeting, should contact Laurie Shannon, Refuge Planner, U.S. Fish & Wildlife Service at (303) 289–0980 at least one week in advance so arrangements for accommodations can be made. Comments also may be submitted anytime during the planning process by writing to the above addresses.

The environmental review of this project will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), NEPA Regulations (40 CFR 1500–1508), and other appropriate Federal laws and regulations, and Service policies and procedures for compliance with those regulations. All comments received from individuals on Service EISs become part of the official public record. Requests for such comments will be handled in accordance with the Freedom of Information Act, NEPA (40 CFR 1506.6(f)), and other Departmental and Service policy and procedures. When requested, the Service generally will provide comment letters with the names and addresses of the individuals who wrote the comments. However, the telephone number of the commenting individual will not be provided in response to such requests to the extent permissible by law. Additionally, public comment letters are not required to contain the commenter's name, address, or any other identifying information.

Dated: July 31, 2002.

John A. Blankenship,

Acting Regional Director, Region 6, Denver, Colorado.

[FR Doc. 02–21505 Filed 8–22–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Geological Survey

Technology Transfer Act of 1986

AGENCY: U.S. Geological Survey.

ACTION: Notice of proposed Cooperative Research & Development Agreement (CRADA) negotiations.

SUMMARY: The United States Geological Survey (USGS) is contemplating entering into a Cooperative Research and Development Agreement (CRADA) with the American Geological Institute to develop and distribute USGS GIS database information in a variety of educational mediums.

INQUIRIES: If any other parties are interested in similar activites with the USGS, please contact Beth Duff, Business Development Office, 12201 Sunrise Valley Drive, MS 500, Reston, Virginia, 20192, phone: (703) 648–4621.

SUPPLEMENTARY INFORMATION: This notice is submitted to meet the USGS policy requirements stipulated in Survey Manual Chapter 500.20.

Dated: August 8, 2002.

Robert A. Lidwin,

Acting Associate Director for Geography.

[FR Doc. 02–21516 Filed 8–22–02; 8:45 am]

BILLING CODE 4310–Y7–M

DEPARTMENT OF THE INTERIOR

Geological Survey

Technology Transfer Act of 1986

AGENCY: U.S. Geological Survey.

ACTION: Notice of proposed Cooperative Research & Development Agreement (CRADA) negotiations.

SUMMARY: The United States Geological Survey (USGS) is contemplating entering into a Cooperative Research and Development Agreement (CRADA) with Pixxures, Inc. to develop spatial data Internet deployment technologies which allow Internet publication of aerial imagery.

INQUIRIES: If any other parties are interested in similar activities with the USGS, please contact Beth Duff, Business Development Office, 12201 Sunrise Valley Drive, MS 500, Reston, Virginia 20192, phone: (703) 648–4621.

SUPPLEMENTARY INFORMATION: This notice is submitted to meet the USGS policy requirements stipulated in Survey Manual Chapter 500.20.

Dated: August 8, 2002.

Robert A. Lidwin,

Acting Associate Director for Geography.

[FR Doc. 02–21515 Filed 8–22–02; 8:45 am]

BILLING CODE 4310–Y7–M

DEPARTMENT OF THE INTERIOR

Geological Survey

National Cooperative Geologic Mapping Program (NCGMP) Advisory Committee

AGENCY: Geological Survey, Interior.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Public Law 108–148, the NCGMP Advisory Committee will meet in Room 7000 A of the Main Interior Building, 1849 C Street, NW., Washington, DC. The Advisory Committee, composed of scientists from Federal Agencies, State Agencies, academic institutions, and private companies, will advise the Director of the U.S. Geological Survey on planning and implementation of the geologic mapping program. Topics to be reviewed and discussed by the Advisory Committee include the:

- Progress of the NCGMP towards fulfilling the purposes of the National Geologic Mapping Act of 1992.
- Updates on the Federal, State, and educational components of the NCGMP
- Strategic Goals

DATES: September 17–18, commencing at 9 a.m. on September 17th and adjourning by 5 p.m. on September 18th.

FOR FURTHER INFORMATION CONTACT: Peter T. Lyttle, U.S. Geological Survey, 908 National Center, Reston, Virginia 20192, (703) 648–6943.

SUPPLEMENTARY INFORMATION: Meetings of the National Cooperative Geologic Mapping Program Advisory Committee are open to the Public.

P. Patrick Leahy,

Associate Director for Geology, U.S. Geological Survey.

[FR Doc. 02–21514 Filed 8–22–02; 8:45 am]

BILLING CODE 4310–Y7–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–610–01–1610–DQ]

Notice of Availability of the Northern and Eastern Mojave Desert Proposed Plan, an Amendment to the California Desert Conservation Area Plan, and Final Environmental Impact Statement

AGENCY: Bureau of Land Management, Department of the Interior, California Desert District, Riverside, California.

ACTION: Notice of Availability of the Proposed Plan and associated Final Environmental Impact Statement (FEIS) for the Northern and Eastern Mojave Desert planning area (NEMO), an amendment to the Bureau of Land Management California Desert Conservation Area Plan.

SUMMARY: NEMO amends the California Desert Conservation Area (CDCA) Plan for a 3.3 million acre area in the northeastern portion of the CDCA, and provides for conservation and recovery of T & E species, reduces the need for further species listings and streamlines the processing of land-use permits. NEMO includes goals, objectives, management prescriptions and monitoring in accordance with the Federal Lands Policy and Management Act of 1976 (FLPMA) for comprehensive, strategic, management of the desert landscapes, including a programmatic biological opinion for the desert tortoise, strategies for the Amargosa watershed which include multiple listed species and sensitive bat habitat. The FEIS evaluates the Proposed Plan Amendments and alternatives, includes public comments on the Draft EIS and provides responses to those comments.

DATES: Written protests on the Final EIS will be accepted if received within 30 calendar days from the date that a Notice of Availability is published in the **Federal Register** by the Environmental Protection Agency. Instructions for filing protests are contained in the NEMO document Cover Sheet, just inside the front cover, and are included below the Supplemental Information.

ADDRESSES: Copies of the NEMO Proposed Plan/FEIS are being mailed to those who received the Draft EIS or provided comments on the Draft EIS. The document is available for review online at *http://www.ca.blm.gov/cdd/nemo.html.* Reading copies are also available at most local libraries and the following BLM offices:

BLM, 6221 Box Springs Blvd., Riverside, CA 92507; (909) 697–5200
BLM, 2601 Barstow Road, Barstow, CA 92311; (760) 252–6000
BLM, 101 West Spikes Road, Needles, CA 92363; (760) 326–7000
BLM, 300 South Richmond Road, Ridgecrest, CA 93555; (760) 384–5400
BLM, 690 Garnet, North Palm Springs, CA 92258; (760) 251–4800
BLM, 1661 South 4th Street, El Centro, CA 92243; (760) 337–4400

FOR FURTHER INFORMATION CONTACT: Edythe Seehafer, Barstow Field Office, 2601 Barstow Road, Barstow, California 92311; Telephone (760) 252–6021.

BACKGROUND INFORMATION: Development of the plan began in 1994, with scoping meetings held in conjunction with the National Park Service (NPS). NPS is conducting concurrent planning efforts on adjacent lands. The NEMO Planning Area covers 3.3 million acres of land in the southeastern California Desert of which 2.7 million acres are public lands. This document describes and analyzes a number of alternatives for managing species and habitats on public lands administered by the BLM. Issues identified during public scoping included (1) recovery of threatened and endangered species, including the desert tortoise, the Amargosa vole, the Amargosa niterwort, the Ash Meadows Gumplant and spring-loving Centaury; (2) maintenance of public access through the NEMO planning area which includes sensitive areas, is surrounded by two national park units and two large military bases, and includes all or parts of twenty-four wilderness and eight wilderness study areas; (3) addressing impacts to other land uses; and (4) protection of County tax base.

SUPPLEMENTARY INFORMATION: The Environmental Protection Agency published the Notice of Availability of the NEMO DEIS in the **Federal Register** on April 13, 2001. The public review period on the DEIS began April 13, 2001 and ended November 1, 2001.

Following are the instructions from the *Code of Federal Regulations 1610.5–2* for filing protests. (a) Any person who participates in the planning process and has an interest which is or may be adversely affected by the approval or amendment of a resource management plan may protest such approval or amendment. A protest may raise only those issues which were submitted for the record during the planning process.

(1) The protest shall be in writing and shall be filed with the Director. The protest shall be filed within 30 days of the date the Environmental Protection Agency published the notice of receipt of the final environmental impact statement containing the plan or amendment in the **Federal Register**. For

an amendment not requiring the preparation of an environmental impact statement, the protest shall be filed within 30 days of the publication of the notice of its effective date.

(2) The protest shall contain:

(i) The name, mailing address, telephone number and interest of the person filing the protest;

(ii) A statement of the issue or issues being protested;

(iii) A statement of the part or parts of the plan or amendment being protested;

(iv) A copy of all documents addressing the issue or issues that were submitted during the planning process by the protesting party or an indication of the date the issue or issues were discussed for the record; and

(v) A concise statement explaining why the State Director's decision is believed to be wrong.

(3) The Director shall promptly render a decision on the protest. The decision shall be in writing and shall set forth the reasons for the decision. The decision shall be sent to the protesting party by certified mail, return receipt requested.

(b) The decision of the Director shall be the final decision for the Department of the Interior.

Mailing address for filing a protest:

Regular mail: U.S. Department of the Interior, Director, Bureau of Land Management, Protest Coordinator (WO–210), 1849 ''C'' Street, NW., Washington, DC 20240

Overnight mail: U.S. Department of the Interior, Director, Bureau of Land Mgt, Protest Coordinator (WO–210), 1620 ''L'' Street, NW., Rm 1075, Washington, DC 20036

Bruce Shaffer,

Acting District Manager.

[FR Doc. 02–21248 Filed 8–22–02; 8:45 am]

BILLING CODE 4310–40–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–014–01–1610–PG; GP 2–0355]

Klamath Provincial Advisory Committee, Meeting Notice

AGENCY: Bureau of Land Management, Klamath Falls Resource Area.

ACTION: Meeting notice for the Klamath Provincial Advisory Committee.

SUMMARY: The Klamath Provincial Advisory Committee will meet at the North State Blood Center, 1876 Park Marina Drive, Redding, CA 96001 on Thursday, September 12, 2002 from 9:30 a.m. to 4 p.m. Suggested topics include:

- Effectiveness Monitoring,
- Restoration efforts in the basin, and
- PAC membership.

Information to be distributed to the committee members is requested ten (10) days prior to the start of the meeting.

The entire meeting is open to the public. Opportunities for public comment are scheduled for 11:30 a.m. to 12 noon and 3 to 3:30 p.m.

FOR FURTHER INFORMATION CONTACT: Additional information concerning the Klamath Provincial Advisory Committee may be obtained from Teresa Raml, Field Manager, Klamath Falls Resource Area, 2795 Anderson Ave., Building 25, Klamath Falls, OR 97603, Phone Number 541–883–6916, FAX 541–884–2097, or e-mail *traml@or.blm.gov.*

Dated: August 12, 2002.

Donald K. Hoffheins,

Acting Field Manager, Klamath Falls Resource Area.

[FR Doc. 02–21517 Filed 8–22–02; 8:45 am]

BILLING CODE 4310–33–M

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[INT–FES–02–24]

Angostura Unit, Pick-Sloan Missouri River Basin Project, South Dakota

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of availability for final environmental impact statement (FEIS).

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, the Department of the Interior, Bureau of Reclamation, has completed an FEIS on the proposed renewal of a long-term water service contract for irrigation water from the Angostura Unit, Cheyenne River Basin, South Dakota. The FEIS describes four alternatives, including no action, and evaluates the environmental consequences of each of these alternatives. Reclamation's preferred alternative is the Improved Efficiencies alternative.

DATES: The DEIS was issued on January 18, 2001. Responses to comments received from agencies, interested organizations, and individuals on the DEIS are addressed in the FEIS. No decision will be made on the proposed action until 30 days following the release of the FEIS. Following the 30-day waiting period, Reclamation will complete and sign a Record of Decision (ROD). The ROD will describe the action to be implemented and will discuss factors contributing to that decision.

ADDRESSES: Printed copies of a Summary of the FEIS or the entire FEIS (with appendices) may be obtained from Kenneth Parr, Dakotas Area Office, Rapid City Field Office, 515 9th Street, Room 101, Rapid City, SD 57701 or by telephone at (605) 394–9757 x3004 or by e-mail at *kparr@gp.usbr.gov.* Copies are also available for public inspection and review on the Internet at ''*http://www.gp.usbr.gov*'' in the ''Current Activities'' section under ''Environmental Activities'', and at the locations listed in the Supplementary Information section at the end of this notice.

FOR FURTHER INFORMATION CONTACT: Kenneth Parr, Dakotas Area Office, Rapid City Field Office, 515 9th Street, Room 101, Rapid City, SD 57701 or by telephone at (605) 394–9757 x3004 or e-mail *kparr@gp.usbr.gov.*

SUPPLEMENTARY INFORMATION: The FEIS considers the effects of renewing a long-term water service contract with the Angostura Irrigation District. The authority for contract renewal is found in the Act of July 2, 1956, 70 Stat. 483, and the Act of June 21, 1963, 77 Stat. 68, which requires the Secretary of the Department of the Interior to renew long-term water service contracts upon request.

The Angostura Unit has been providing supplemental irrigation water to the irrigation district since 1953. The original long-term water service contract had a term of 40 years and expired in 1996. In order to continue the rights and obligations of the original contracts during the contract renewal process, the Angostura Irrigation District has been operating under a temporary contract.

The FEIS describes four alternatives, including no action, reestablishment of natural flows below the dam, improved efficiencies, and reservoir recreation and fisheries alternatives, and evaluates the environmental consequences of each of the alternatives. The FEIS considered the following issues: surface water quantity, surface water quality, groundwater, sediment, stream corridor, wetlands, fisheries, wildlife, threatened and endangered species, social and economic conditions, Indian trust assets, environmental justice, cultural resources, paleontological resources, and cumulative impacts.

The Improved Efficiencies Alternative is Reclamation's preferred alternative and is designed to continue delivery of irrigation water to the irrigation district while improving the efficiency of the water delivery system and on-farm efficiencies. A public process will be undertaken to establish uses for the water saved through facility and on-

farm efficiencies, and could include recreation, fisheries, downstream flows, irrigation or other uses. There are no significant environmental, socioeconomic, or agricultural impacts associated with the Improved Efficiencies Alternative when compared to the No Action Alternative. The long-term water service contract with the Angostura Irrigation District will have a term of 25 years beginning on January 1, 2003.

Locations for Inspection and Review of the FEIS

- Bureau of Reclamation, Dakotas Area Office, Rapid City Field Office, 515 9th Street, Room 101, Rapid City, SD 57701—telephone (605) 394–9757 x3004.
- Bureau of Reclamation, Dakotas Area Office, 304 East Broadway, Bismarck, ND 58502—telephone (701) 250–4242.
- Bureau of Reclamation, Great Plains Regional Office, 316 North 26th Street, Billings, MT 59101—telephone (406) 247–7720.
- Bureau of Reclamation, Reclamation Service Center Library, Building 67, Room 167, Denver Federal Center, Sixth and Kipling, Denver, CO 80225—telephone (303) 445–2072.
- Bureau of Reclamation, Program Analysis Office, Room 7456, 1849 C Street NW, Washington, DC 20240—telephone (202) 208–4662.
- Angostura Irrigation District, Main Street, Oral, SD 57766.

Libraries

- South Dakota State Library, Mercedes MacKay Building, 800 Governors Drive, Pierre, SD 57501–2294.
- Rapid City Public Library, 610 Quincy Street, Rapid City, SD 57701–3655.
- Hot Springs Library, 1543 Baltimore Avenue, Hot Springs, SD 57747.
- Custer County Library, 447 Crook #4, Custer, SD 57730.
- Oglala Lakota College, 3 Mile Creek, Piya Wiconi Road, Kyle, SD 57752.
- Cheyenne River Community College, Main Street, Box 212, Eagle Butte, SD 57625.
- Lower Brule Tribal Library, Lower Brule Sioux Tribe, Lower Brule, SD 57548.
- Pine Ridge Library, Main St., Box 439, Pine Ridge, SD 57770.

Dated: July 23, 2002.

Maryanne C. Bach,

Regional Director.

[FR Doc. 02–21511 Filed 8–22–02; 8:45 am]

BILLING CODE 4310–MN–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–478]

Certain Ground Fault Circuit Interrupters and Products Containing Same; Notice of Investigation

AGENCY: International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on July 23, 2002, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Leviton Manufacturing Co., Inc. of Little Neck, New York. A letter supplementing the complaint was filed on August 14, 2002. The complaint as supplemented alleges violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain ground fault circuit interrupters (''GFCIs'') and products containing same by reason of infringement of claims 1–4 of U.S. Letters Patent 4,595,894.

The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337. The complainant requests that the Commission institute an investigation and, after the investigation, issue a permanent general exclusion order and a permanent cease and desist order.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Room 112, Washington, DC 20436, telephone 202–205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at *http://dockets.usitc.gov/eol/public.*

FOR FURTHER INFORMATION CONTACT: David H. Hollander, Jr., Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202–205–2746.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in §210.10 of the Commission's rules of practice and procedure, 19 CFR 210.10 (2002).

Scope of Investigation

Having considered the complaint, the U.S. International Trade Commission, on August 19, 2002, *Ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation, of certain ground fault circuit interrupters or products containing same by reason of infringement of claim 1, 2, 3, or 4 of U.S. Letters Patent 4,595,894, and whether an industry in the United States exists as required by subsection (a)(2) of section 337.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—Leviton Manufacturing Co., Inc., 59–25 Little Neck Parkway, Little Neck, NY 11362.

(b) The respondents are the following companies alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Yueqing Huameili Electronic Co., Ltd., d/b/a HML, Yueqing Huameili Electronic Co., Ltd., No. 2 Tongxing Road, Songhu Industrial Zone, Yueqing, China P.C. 325600.

Jiamei Electrical Engineering Co., Ltd., Xuezhai Liushi Town, Yueqing Zhejiang, China 325604.

Sammax International Ltd., Room 2411–12, Shui On Centre, 6–8 Harbour Road, Hong Kong, Hong Kong.

Van-Sheen Electric Appliance Co., Ltd., d/b/a Yatai Switch Factory, 43 Gongyuan Road, Baixiang, Yueqing Zhejiang, China.

(c) David H. Hollander, Jr., *Esq.*, Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Suite 401, Washington, DC 20436, who shall be the Commission investigative attorney, party to this investigation; and

(3) For the investigation so instituted, the Honorable Sidney Harris is designated as the presiding administrative law judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with §210.13 of the

Commission's rules of practice and procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d) and 210.13(a), such responses will be considered by the Commission if received no later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and to authorize the administrative law judge and the Commission, without further notice to that respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or a cease and desist order or both directed against that respondent.

By order of the Commission.
Issued: August 20, 2002.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 02–21584 Filed 8–22–02; 8:45 am]

BILLING CODE 7020–02–P

JUDICIAL CONFERENCE OF THE UNITED STATES

Hearings of the Judicial Conference Advisory Committees on Rules of Bankruptcy and Criminal Procedure, and the Rules of Evidence

AGENCY: Judicial Conference of the United States, Advisory Committees on Rules of Bankruptcy and Criminal Procedure, and the Rules of Evidence.

ACTION: Notice of proposed amendments and open hearings.

SUMMARY: The Advisory Committees on Rules of Bankruptcy and Criminal Procedure, and the Rules of Evidence have proposed amendments to the following rules:

Bankruptcy Rule: 9014.

Criminal Rules: 41; Rules Governing § 2254 Cases and § 2255. Proceedings and accompanying forms.

Rules Governing § 2254 Cases: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11.

Rules Governing § 2255 Proceedings: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12.

Evidence Rule: 804.

The Judicial Conference Committee on Rules of Practice and Procedure submits these rules for public comment. All comments and suggestions with respect to them must be placed in the hands of the Secretary as soon as convenient and, in any event, not later than February 15, 2003. All written comments on the proposed rule amendments can be sent by one of the following three ways: By overnight mail to Peter G. McCabe, Secretary, Committee on Rules of Practice and Procedure of the Judicial Conference of the United States, Thurgood Marshall Federal Judiciary Building, Washington, DC 20002; by electronic mail via the Internet at *http://www.uscourts.gov/rules*; or by facsimile to Peter G. McCabe at (202) 502–1755. In accordance with established procedures all comments submitted on the proposed amendments are available to public inspection.

Public hearings are scheduled to be held on the amendments to:

- Bankruptcy Rules in Washington, DC, on January 24, 2003;
- Criminal Rules and Rules Governing § 2254 Cases and § 2255 Proceedings in Atlanta, Georgia, on January 31, 2003; and
- Evidence Rules in Washington, DC, on January 27, 2003.

Those wishing to testify should contact the Secretary at the address above in writing at least 30 days before the hearing.

The text of the proposed rule amendments and the accompanying Committee Notes can be found at the United States Federal Courts' Home Page at *http://www.uscourts.gov/rules* on the Internet.

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: August 19, 2002.

John K. Rabiej,

Chief, Rules Committee Support Office.

[FR Doc. 02–21533 Filed 8–22–02; 8:45 am]

BILLING CODE 2210–55–M

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Columbia Broadcasting System, Inc., and Viacom International, Inc., Case No. 72–820–RJK (C.D. Cal.)

Notice is hereby given that Viacom International, Inc. (''Viacom''), has moved to terminate the Final Judgment entered against it by the United States District Court for the Central District of California on January 17, 1973. In a stipulation also filed with the Court, the United States has tentatively agreed not to oppose the motion, but as a matter of policy will not finally consent to the termination of any judgment without providing public notice and an opportunity for public comments to be received and considered.

On April 14, 1972, the United States filed separate actions against CBS, NBC and ABC, the companies that operated the three then-existing national television networks (the ''Network Cases''). The Network Cases charged the three networks with restraint of trade, monopolization and attempted monopolization of the market for prime time entertainment programming in violation of Sections 1 and 2 of the Sherman Act.

The syndication operations of CBS had been spun off from CBS to Viacom in 1971 in order to comply with a 1970 FCC rule. Viacom was named as an additional defendant in the action against CBS to insure that any relief obtained against CBS would be effective. The Final Judgment prohibited any Viacom director or officer from also being a director or officer of a broadcast television network, and from owning or controlling more than one percent of the stock of any such network.

Between 1977 and 1980, each of the three networks entered into settlements with the United States (the ''Network Decrees''). Among other things, the Network Decrees: (1) Prohibited the three networks from acquiring certain financial interests or proprietary rights in television programs produced by others; (2) limited the amount of programming that each network could produce for its own use; and (3) prohibited the networks from engaging in the domestic syndication of television programs. Following significant changes in the marketplace and the erosion of broadcast television's share of the overall television market, the Network Decrees were modified by the Court in 1993 and have ceased to be operable.

Viacom has filed with the Court a memorandum setting forth the reasons it believes that termination of the Final Judgment would serve the public interest. Copies of Viacom's motion and supporting memorandum, the stipulation containing the United States' tentative consent, and all further papers filed with the Court in connection with the motion will be available for inspection at the Antitrust Documents Group of the Antitrust Division, 325 7th Street, NW., Room 215 North, Liberty Place Building, Washington, DC 20530, and at the Office of the Clerk of the United States District Court for the Central District of California. Copies of these materials may be obtained from

the Antitrust Division upon request and payment of the copying fee set by the Department of Justice regulations.

Interested persons may submit comments to the United States regarding the proposed termination of the Final Judgment. Such comments must be received by the Antitrust Division within sixty (60) days and will be filed with the Court. Comments should be addressed to J. Robert Kramer, II, Chief, Litigation II Section, Antitrust Division, U.S. Department of Justice, 1401 H Street, NW., Suite 300, Washington, DC 20530.

Constance K. Robinson,

Director of Operations.

[FR Doc. 02–21492 Filed 8–22–02; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[INS No. 2227–02]

Immigration and Naturalization Service: Meeting of the Data Management Improvement Act of 2000 Task Force

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice of meeting.

Committee meeting: Immigration and Naturalization Service, (INS) Data Management Improvement Act of 2000 (DMIA) Task Force.

Date and Time: Thursday, September 19, 2002, from 9 a.m. to 5 p.m.

Place: Immigration and Naturalization Service Headquarters, 425 I Street, NW., Washington DC 20536, Shaughnessy Conference Room, Sixth Floor.

Status: Closed meeting. The Data Management Improvement Act Task Force will meet on Thursday, September 19, 2002, from 9 a.m. to 5 p.m. Since the potential release of information that will be discussed at this meeting could seriously compromise the security and integrity of existing data collection systems as well as the proposed new entry/exit system and integration, the Immigration and Naturalization Service has determined that the meeting will be closed to the public (Section 10(d) of the Federal Advisory Committee Act (FACA)). The information discussed at this meeting is protected from disclosure under the Government in the Sunshine Act, 5 U.S.C. 552b(c)(9)(B). In accordance with the provisions of the Federal Advisory Committee Act, minutes of the meeting will be kept for agency and congressional review.

Purpose: The DMIA Task Force currently is focusing on the development of recommendations directly related to design and development of an integrated, automated entry and exit system. The Task Force will be discussing in detail, issues related to United States national security, border security and existing and proposed information technology systems. The discussion will include recommendations on data collection and use and concept of operations documents on entry/exit system development.

Public comment: The meeting is closed to the public, however the Task Force will accept written comments from the public for discussion. Only written comments received on or before September 13, 2002, will be considered for discussion at the meeting. Written comments may be faxed or e-mailed to the contact person listed below.

Contact person: Michael Defensor or Deborah Hemmes, Immigration and Naturalization Service, 425 I Street, NW., Room 7257, Washington, DC 20536; telephone (202) 305–9863; fax: (202) 305–9871; e-mail: *michael.defensor@usdoj.gov* or *deborah.hemmes@usdoj.gov*.

Dated: August 2, 2002.

James W. Ziglar,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 02–21484 Filed 8–22–02; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Emergency Review; Comment Request

August 20, 2002.

The Department of Labor (DOL) has submitted the following public information collection request (ICR), utilizing emergency review procedures, 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). OMB approval has been requested by September 6, 2002. A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Marlene Howze at (202) 693–4158 or e-mail *Howze-Marlene@dol.gov.*

Comments and questions about the ICR listed below should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Bureau of Labor Statistics, Office of Management and Budget, Room 10235, Washington, DC 20503, and within five (5) days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected;
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Bureau of Labor Statistics (BLS).

Title: CPS Volunteer Supplement.

OMB Number: 1220–0NEW.

Affected Public: Individuals or households.

Frequency: On Occasion.

Number of Respondents: 58,000.

Number of Annual Responses: 116,000.

Total Burden Hours: 5,800.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: The Volunteer Supplement will provide information on the total number of individuals in the United States involved in unpaid volunteer activities, factors that motivate volunteerism, measures of the frequency or intensity with which individuals volunteer, types of organizations that facilitate volunteerism, and activities in which volunteers participate. In his January 2002 State of the Union address to the nation, President Bush called for all Americans to devote 4,000 hours of volunteer service during their lifetimes. The BLS is undertaking this project at the request of the USA Freedom Corps that seeks to promote a culture of responsibility, service, and citizenship. The Volunteer Supplement will provide the ability to accurately and reliably

measure the current level of volunteer activities in the U.S.

Ira L. Mills,

DOL Clearance Officer.

[FR Doc. 02–21629 Filed 8–22–02; 8:45 am]

BILLING CODE 4510–23–M

DEPARTMENT OF LABOR

Employment Standards Administration Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and area based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S–3014, Washington, DC 20210.

Modification to General Wage Determination Decisions

The number of the decisions listed to the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

New York
NY020013 (Mar. 1, 2002)

Volume II

District of Columbia
DC020001 (Mar. 1, 2002)
DC020003 (Mar. 1, 2002)

Volume III

Georgia
GA020003 (Mar. 1, 2002)
GA020006 (Mar. 1, 2002)
GA020022 (Mar. 1, 2002)
GA020032 (Mar. 1, 2002)
GA020040 (Mar. 1, 2002)
GA020041 (Mar. 1, 2002)
GA020050 (Mar. 1, 2002)
GA020053 (Mar. 1, 2002)
GA020055 (Mar. 1, 2002)
GA020073 (Mar. 1, 2002)
GA020084 (Mar. 1, 2002)
GA020085 (Mar. 1, 2002)
GA020086 (Mar. 1, 2002)
GA020087 (Mar. 1, 2002)
GA020088 (Mar. 1, 2002)

Volume IV

Michigan
MI020026 (Mar. 1, 2002)
MI020027 (Mar. 1, 2002)
MI020031 (Mar. 1, 2002)
MI020034 (Mar. 1, 2002)
MI020035 (Mar. 1, 2002)
MI020039 (Mar. 1, 2002)
MI020040 (Mar. 1, 2002)
MI020041 (Mar. 1, 2002)
MI020042 (Mar. 1, 2002)
MI020046 (Mar. 1, 2002)
MI020049 (Mar. 1, 2002)
MI020050 (Mar. 1, 2002)

Volume V

Iowa
IA020031 (Mar. 1, 2002)

Volume VI

Idaho
ID020001 (Mar. 1, 2002)
ID020002 (Mar. 1, 2002)
ID020003 (Mar. 1, 2002)

Oregon
OR020001 (Mar. 1, 2002)
OR020017 (Mar. 1, 2002)

Volume VII

California
CA020001 (Mar. 1, 2002)
CA020002 (Mar. 1, 2002)
CA020004 (Mar. 1, 2002)
CA020009 (Mar. 1, 2002)
CA020013 (Mar. 1, 2002)
CA020019 (Mar. 1, 2002)
CA020023 (Mar. 1, 2002)
CA020025 (Mar. 1, 2002)
CA020028 (Mar. 1, 2002)
CA020029 (Mar. 1, 2002)
CA020030 (Mar. 1, 2002)
CA020031 (Mar. 1, 2002)
CA020032 (Mar. 1, 2002)
CA020033 (Mar. 1, 2002)
CA020035 (Mar. 1, 2002)
CA020036 (Mar. 1, 2002)
CA020037 (Mar. 1, 2002)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under the Davis-Bacon And Related Acts''. This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

General wage determinations issued under the Davis-Bacon and related Acts

are available electronically at no cost on the Government Printing Office site at *http://www.access.gpo.gov/davisbacon.* They are also available electronically by subscription to the Davis-Bacon Online Service *http://davisbacon.fedworld.gov* of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068. This subscription offers value-added features such as electronic delivery of modified wage decisions directly to the user's desktop, the ability to access prior wage decisions issued during the year, extensive Help desk Support, etc.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate Volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC this 15th day of August, 2002.

Terry Sullivan,

Acting Chief, Branch of Construction Wage Determinations.

[FR Doc. 02–21261 Filed 8–22–02; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification

The following parties have filed petitions to modify the application of existing safety standards under section 101(c) of the Federal Mine Safety and Health Act of 1977.

1. Buck Mountain Coal Company

[Docket No. M–2002–062–C]

Buck Mountain Coal Company, PO Box 6, Tremont, Pennsylvania 17981 has filed a petition to modify the application of 30 CFR 75.1002–1 (Location of other electric equipment; requirements for permissibility) to its Buck Mountain Slope Mine (I.D. No. 36–01962) located in Schuylkill County, Pennsylvania. The petitioner requests a modification of the existing standard to permit the use of non-permissible electric equipment within 150 feet of the pillar line. The petitioner states that the non-permissible equipment would include drags and battery locomotives due in part to the method of mining used in pitching anthracite mines and the alternative evaluation of the mine air quality for methane on an hourly basis during operation. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

2. Buck Mountain Coal Company

[Docket No. M–2002–063–C]

Buck Mountain Coal Company, PO Box 6, Tremont, Pennsylvania 17981 has filed a petition to modify the application of 30 CFR 75.1100–2(a) (Quantity and location of firefighting equipment) to its Buck Mountain Slope Mine (I.D. No. 36–01962) located in Schuylkill County, Pennsylvania. The petitioner requests a modification of the standard to permit use of only portable fire extinguishers to replace existing requirements where rock dust, water cars, and other water storage equipped with three (3) ten quart pails is not practical. The petitioner proposes to use two (2) fire extinguishers near the slope bottom and an additional portable fire extinguisher within 500 feet of the working face for equivalent fire protection for the Buck Mountain Slope Mine. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

3. Buck Mountain Coal Company

[Docket No. M–2002–064–C]

Buck Mountain Coal Company, PO Box 6, Tremont, Pennsylvania 17981 has filed a petition to modify the application of 30 CFR 75.1200 (d) & (i) (Mine map) to its Buck Mountain Slope Mine (I.D. No. 36–01962) located in Schuylkill County, Pennsylvania. The petitioner proposes to use cross-sections instead of contour lines through the intake slope, at locations of rock tunnel connections between veins, and at 1,000 foot intervals of advance from the intake slope; and to limit the required mapping of the mine workings above and below to those present within 100 feet of the vein being mined except when veins are interconnected to other veins beyond the 100-foot limit through rock tunnels. The petitioner asserts that due to the steep pitch encountered in mining anthracite coal veins, contours provide no useful information and their presence would make portions of the map illegible. The petitioner further asserts that use of cross-sections in lieu of contour lines has been practiced since the late 1800's thereby providing critical information relative to the spacing between veins and proximity to other mine workings which fluctuate considerably. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

4. Buck Mountain Coal Company

[Docket No. M–2002–065–C]

Buck Mountain Coal Company, PO Box 6, Tremont, Pennsylvania 17981 has filed a petition to modify the application of 30 CFR 75.1202 and 75.1202–1(a) (Temporary notations, revisions, and supplements) to its Buck Mountain Slope Mine (I.D. No. 36–01962) located in Schuylkill County, Pennsylvania. The petitioner proposes to revise and supplement mine maps annually instead of every 6 months as required, and to update maps daily by hand notations. The petitioner also proposes to conduct surveys prior to commencing retreat mining and whenever either a drilling program under 30 CFR 75.388 or plan for mining into inaccessible areas under 30 CFR 75.389 is required. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

5. Energy West Mining Company

[Docket No. M–2002–066–C]

Energy West Mining Company, PO 310, Huntington, Utah 84528 has filed a petition to modify the application of 30 CFR 75.500(d) (Permissible electric equipment) to its Deer Creek Mine (I.D. No. 42–00121) located in Emery County, Utah. The petitioner proposes to use the following non-permissible equipment inby the last open crosscut: low-voltage or battery powered electronic testing and diagnostic equipment such as lap top computers, oscilloscopes, vibration analysis machines, cable fault detectors, point temperature probes, recording amp meters, thermal image devices, infrared temperature devices and recorders, pressure and flow measurement devices, signal analyzer devices, ultrasonic thickness gauges, electronic component testers, and electronic tachometers; low-voltage or battery powered equipment such as electric and/or battery operated drills and grinders; and other testing and diagnostic equipment if approved by the District Office. The petitioner states that equipment used in or inby the last open crosscut shall be examined by a qualified person on a weekly basis, and new equipment would be examined prior to use. The petitioner has listed in this petition specific procedures that would be followed when using this

equipment. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

6. Border Mining, Inc.

[Docket No. M–2002–067-C]

Border Mining, Inc., 7617 Upper Johns Creek Road, Phelps, Kentucky 41553 has filed a petition to modify the application of 30 CFR 75.503 (Permissible electric face equipment; maintenance) and 30 CFR 18.41(f) (Plug and receptacle-type connectors) to its No. 2 Mine (I.D. No. 15–17110) located in Knott County, Kentucky. The petitioner proposes to use permanently installed, spring-loaded locking devices to prevent battery plugs from unintentionally loosening from battery receptacles to eliminate the hazards associated with difficult removal of padlocks during emergency situations. The petitioner asserts that application of the existing standard would result in a diminution of safety to the miners, and that the proposed alternative method would provide at least the same measure of protection as the existing standard.

7. R & T Coal Company, Inc.

[Docket No. M–2002–068–C]

R & T Coal Company, Inc., 405 KY HWY 1092, Sitka, Kentucky 41255 has filed a petition to modify the application of 30 CFR 75.800 (High-voltage circuits; circuits breakers) to its Mine No. 1 (I.D. No. 15–18523) located in Morgan County, Kentucky. The petitioner proposes to use a Jennings RP–170–2300 high-voltage contactor in lieu of circuit breakers in its substation. The petitioner states that the Jennings RP–170–2300 is equivalent electrically and mechanically to high-voltage circuit breakers; that the substation has 12470 volts feed with 30 amp high-voltage fuses on the pole limiting the 4160 side to no more than 90 amps; that available vault current from Licking Valley Rural Electric is 924 amps line to ground and 1200 amps phase to phase; and that the Jennings contactor is more than capable of carrying the load. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

8. Oxbow Mining, LLC

[Docket No. M–2002–069–C]

Oxbow Mining, LLC, PO Box 535, 3737 Highway 133, Somerset, Colorado 81434 has filed a petition to modify the application of 30 CFR 75.350 (Air course and belt haulage entries) to its Elk Creek Mine (I.D. No. 05–04674) located in Gunnison County, Colorado. The petitioner requests a modification of the existing safety standard to permit air coursed through the conveyor belt haulage entries to be used to ventilate working places. The petitioner proposes to install a carbon monoxide monitoring system as an early warning fire detection system in all belt entries used to course intake air to a working place. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

9. Energy West Mining Company

[Docket No. M–2002–070–C]

Energy West Mining Company, PO Box 310, Huntington, Utah 84528 has filed a petition to modify the application of 30 CFR 75.1002–1(a) (Location of other electric equipment; requirements for permissibility) to its Deer Creek Mine (I.D. No. 42–00121) located in Emery County, Utah. The petitioner requests a modification of the existing standard to permit the following non-permissible equipment to be used within 150 feet from pillar workings (longwall gob): lap top computers, oscilloscopes, vibration analysis machines, cable fault detectors, point temperature probes, recording amp meters, thermal image devices, infrared temperature devices and recorders, pressure and flow measurement devices, signal analyzer devices, ultrasonic thickness gauges, electronic component testers, and electronic tachometers, low-voltage or battery powered equipment such as electric and/or battery operated drills and grinders, and may use other testing and diagnostic equipment if approved by the District Office. The petitioner states that equipment used in or inby the last open crosscut shall be examined by a qualified person on a weekly basis, and that new equipment would be examined prior to use. The petitioner has listed in this petition for modification specific procedures that would be followed when using this equipment. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

Request for Comments

Persons interested in these petitions are encouraged to submit comments via e-mail to ''*comments@msha.gov,*'' or on a computer disk along with an original hard copy to the Office of Standards, Regulations, and Variances, Mine Safety and Health Administration, 1100 Wilson Boulevard, Room 2352, Arlington, Virginia 22209. All comments must be postmarked or received in that office on or before September 23, 2002. Copies of these petitions are available for inspection at that address.

Dated at Arlington, Virginia this 19th day of August 2002.

Marvin W. Nichols, Jr.,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 02–21566 Filed 8–22–02; 8:45 am]

BILLING CODE 4510–43–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 02–101]

NASA Advisory Council; Meeting

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces an open meeting of the NASA Advisory Council (NAC).

DATES: Tuesday, September 10, 2002, 8 a.m. to 5 p.m; and Wednesday, September 11, 2002, 8 a.m. to 12:30 p.m.

ADDRESSES: Jet Propulsion Laboratory (JPL), NASA, Building 180, Room 101, 4800 Oak Grove Drive, Pasadena, CA 91109.

FOR FURTHER INFORMATION CONTACT: Ms. Kathy Dakon, Code IC, National Aeronautics and Space Administration, Washington, DC 20546–0001, 202/358–0732.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Response to the Research Maximization and Prioritization Task Force Report
—NASA's Integrated Research Priorities
—Overview of JPL Activities
—Overview of Mars Program
—Innovation Catalyst
—Market-Driven Commercial Research
—Students Imagine Mars Project
—Committee Reports
—Discussion of Findings and Recommendations

Due to increased security measures at the NASA Jet Propulsion Laboratory (JPL), interested members of the public including the news media must contact Helen Paley (818) 354–6427 or Cecil Brower (818) 354–6974 no later than Friday, September 6, 2002, by 12 Noon PDT to make arrangements for badging, parking and escorting while at JPL. Access to JPL will be limited to those

who show proper photo identification and who have made prior arrangements to attend as stipulated herein.

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Dated: August 19, 2002.

Sylvia K. Kraemer,

Acting Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 02–21579 Filed 8–22–02; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before October 7, 2002. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

ADDRESSES: To request a copy of any records schedule identified in this notice, write to the Life Cycle Management Division (NWML), National Archives and Records Administration (NARA), 8601 Adelphi Road, College Park, MD 20740–6001. Requests also may be transmitted by FAX to 301–837–3698 or by e-mail to *records.mgt@nara.gov.* Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

FOR FURTHER INFORMATION CONTACT: Larry Baume, Acting Director, Life Cycle Management Division (NWML), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Telephone: 301–837–1505. e-mail: *records.mgt@nara.gov.*

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too includes information about the records. Further information about the disposition process is available on request.

Schedules Pending

1. Department of Defense, Defense Commissary Agency, (N1–506–02–3, 140 items, 139 temporary items). Records relating to personnel management and legal affairs. Included are records relating to such subjects as career development and internship programs, reemployment matters, overseas tour extensions, training courses, special pay rates, performance management system guidelines, incentive awards, relocation services guidelines and applications, reduction and realignment programs, early retirement and separations, personnel strength reporting, litigation cases, legal representation, contractual disputes, and fraud investigations. Also included are electronic copies of documents created using electronic mail and word processing. Proposed for permanent retention are recordkeeping copies of files relating to the preparation and processing of legislation. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

2. Department of Justice, Civil Rights Division (N1–60–02–1, 4 items, 3 temporary items). Single section case files relating to enforcement of Title I of the Americans with Disabilities Act of 1990. Also included are electronic copies of documents created using word processing and electronic mail. Recordkeeping copies of multi-section case files are proposed for permanent retention.

3. Department of Justice, Drug Enforcement Administration (N1–170–02–1, 4 items, 4 temporary items). Records relating to procurement transactions, including market survey files, rejected requisition files, and logs containing control numbers assigned to procurement-related transactions. Also included are electronic copies of records created using electronic mail and word processing.

4. Department of Justice, Drug Enforcement Administration (N1–170–02–2, 2 items, 2 temporary items). Records relating to advance procurement planning, including

electronic copies of records created using electronic mail and word processing.

5. Department of Justice, United States Marshals Service (N1–527–02–2, 3 items, 2 temporary items). Electronic copies of documents created using electronic mail and word processing that are accumulated in connection with the preparation of orientation and briefing books for senior management. Recordkeeping copies of orientation and briefing books are proposed for permanent retention.

6. Department of Justice, United States Marshals Service (N1–527–02–3, 4 items, 3 temporary items). Working papers, charts, and preliminary report information relating to tactical and strategic planning. Also included are electronic copies of documents created using electronic mail and word processing. Recordkeeping copies of published studies, strategic plans, annual operating plans, and assessment reports are proposed for permanent retention.

7. Department of Justice, Bureau of Prisons (N1–129–02–3, 8 items, 8 temporary items). Records of the Industrial, Education and Vocational Training Financial Management Branch consisting of program statement files, operations memoranda files, special projects files, general correspondence files, institution files, program review audits, and audit reports. Also included are electronic copies of documents created using electronic mail and word processing.

8. Department of State, Bureau of Intelligence and Research (N1–59–02–4, 37 items, 21 temporary items). Chronological files, document search files, and reference files accumulated by the Office of Intelligence Resources Coordination. Also included are electronic copies of documents created using electronic mail and word processing. Proposed for permanent retention are recordkeeping copies of such records as subject files, visa case files, interagency committee and working group files, country files, counterintelligence files, and foreign disclosure files.

9. Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms (N1–436–02–2, 3 items, 3 temporary items). Employee service agreements maintained by the Travel and Relocation Branch that are used to determine employee eligibility for travel and transportation expenses when transferred or assigned to a new post. Also included are electronic copies of documents created using electronic mail and word processing.

10. Federal Emergency Management Agency, Office of Policy and Regional Operations (N1–311–01–4, 4 items, 3 temporary items). Records accumulated in connection with the National Performance Review. Included are program office reports, internal agency correspondence, and electronic copies of documents created using electronic mail and word processing. Recordkeeping copies of final agency reports submitted to the White House are proposed for permanent retention.

11. Farm Credit Administration, Agency-wide (N1–103–01–1, 12 items, 9 temporary items). Web site pages containing copies of records duplicated in other agency files, audiovisual records that do not document mission-related activities, and retirement case files. Also included are electronic copies of records created using electronic mail and word processing. Proposed for permanent retention are audiovisual records that document the agency's mission and copies of web site pages that are not duplicated in other records. The schedule specifies that initial transfers of permanent web pages to NARA will consist of paper copies but also allows for future transfers in an electronic format. Likewise, audiovisual records currently maintained in paper will initially be transferred to NARA in that medium but may be transferred in an electronic format in the future.

12. National Archives and Records Administration, Government-wide (N1-GRS–02–1, 20 items, 20 temporary items). Employment applications and examination and certification records included in General Records Schedule (GRS) 1, Civilian Personnel Records. Included are such records as correspondence or notices received from eligibles, cancelled and ineligible applications for positions filled from a register or inventory, and eligible applications for positions that either are not referred to the hiring official or are returned to the examining office by the hiring official. This schedule also revises series descriptions or disposition instructions for records already included in GRS 1, including examination announcement case files, registers of eligibles, and certificate files.

13. Office of Navajo and Hopi Indian Relocation, Administrative Services Division (N1–220–02–15, 19 items, 12 temporary items). Electronic data of the Accounting Information System, including general ledger data, daily accounting data, electronic fund transfer vendor information, and query reports. Also included are daily, weekly, monthly, six-week, and yearly backups. Proposed for permanent retention from the Accounting Information System are client and vendor databases and related system documentation.

14. Office of Personnel Management, Agency-wide (N9–478–02–1, 2 items, 2 temporary items). Electronic copies of records created using electronic mail and word processing that relate to administrative management. Included are electronic copies of records pertaining to internal agency housekeeping operations such as management improvement programs, records disposition, and forms control. Recordkeeping copies of these files are included in the Administrative Management Section of the OPM Administrative Manual Supplement. This schedule does not include descriptions of records at the file series level, but, instead, provides citations to the agency's Administrative Manual Supplement. To facilitate review of this schedule, NARA will provide the Administrative Management Section of the manual to requestors.

15. Office of Personnel Management, Agency-wide (N9–478–02–3, 2 items, 2 temporary items). Electronic copies of records created using electronic mail and word processing that relate to appeals actions. Included are electronic copies of records pertaining to such subjects as Administrative Law Judge qualifications and appellate cases. Recordkeeping copies of these files are included in the Appeals Section of the OPM Administrative Manual Supplement. This schedule does not include descriptions of records at the file series level, but, instead, provides citations to the agency's Administrative Manual Supplement. To facilitate review of this schedule, NARA will provide the Appeals Section of the manual to requestors.

16. Office of Personnel Management, Agency-wide (N9–478–02–4, 2 items, 2 temporary items). Electronic copies of records created using electronic mail and word processing that relate to budget and finance. Included are electronic copies of records pertaining to such subjects as internal payroll, work reporting, cost analysis, and the budget program. Recordkeeping copies of these files are included in Budget and Finance Section of the OPM Administrative Manual Supplement. This schedule does not include descriptions of records at the file series level, but, instead, provides citations to the agency's Administrative Manual Supplement. To facilitate review of this schedule, NARA will provide the Budget and Finance Section of the manual to requestors.

17. Office of Personnel Management, Agency-wide (N9–478–02–5, 2 items, 2

temporary items). Electronic copies of records created using electronic mail and word processing that relate to government-wide classification and compensation for positions in the Federal Government. Included are electronic copies of records pertaining to such subjects as occupational series definitions and pay and leave regulations. Recordkeeping copies of these files are included in the Classification and Compensation Section of the OPM Administrative Manual Supplement. This schedule does not include descriptions of records at the file series level, but, instead, provides citations to the agency's Administrative Manual Supplement. To facilitate review of this schedule, NARA will provide the Classification and Compensation Section of the manual to requestors.

18. Office of Personnel Management, Agency-wide (N9–478–02–6, 2 items, 2 temporary items). Electronic copies of records created using electronic mail and word processing that relate to the organization and activities of boards and committees over which the agency has administrative jurisdiction. Included are electronic copies of records associated with such files as general correspondence, publications, news releases, and speeches. Recordkeeping copies of these files are included in the Committee Management Section of the OPM Administrative Manual Supplement. This schedule does not include descriptions of records at the file series level, but, instead, provides citations to the agency's Administrative Manual Supplement. To facilitate review of this schedule, NARA will provide the Committee Management Section of the manual to requestors.

19. Office of Personnel Management, Agency-wide (N9–478–02–8, 2 items, 2 temporary items). Electronic copies of records created using electronic mail and word processing that relate to Government-wide employment processes. Included are electronic copies of records pertaining to such subjects as certification of eligibles, selections, appointments, placements, and transfers. Recordkeeping copies of these files are included in the Employment Section of the OPM Administrative Manual Supplement. This schedule does not include descriptions of records at the file series level, but, instead, provides citations to the agency's Administrative Manual Supplement. To facilitate review of this schedule, NARA will provide the Employment Section of the manual to requestors.

20. Office of Personnel Management, Agency-wide (N9–478–02–9, 2 items, 2 temporary items). Electronic copies of records created using electronic mail and word processing that relate to Government-wide labor-management programs. Included are electronic copies of records pertaining to such subjects as unfair labor practices, contract agreements, and arbitration decisions. Recordkeeping copies of these files are included in the Employee Relations and Services Section of the OPM Administrative Manual Supplement. This schedule does not include descriptions of records at the file series level, but, instead, provides citations to the agency's Administrative Manual Supplement. To facilitate review of this schedule, NARA will provide the Employee Relations and Services Section of the manual to requestors.

21. Office of Personnel Management, Agency-wide (N9–478–02–10, 2 items, 2 temporary items). Electronic copies of records created using electronic mail and word processing that relate to the Government-wide personnel management evaluation program. Included are electronic copies of records pertaining to such subjects as evaluations and special studies, the Fair Labor Standards Act, and position classification advisory opinions. Recordkeeping copies of these files are included in the Evaluations Section of the OPM Administrative Manual Supplement. This schedule does not include descriptions of records at the file series level, but, instead, provides citations to the agency's Administrative Manual Supplement. To facilitate review of this schedule, NARA will provide the Evaluations Section of the manual to requestors.

22. Office of Personnel Management, Agency-wide (N9–478–02–11, 2 items, 2 temporary items). Electronic copies of records created using electronic mail and word processing that relate to the Government-wide examination and recruitment program. Included are electronic copies of records pertaining to such subjects as test materials, examination announcements, and applicant data sheets. Recordkeeping copies of these files are included in the Examining and Recruiting Section of the OPM Administrative Manual Supplement. This schedule does not include descriptions of records at the file series level, but, instead, provides citations to the agency's Administrative Manual Supplement. To facilitate review of this schedule, NARA will provide the Examining and Recruiting Section of the manual to requestors.

23. Office of Personnel Management, Agency-wide (N9–478–02–13, 2 items, 2 temporary items). Electronic copies of records created using electronic mail and word processing that relate to information services. Included are electronic copies of records pertaining to such subjects as public relations, publications and other information releases, and press services. Recordkeeping copies of these files are included in the Information Services Section of the OPM Administrative Manual Supplement. This schedule does not include descriptions of records at the file series level, but, instead, provides citations to the agency's Administrative Manual Supplement. To facilitate review of this schedule, NARA will provide the Information Services Section of the manual to requestors.

24. Office of Personnel Management, Agency-wide (N9–478–02–15, 2 items, 2 temporary items). Electronic copies of records created using electronic mail and word processing that relate to Government-wide security investigation programs. Included are electronic copies of records relating to investigative and appraisal files as well as to related control and adjudication files. Recordkeeping copies of these files are included in the Investigations Section of the OPM Administrative Manual Supplement. This schedule does not include descriptions of records at the file series level, but, instead, provides citations to the agency's Administrative Manual Supplement. To facilitate review of this schedule, NARA will provide the Investigations Section of the manual to requestors.

25. Office of Personnel Management, Agency-wide (N9–478–02–17, 2 items, 2 temporary items). Electronic copies of records created using electronic mail and word processing that relate to internal and Government-wide medical programs and services. Included are electronic copies of records pertaining to such subjects as individual employee health care, health units, and reviews of confidential information. Recordkeeping copies of these files are included in Medical Section of the OPM Administrative Manual Supplement. This schedule does not include descriptions of records at the file series level, but, instead, provides citations to the agency's Administrative Manual Supplement. To facilitate review of this schedule, NARA will provide the Medical Section of the manual to requestors.

26. Office of Personnel Management, Agency-wide (N9–478–02–19, 2 items, 2 temporary items). Electronic copies of records created using electronic mail and word processing that relate to administration of the civil service retirement system. Included are electronic copies of records pertaining to such subjects as annuities,

retirements, disability retirements, and death claims. Recordkeeping copies of these files are included in Retirement Section of the OPM Administrative Manual Supplement. This schedule does not include descriptions of records at the file series level, but, instead, provides citations to the agency's Administrative Manual Supplement. To facilitate review of this schedule, NARA will provide the Retirement Section of the manual to requestors.

27. Office of Personnel Management, Agency-wide (N9–478–02–20, 2 items, 2 temporary items). Electronic copies of records created using electronic mail and word processing that relate to legal matters. Included are electronic copies of records pertaining to such subjects as political activity, the Hatch Act, and the Voting Rights Program. Recordkeeping copies of these files are included in Legal Section of the OPM Administrative Manual Supplement. This schedule does not include descriptions of records at the file series level, but, instead, provides citations to the agency's Administrative Manual Supplement. To facilitate review of this schedule, NARA will provide the Legal Section of the manual to requestors.

Dated: August 15, 2002.

Michael J. Kurtz,

Assistant Archivist for Record Services—Washington, DC.

[FR Doc. 02–21485 Filed 8–22–02; 8:45 am]

BILLING CODE 7515–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 72–15 and 50–219]

AmerGen Energy Company, LLC, Oyster Creek Generating Station; Receipt of Request for Action Under 10 CFR 2.206

Notice is hereby given that by petition dated June 21, 2002, Ms. Edith Gbur of the Jersey Shore Nuclear Watch, et al. (petitioners), have requested that the Nuclear Regulatory Commission (NRC) take action with regard to AmerGen Energy Company's Oyster Creek Generating Station Independent Spent Fuel Storage Installation.

The petitioners requested the following NRC actions:

(1) Suspend Certificate of Compliance (CoC) No. 1004 for the NUHOMS dry spent fuel storage system.

(2) Halt transfer of spent fuel from wet pool storage to dry storage modules.

(3) Conduct a site-specific public hearing before independent judges on the dry cask licensing proceeding for Oyster Creek Generating Station (Oyster Creek) and other nuclear issues identified in the petition.

(4) Make a determination of the NUHOMS' capability to withstand terrorist attacks similar to those on September 11, 2001.

(5) Develop criteria and regulations to empirically verify dry storage system capability and to apply those requirements to Oyster Creek.

(6) Halt loading until a thorough inspection of the total system has been completed to verify that the NUHOMS modules were fabricated properly and will last the design life.

As the basis for the request, the petitioners presented a number of safety concerns related to:

(1) Location of the Oyster Creek independent spent fuel storage installation relative to local roads and communities;

(2) Ability of the NUHOMS dry spent fuel storage system to survive a sabotage attack;

(3) Adequacy of Oyster Creek security measures for fuel handling activities;

(4) Adequacy of the Oyster Creek emergency evacuation plan; and

(5) Quality of the NUHOMS systems planned for use at Oyster Creek.

The request is being addressed pursuant to 10 CFR 2.206 of the Commission's regulations. The request has been referred to the Director of the Office of Nuclear Material Safety and Safeguards. As provided by Section 2.206, appropriate action will be taken on this petition within a reasonable time. The petitioner participated in a telephone call with the Office of Nuclear Material Safety and Safeguards' Petition Review Board on July 18, 2002, to discuss the petition. The results of that discussion were considered in the Board's determination regarding the petitioner's request for immediate action and in establishing the schedule for review of the petition. By letter dated August 12, 2002, the Director denied the petitioner's request for immediate suspension of Certificate of Compliance No. 1004 for the NUHOMS dry spent fuel storage system and to halt transfer of spent fuel from wet pool storage to dry storage modules at the Oyster Creek Generating Station. A copy of the petition is available for inspection in the Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. These documents may be accessed through the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/reading-rm/adams.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737 or by e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 12th day of August, 2002.

For the Nuclear Regulatory Commission.

Martin J. Virgilio,

Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 02–21524 Filed 8–22–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–413, 50–414, 50–369, and 50–370]

Duke Energy Corporation, et al.; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License Nos. NPF–35, NPF–52, NPF–9, and NPF–17 issued to Duke Energy Corporation, et al., (the licensee) for operation of the Catawba Nuclear Station, Units 1 and 2, and McGuire Nuclear Station, Units 1 and 2, located in York County, South Carolina and Mecklenburg County, North Carolina.

The proposed amendments would revise Technical Specification (TS) 5.6.5 regarding the Core Operating Limits Report (COLR). TS 5.6.5.a lists the parameters for which the limiting values have been relocated by previous TS amendments from the TS to the COLR. Specifically, for both Catawba and McGuire Nuclear Stations, the amendments would revise the TS 5.6.5.a by (1) adding ''60 ppm'' to Item 5.6.5.a.1 regarding the moderator temperature coefficient (MTC) surveillance limit for Specification 3.1.3, and (2) by adding Item 5.6.5.a.12, ''31 EFPD [effective full-power day] surveillance penalty factors for Specifications 3.2.1 and 3.2.2.'' In addition, for Catawba Nuclear Station, the amendments would add Item 5.6.5.a.13, ''Reactor makeup water pumps combined flow rates limit for Specifications 3.3.9 and 3.9.2.'' The limiting values for these parameters were previously relocated from the TS to the COLR without the parameter identifier being retained in the TS. Inclusion of the parameter identifier in the TS will improve consistency between the TS and the COLR. The amendments would also change Bases

3.2.1 and 3.2.3 to remove the specific date of the referenced topical report.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below:

1. Would implementation of the changes proposed in these amendments involve a significant increase in the probability or consequences of an accident previously evaluated?

No. These amendments make clarifications and additions to the list of referenced TS listed in both McGuire and Catawba Nuclear Stations TS 5.6.5.a. The additions to the list of referenced TS are consistent with the COLR and provide additional clarifications. Therefore, the proposed changes have no impact on any accident probabilities or consequences.

2. Would implementation of the changes proposed in these amendments create the possibility of a new or different kind of accident from any accident previously evaluated?

No. The proposed changes contained in these amendments only make additions or clarifications that are consistent with the McGuire and Catawba Nuclear Stations COLR and established plant operating practices. Therefore, no new or different kinds of accidents are being created.

3. Would implementation of the changes proposed in these amendments Involve a significant reduction in a margin of safety?

No. Margin of safety is related to the confidence in the ability of the fission product barriers to perform their design functions during and following an accident situation. These barriers include the fuel cladding, the reactor coolant system, and the containment system. These barriers are unaffected by the changes proposed in these amendments. The margin of safety is established through the design of the plant structures, systems, and components, the parameters within which the plant is operated, and the establishment of the setpoints for the actuation of equipment relied upon to respond to an event and thereby protect the fission product barriers. The changes proposed in these amendments make additions to a list of referenced TS that are currently approved for use at McGuire and Catawba Nuclear Stations. These changes have no affect on the applicable McGuire and Catawba Nuclear Stations licensing bases, and following implementation of the proposed changes, all applicable acceptance criteria will continue to be met. Consequently, no margin of safety will be significantly impacted by these amendments.

Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendments until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendments before the expiration of the 30-day notice period, provided that its final determination is that the amendments involve no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By September 23, 2002, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714,[1] which is available at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, or electronically on the Internet at the NRC Web site *http://www.nrc.gov/reading-rm/doc-collections/cfr/*. If there are problems in accessing the document, contact the Public Document Room Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov.* If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman

[1] The most recent version of Title 10 of the Code of Federal Regulations, published January 1, 2002, inadvertently omitted the last sentence of 10 CFR 2.714(d) and subparagraphs (d)(1) and (2), regarding petitions to intervene and contentions. Those provisions are extant and still applicable to petitions to intervene. Those provisions are as follows: ''In all other circumstances, such ruling body or officer shall, in ruling on—

(1) A petition for leave to intervene or a request for hearing, consider the following factors, among other things:

(i) The nature of the petitioner's right under the Act to be made a party to the proceeding.

(ii) The nature and extent of the petitioner's property, financial, or other interest in the proceeding.

(iii) The possible effect of any order that may be entered in the proceeding on the petitioner's interest.

(2) The admissibility of a contention, refuse to admit a contention if:

(i) The contention and supporting material fail to satisfy the requirements of paragraph (b)(2) of this section; or

(ii) The contention, if proven, would be of no consequence in the proceeding because it would not entitle petitioner to relief.''

of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendments under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendments and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendments.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendments.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, by the above date. Because of the continuing disruptions in delivery of mail to United States Government offices, it is requested that petitions for leave to intervene and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301–415–1101 or by e-mail to *hearingdocket@nrc.gov.* A copy of the petition for leave to intervene and request for hearing should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and because of continuing disruptions in delivery of mail to United States Government offices, it is requested that copies be transmitted either by means of facsimile transmission to 301–415–3725 or by e-mail to *OGCMailCenter@nrc.gov.* A copy of the request for hearing and petition for leave to intervene should also be sent to Ms. Lisa F. Vaughn , Legal Department (PB05E), Duke Energy Corporation, 422 South Church Street, Charlotte, North Carolina 28201–1006, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendments dated October 7, 2001, as supplemented by letter dated August 7, 2002, which is available for public inspection at the Commission's PDR, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 20th day of August 2002.

For the Nuclear Regulatory Commission.

Chandu P. Patel,

Project Manager, Section 1, Project Directorate II, Division of Licensing Project Management.

[FR Doc. 02–21522 Filed 8–22–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–338 and 50–339]

Virginia Electric and Power Company; Notice of Withdrawal of Application for Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Virginia Electric and Power Company (the licensee) to withdraw its June 22, 2000, application, as supplemented January 19, 2001, and July 26, 2001, for proposed amendments to Facility Operating License Nos. NPF–4 and NPF–7 for the North Anna Power Station, Unit Nos. 1 and 2, located in Louisa County, Virginia.

The proposed amendments would have revised the Technical Specifications to permit the elimination of the assumed increase in the rod control cluster assembly drop time resulting from a concurrent trip and seismic event.

The Commission had previously issued a Notice of Consideration of Issuance of Amendments published in the **Federal Register** on August 9, 2000 (65 FR 48761). However, by letter dated July 17, 2002, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendments dated June 22, 2000, supplemental letters dated January 19, 2001, and July 26, 2001, and the licensee's letter dated July 17, 2002, which withdrew the application for license amendments. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams/html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR reference staff by telephone at 1–800–397–4209 or 301–415–4737, or by e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 19th day of August 2002.

For the Nuclear Regulatory Commission.

Stephen R. Monarque,

Project Manager, Section 1, Project Directorate II, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 02–21523 Filed 8–22–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting Notice

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards (ACRS) will hold a meeting on September 12–14, 2002, in Conference Room T–2B3, 11545 Rockville Pike, Rockville, Maryland. The date of this meeting was previously published in the **Federal Register** on Monday, November 26, 2001 (66 FR 59034).

Thursday, September 12, 2002

8:30 a.m.—8:35 a.m.: Opening Statement by the Acting ACRS Chairman (Closed)—The ACRS Chairman will make opening remarks regarding the Naval Reactors Virginia Class Nuclear Propulsion Plant Submarine Design. [This session will be held in the NRC auditorium]

8:35 a.m.–11:45 a.m.: DOE/DOD Naval Reactors Virginia Class Nuclear Propulsion Plant Submarine Design (Closed)—The Committee will hear presentations by and hold discussions with representatives of the Department of Energy (DOE)/Department of Defense (DOD) Naval Reactors Organization and the NRC staff regarding the Virginia Class Nuclear Propulsion Plant Submarine Design. [This session will be held in the NRC auditorium]

[**Note:** The above two sessions will be closed to discuss classified information applicable to this matter.]

1 p.m.–1:05 p.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

1:05 p.m.–2:30 p.m.: Human Reliability Analysis Research Plan (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the Human Reliability Analysis Research Plan and related matters.

2:45 p.m.–4:15 p.m.: Proposed Resolution of Generic Safety Issue-185, ''Control of Recriticality Following Small-Break LOCAs in PWRs'' (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the proposed recommendations by the Office of Nuclear Regulatory Research for resolving Generic Safety Issue-185.

4:30 p.m.—5:00 p.m.: Subcommittee Report Regarding D. C. Cook Switchyard Fire (Open)—Report by the Chairman of the ACRS Subcommittee on Plant Operations regarding the switchyard fire event that occurred at the D. C. Cook Nuclear Power Plant on June 12, 2002.

5 p.m.–5:30 p.m.: Subcommittee Report Regarding the Reactor Oversight Process (Open)—Report by the Chairman of the ACRS Subcommittee on Plant Operations regarding matters discussed at the September 9, 2002 Subcommittee meeting.

5:30 p.m.–7:00 p.m.: Proposed ACRS Reports (Open/Closed)—The Committee will discuss proposed ACRS reports on matters considered during this meeting. [Discussion of the report on Virginia Class Nuclear Propulsion Plant Submarine Design, which will be closed to the public, will be held in Room T–8E8.]

Friday, September 13, 2002

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.—10:45 a.m.: Proposed 10 CFR 50.69, Draft Regulatory Guide DG–1121, and NEI Document NEI 00–04 (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff and Nuclear Energy Institute (NEI) regarding proposed 10 CFR 50.69, ''Risk-Informed Categorization and Treatment of Structures, Systems, and Components for Nuclear Power Reactors,'' draft Regulatory Guide DG–1121, ''Guidelines for Categorizing Structures, Systems, and Components in Nuclear Power Plants According to Their Safety Significance,'' and NEI 00–04, ''10 CFR 50.69 SSC Categorization Guidelines.''

11 a.m.–12:30 p.m.: Draft Regulatory Guide DG–1120 and Standard Review Plan Section Associated with NRC Code Reviews (Open)–The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding draft Regulatory Guide DG–1120, ''Transient and Accident Analysis Methods,'' and draft final Standard Review Plan Section 15.0.2, ''Review of Transient and Accident Analysis Methods.''

1:30 p.m.–2 p.m.: Subcommittee Report on Fire Protection (Open)—Report by the Chairman of the ACRS Subcommittee on Fire Protection regarding matters discussed during the September 11, 2002 Subcommittee meeting.

2 p.m.–3 p.m.: Future ACRS Activities/Report of the Planning and Procedures Subcommittee (Open)—The Committee will discuss the recommendations of the Planning and Procedures Subcommittee regarding items proposed for consideration by the full Committee during future meetings. Also, it will hear a report of the Planning and Procedures Subcommittee on matters related to the conduct of ACRS business, and organizational and personnel matters relating to the ACRS.

3 p.m.–3:15 p.m.: Reconciliation of ACRS Comments and Recommendations (Open)—The Committee will discuss the responses from the NRC Executive Director for Operations (EDO) to comments and recommendations included in recent ACRS reports and letters. The EDO responses are expected to be made available to the Committee prior to the meeting.

3:30 p.m.–7 p.m.: Proposed ACRS Reports(Open/Closed)—The Committee will discuss proposed ACRS reports. [Discussion of the report on Virginia Class Nuclear Propulsion Plant Submarine Design, which will be closed to the public, will be held in Room T–8E8.]

Saturday, September 14, 2002

8:30 a.m.–12 Noon: Proposed ACRS Reports (Open)—The Committee will discuss proposed ACRS reports.

1 p.m.–1:30 p.m.: Miscellaneous (Open)—The Committee will discuss matters related to the conduct of Committee activities and matters and specific issues that were not completed during previous meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 3, 2001 (66 FR 50462). In accordance with those procedures, oral or written views may be presented by members of the public, including representatives of the nuclear industry. Electronic recordings will be permitted only during the open portions of the meeting. Persons desiring to make oral statements should notify the Associate Director for Technical Support named below five days before the meeting, if possible, so that appropriate arrangements can be made to allow necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during the meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by contacting the Associate Director prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the Associate Director if such rescheduling would result in major inconvenience.

In accordance with Subsection 10(d) Pub. L. 92–463, I have determined that it is necessary to close a portion of this meeting noted above to discuss classified information per 5 U.S.C. 552b (c)(1).

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted therefor can be obtained by contacting Dr. Sher Bahadur, Associate Director for Technical Support (301–415–0138), between 7:30 a.m. and 4:15 p.m., EDT.

ACRS meeting agenda, meeting transcripts, and letter reports are available through the NRC Public Document Room at *pdr@nrc.gov,* or by calling the PDR at 1–800–397–4209, or from the Publicly Available Records System (PARS) component of NRC's document system (ADAMS) which is accessible from the NRC Web site at *http://www.nrc.gov/reading-rm/adams.html* or *http://www.nrc.gov/reading-rm/doc-collections/* (ACRS & ACNW Mtg schedules/agendas).

Videoteleconferencing service is available for observing open sessions of ACRS meetings. Those wishing to use this service for observing ACRS meetings should contact Mr. Theron Brown, ACRS Audio Visual Technician (301–415–8066), between 7:30 a.m. and 3:45 p.m., EDT, at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment and facilities that they use to establish the videoteleconferencing link. The availability of videoteleconferencing services is not guaranteed.

Dated: August 19, 2002.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 02–21521 Filed 8–22–02; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Proposed Collection; Comment Request for Review of a Revised Information Collection: Forms RI 38–117, RI 38–118, AND RI 37–22

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13, May 22, 1995 and 5 CFR 1320), this notice announces that the Office of Personnel Management (OPM) intends to submit to the Office of Management and Budget a request for review of a revised information collection. RI 38–117, Rollover Election, is used to collect information from each payee affected by a change in the tax code (Public Law 102–318) so that OPM can make payment in accordance with the wishes of the payee. RI 38–118, Rollover Information, explains the election. RI 37–22, Special Tax Notice Regarding Rollovers, provides more detailed information.

Comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the Office of Personnel Management, and whether it will have practical utility; whether our estimate of the public burden of this collection is accurate, and based on valid assumptions and methodology; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of the appropriate technological collection techniques or other forms of information technology.

Approximately 1,000 RI 38–117 forms will be completed annually. We estimate it takes approximately 30 minutes to complete the form. The annual burden is 500 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 within 60 calendar days from the date of this publication.

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 20415–3450.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION CONTACT: Cyrus S. Benson, Team Leader, Desktop Publishing & Printing Team, Budget and Administrative Services Division, (202) 606–0623.

U.S. Office of Personnel Management.

Kay Coles James,

Director.

[FR Doc. 02–21410 Filed 8–22–02; 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 OPM decisions, granting authority to make appointments under Schedule C in the excepted service as required by 5 CFR 6.1 and 213.103.

FOR FURTHER INFORMATION CONTACT: Pam Shivery, Director, Washington Service Center, Employment Service (202) 606–1015.

SUPPLEMENTARY INFORMATION: Appearing in the listing below are the individual

authorities established under Schedule C between July 1, 2002 and July 31, 2002. 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 is published each year.

Schedule C

Broadcasting Board of Governors

Chief of Staff to the Director, Office of Cuba Broadcasting. Effective July 31, 2002.

Department of Agriculture

Confidential Assistant to the Administrator, Foreign Agricultural Service. Effective July 2, 2002.

Special Assistant to the Deputy Assistant Secretary for Administration. Effective July 17, 2002.

Department of the Army (DOD)

Personal and Confidential Assistant to the Assistant Secretary of the Army (Installations and Environment). Effective July 4, 2002.

Department of Commerce

Public Affairs Specialist to the Director of Public Affairs. Effective July 8, 2002.

Special Assistant to the Assistant Secretary for Economic Development. Effective July 17, 2002.

Confidential Assistant to the Assistant Secretary for Export Enforcement. Effective July 24, 2002.

Department of Defense

Public Affairs Specialist to the Deputy Assistant Secretary of Defense for Public Affairs. Effective July 10, 2002.

Special Assistant to the Assistant Secretary of Defense for Legislative Affairs. Effective July 12, 2002.

Department of Education

Special Assistant to the Chief of Staff, Office of the Deputy Secretary. Effective July 2, 2002.

Special Assistant to the Chief of Staff, Office of the Under Secretary. Effective July 2, 2002.

Special Assistant to the Chief Financial Officer. Effective July 2, 2002.

Special Assistant to the Chief of Staff. Effective July 2, 2002.

Confidential Assistant to the Chief Financial Officer. Effective July 8, 2002.

Special Assistant to the Deputy Assistant Secretary for Management. Effective July 9, 2002.

Confidential Assistant to the Chief of Staff. Effective July 11, 2002.

Special Assistant to the Assistant Secretary, Office of Elementary and Secondary Education. Effective July 11, 2002.

Special Assistant to the Chief of Staff, Office the Under Secretary. Effective July 15, 2002.

Special Assistant to the Chief Financial Officer. Effective July 16, 2002.

Special Assistant to the Director, Office of Educational Technology. Effective July 16, 2002.

Confidential Assistant to the Chief of Staff. Effective July 22, 2002.

Special Assistant to the Director, Office of Public Affairs. Effective July 24, 2002.

Confidential Assistant to the Assistant Secretary for Vocational and Adult Education. Effective July 29, 2002.

Department of Energy

Executive Assistant to the Assistant Secretary for Fossil Energy. Effective July 24, 2002.

Confidential Advisor to the Director, Office of Science. Effective July 24, 2002.

Department of Health and Human Services

Director of Communications to the Assistant Secretary of Health. Effective July 10, 2002.

Confidential Assistant to the Deputy Administrator and Chief Operating Officer. Effective July 23, 2002.

Confidential Assistant to the Assistant Secretary for Public Affairs. Effective July 24, 2002.

Department of Housing and Urban Development

Staff Assistant to the Assistant Secretary for Housing. Effective July 2, 2002.

Special Assistant to the Assistant Secretary for Public and Indian Housing. Effective July 8, 2002.

Deputy Assistant Secretary for Special Initiatives to the Assistant Secretary, Community Planning and Development. Effective July 9, 2002.

Special Assistant to the Assistant Secretary for Administration. Effective July 9, 2002.

Director, Office of Small and Business Utilization to the Deputy Secretary. Effective July 10, 2002.

Staff Assistant to the Senior Advisor, Office of the Deputy Secretary. Effective July 11, 2002.

Special Assistant to the Assistant Secretary for Congressional and Intergovernmental Relations. Effective July 24, 2002.

Staff Assistant to the President, Government National Mortgage Association. Effective July 25, 2002.

Department of the Interior

Director of Scheduling and Advance to the Chief of Staff. Effective July 8, 2002.

Counselor to the Assistant Secretary-Indian Affairs. Effective July 25, 2002.

Special Assistant to the Deputy Assistant Secretary, Policy and International Affairs. Effective July 26, 2002.

Assistant Director, Legislative and Congressional Affairs to the Director, National Park Service. Effective July 26, 2002.

Department of Justice

Senior Advisor to the Assistant Attorney General, Tax Division. Effective July 8, 2002.

Confidential Assistant to the Assistant Attorney General, Tax Division. Effective July 11, 2002.

Assistant to the Attorney General for Scheduling and Advance to the Director of Scheduling and Advance. Effective July 12, 2002.

Department of Labor

Staff Assistant to the Assistant Secretary for Disability Employment Policy. Effective July 3, 2002.

Staff Assistant to the Assistant Secretary for Public Affairs. Effective July 3, 2002.

Special Assistant to the Assistant Secretary for Public Affairs. Effective July 10, 2002.

Counsel to the Deputy Secretary of Labor. Effective July 15, 2002.

Chief of Staff to the Assistant Secretary for Policy. Effective July 16, 2002.

Special Assistant to the Administrator, Wage and Hour Division. Effective July 16, 2002.

Staff Assistant to the Secretary of Labor. Effective July 26, 2002.

Department of State

Member to the Director, Policy Planning Staff. Effective July 3, 2002.

Special Assistant to the Assistant Secretary for Economic and Business Affairs. Effective July 8, 2002.

(Press Officer) Public Affairs Specialist to the Assistant Secretary for Public Affairs. Effective July 23, 2002.

Department of Transportation

Counselor to the Deputy Secretary of Transportation. Effective July 9, 2002.

Counselor to the Associate Deputy Secretary. Effective July 30, 2002.

Environmental Protection Agency

Chief of Staff to the Assistant Administrator, Office of Air and Radiation. Effective July 3, 2002.

Special Assistant (Advance Person) to the Administrator. Effective July 25, 2002.

Export-Import Bank of the United States

Special Assistant to the Vice President for Public Affairs. Effective July 11, 2002.

Federal Emergency Management Agency

Special Assistant (Coordination/Advance) to the Director. Effective July 3, 2002.

Director, Congressional and Legislative Affairs Division to the Assistant Director, External Affairs. Effective July 9, 2002.

Special Assistant to the Deputy Director, Federal Emergency Management Agency. Effective July 9, 2002.

Staff Assistant to the General Counsel. Effective July 11, 2002.

Special Assistant to the Deputy Director, Federal Emergency Management Agency. Effective July 17, 2002.

General Services Administration

Confidential Assistant to the Chief of Staff. Effective July 9, 2002.

Senior Advisor to the Associate Administrator for Congressional and Intergovernmental Affairs. Effective July 22, 2002.

Deputy Associate Administrator for Enterprise Development to the Associate Administrator for Enterprise Development. Effective July 23, 2002.

Director of Administration to the Chief of Staff. Effective July 29, 2002.

National Endowment for the Arts

Special Assistant to the Director, Office of Congressional and White House Liaison. Effective July 23, 2002.

National Endowment for the Humanities

General Counsel to the Chairman. Effective July 9, 2002.

Office of Personnel Management

Project Director, Public and Constituent Services to the Director, Office of Communications. Effective July 31, 2002.

Office of Science and Technology Policy

Assistant Associate Director for Telecommunications and Information Technology to the Associate Director for Technology. Effective July 26, 2002.

Small Business Administration

Director of Advisor Councils to the Associate Administrator for Communications and Public Liaison. Effective July 17, 2002.

Senior Advisor to the Deputy Administrator. Effective July 23, 2002.

Special Assistant to the Administrator, Small Business Administration. Effective July 29, 2002.

United States Tax Court

Trial Clerk to the Judge. Effective July 17, 2002.

Trial Clerk to the Judge. Effective July 17, 2002.

United States Trade and Development Agency

Congressional Liaison Officer to the Chief of Staff. Effective July 3, 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. 02–21409 Filed 8–22–02; 8:45 am]

BILLING CODE 6325–38–P

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

SUMMARY: In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) was to minimize the burden related to the collection of information on respondents; including the use of automated collection techniques or other forms of information technology.

Title and Purpose of Information Collection

Pension Plan Reports: OMB 3220–0089.

Under Section 2(b) of the Railroad Retirement Act (RRA), the Railroad Retirement Board (RRB) pays supplemental annuities to qualified RRB employee annuitants. A supplemental annuity, which is computed according to Section 3(e) of the RRA, can be paid at age 60 if the employee has at least 30 years of creditable railroad service or at age 65 if the employee has 25–29 years of railroad service. In addition to 25 years of service, a ''current connection'' with the railroad industry is required. Eligibility is further limited to employees who had at least one month of rail service before October 1981 and were awarded regular annuities after June 1966. Further, if an employee's 65th birthday was prior to September 2, 1981, he or she must not have worked in rail service after certain closing dates (generally the last day of the month following the month in which age 65 is attained).

Under Section 2(h)(2) of the RRA, the amount of the supplemental annuity is reduced if the employees receive monthly pension payments, or lump-sum pension payments, from heir former railroad employer, which are based in whole or in part on contributions from that railroad employer. The employees' own contributions to their pension accounts do not cause a reduction. An employer private pension is described in 20 CFR 216.40–216.42.

The RRB requires the following information from railroad employers to calculate supplemental pension plans cause reductions to the RRB supplemental annuity; (b) the amount of the employer private pension being paid to the employee; (c) whether or not the employer make contributions to the pension; (d) whether or not the employee was cashed out before attaining retirement age under the employer pension plan or received the pension in a lump-sum payment in lieu of monthly pension payments; (e) whether the employer pension plan continues when the employer status under the RRA changes. The requirement that railroad employers furnish pension information to the RRB is contained in 20 CFR 209.2.

The RRb currently utilizes Form(s) G–88p (Employer's Supplemental Pension Report), G–88r (Request for Information About New or Revised Pension Plan), and G–88.1 (Request for Additional Information about Employer Pension Plan in Case of Change of Employer Status or Termination of Pension Plan), to obtain the necessary information from railroad employers. One response is requested of each respondent. Completion mandatory.

The RRB proposed significant burden impacting changes to Form G–88p. New items requesting information regarding lump-sum payments paid in lieu of a monthly pension have been added as well as items instructing employers to retain a copy of the form for later transmittal are being proposed. The RRB also is proposing to delete several items

of information from Form G–88p including items no longer needed due to the Railroad Retirement and Survivor's Improvement Act (RRSIA).

The RRB also proposes to delete information no longer needed due to RRSIA from Forms G–88r and G–88r.1. Non burden impacting editorial and formatting changes are also proposed to all of the forms.

Estimate of Annual Respondent Burden

The estimated annual respondent burden is as follows:

Form #(s)	Annual re-sponses	Time (min)	Burden (hrs.)
G–88p	1,500	8	200
G–88r	10	10	2
G–88r.1	5	7	1
Total	1,515	.....	203

Additional Information or Comments: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751–3363, Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611–2092. Written comments should be received within 60 days of this notice.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 02–21493 Filed 8–22–02; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46381; File No. S7–24–89]

Joint Industry Plan; Order Granting Partial Temporary Approval of Amendment No. 13 of the Reporting Plan for Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privilege Basis, Submitted by the National Association of Securities Dealers, Inc., the Boston Stock Exchange, Inc., the Chicago Stock Exchange, Inc., the Cincinnati Stock Exchange, Inc., the Pacific Exchange, the American Stock Exchange LLC, and the Philadelphia Stock Exchange, Inc.

August 19, 2002.

I. Introduction and Description

On May 31, 2002, the Cincinnati Stock Exchange, Inc. (''CSE'') on behalf of itself and the National Association of Securities Dealers, Inc. (''NASD''), the American Stock Exchange LLC (''Amex''), the Boston Stock Exchange, Inc. (''BSE''), the Chicago Stock Exchange, Inc. (''CHX''), the Pacific Exchange, Inc. (''PCX''), and the Philadelphia Stock Exchange, Inc. (''PHLX'') (hereinafter referred to collectively as ''Participants''),[1] as members of the operating committee (''Operating Committee'' or ''Committee'')[2] of the Plan submitted to the Securities and Exchange Commission (''SEC'' or ''Commission'') a proposal to amend the Plan, pursuant to Rule 11Aa3–1[3] and Rule 11Aa3–2[4] under the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act''). The proposal represents the 13th amendment (''13th Amendment'') made to the Plan. Notice of the proposed 13th Amendment was published in the **Federal Register** on July 5, 2002.[5]

The Nasdaq UTP Plan governs the collection, processing, and dissemination on a consolidated basis of quotation and last sale information for each of its Participants. This consolidated information informs investors of the current quotation and recent trade prices of Nasdaq securities. It enables investors to ascertain from one data source the current prices in all the markets trading Nasdaq securities. The Plan serves as the required transaction reporting plan for its Participants, which is a prerequisite for their trading Nasdaq securities.

As discussed in the 13th Amendment Notice, proposed amendments to the Plan have been segregated into four categories: (1) Category 1, ''Effective Upon Nasdaq's Exchange Registration;'' (2) Category 2, ''Effective Upon Launch of the Internal SIP;'' (3) Category 3, ''Effective Upon End of Parallel Period—Elimination of the Legacy SIP;'' and (4) Category 4, ''Timing Not An Issue.'' Through the 13th Amendment Notice, the Commission granted temporary summary effectiveness to amendments detailed in Category 2 so as to allow the target launch date for the new Internal Securities Information Processor (''SIP'') data feeds to be met.[6] The Commission received no comments on the proposed 13th Amendment.

This partial temporary approval order approves the 13th Amendment's extension of the Plan through August 19, 2003. This order does not approve the amendments detailed in Categories 1, 2, 3, and 4 in the 13th Amendment Notice,[7] which will be addressed in a separate action.

II. Discussion

The Commission finds that extending the Plan for one year is consistent with the requirements of the Act and the rules and regulations thereunder, and, in particular, section 12(f)[8] and section 11A(a)(1)[9] of the Act and Rules 11Aa3–1 and 11Aa3–2 thereunder.[10] Section 11A of the Act directs the Commission to facilitate the development of a national market system for securities, ''having due regard for the public interest, the protection of investors, and the maintenance of fair and orderly markets,'' and cites as an objective of that system the ''fair competition * * * between exchange markets and markets other than exchange markets.''[11] When the Commission first approved of the Plan on a pilot basis, it found that the Plan ''should enhance market efficiency and fair competition, avoid investor confusion, and facilitate surveillance of concurrent exchange and OTC trading.''[12] The Plan has been in existence since 1990 and Participants have been trading Nasdaq securities under the Plan since 1993.

[1] The CSE was elected chair of the Operating Committee for the Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation and Dissemination of Quotation and Transaction Information for Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privilege Basis (''Nasdaq UTP Plan'' or ''Plan'') by the Participants.

[2] Among other things, the 13th Amendment proposes to add the Nasdaq Stock Market, Inc. (''Nasdaq'') as a Participant. The Committee is made up of all the Participants.

[3] 17 CFR 240.11Aa3–1.

[4] 17 CFR 240.11Aa3–2.

[5] Securities Exchange Act Release No. 46139 (June 28, 2001 [sic]), 67 FR 44888 (''13th Amendment Notice'').

[6] In November of 2001, Nasdaq began implementing the ''Internal SIP'' project. The Internal SIP is a separate technology infrastructure within Nasdaq that will perform the functions of the SIP for Nasdaq-listed securities. When the Internal SIP is in place, Nasdaq will be able to separate its functions as a stock market from its functions as a SIP for the Plan.

[7] Pursuant to Rule 11Aa3–2(c)(4), 17 CFR 240.11Aa3–2(c)(4), the temporary summary effectiveness granted to the Category 2 amendments by the 13th Amendment Notice may not exceed 120 days in length. This partial temporary approval order has no impact upon such temporary summary effectiveness of the Category 2 amendments.

[8] 15 U.S.C. 78l(f). The Commission finds that extending the Plan is consistent with fair and orderly markets, the protection of investors and the public interest, and otherwise in furtherance of the purposes of the Act. The Commission has taken into account the public trading activity in securities traded pursuant to the Plan, the character of the trading, the impact of the trading of such securities on existing markets, and the desirability of removing impediments to, and the progress that has been made toward the development of a national market system.

[9] 15 U.S.C. 78k–1(a)(1).

[10] 17 CFR 240.11Aa3–1 and 17 CFR 240.11Aa3–2.

[11] 15 U.S.C. 78k–1(a).

[12] Securities Exchange Act Release No. 28146 (June 26, 1990), 55 FR 27917 (July 6, 1990).

The Commission finds that extending the pilot period of the Plan furthers the goals described above by preventing the lapsing of the sole effective transaction reporting plan for Nasdaq securities traded by other exchanges pursuant to unlisted trading privileges. The Commission believes that the Plan is currently a critical component of the national market system and that the Plan's expiration would have a serious, detrimental impact on the further development of the national market system.

III. Conclusion

It is therefore ordered, pursuant to sections 12(f) and 11A of the Act [13] and paragraph (c)(2) of Rule 11Aa3–2 [14] thereunder, that the pilot expiration date for the Plan be, and hereby is, extended through August 19, 2003.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–21520 Filed 8–22–02; 8:45 am]

BILLING CODE 8010–01–P

[13] 15 U.S.C. 78l(f) and 15 U.S.C. 78k–1.

[14] 17 CFR 240.11Aa3–2(c)(2).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46378; File No. SR–OCC–2002–18]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of a Proposed Rule Change Relating to Matched Trade Reporting

August 19, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on July 30, 2002, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would amend OCC's by-laws and rules relating to exchanges' reports of matched trades to OCC and to OCC providing positions and exercise information to clearing members.

[1] 15 U.S.C. 78s(b)(1).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed rule change would modify OCC's by-laws and rules to accommodate the transition to near real-time reporting of matching trade information by the options exchanges.[3] In addition, OCC's rules would be modified to reflect that OCC may make available to clearing members updated position and exercise information; however, such information would be provisional until final processing.

Each option exchange currently compares the trade information submitted by purchasing and selling members with respect to each transaction effected on that exchange. A compared transaction reflects that the parties to the trade have agreed on the terms of the trade. After the completion of its comparison processing, an exchange transmits to OCC a cumulative report of all matched trades effected or reconciled on that exchange on that particular trading day.[4] A compared or ''matched'' trade reported to OCC also contains additional information required by OCC, including, for example, the identity of the purchasing and selling clearing members, the accounts in which each side of the transaction was effected, the exercise prices, the expiration date, and the number of options contracts.[5] Each night, OCC processes the cumulative report of matched trades submitted by each option exchange, as well as exercise notices submitted by clearing members and accepted by OCC, and updates the clearing members' positions for the next trading day.

In connection with systems modification, OCC is proposing to amend its by-laws and rules so that it would accept and process matched trades reported by the exchanges on a near real-time basis. After receipt of a matched trade, OCC would process the matching trade information and make available updated position information for clearing member review throughout the trading day. However, a matched trade reported by a particular exchange might not always be complete or accurate for a variety of reasons. A clearing member may need to modify or append additional information after the matched trade has been sent to OCC. For example, a clearing member may need to reflect that a transaction was either to open or close a position. In such cases, the reporting exchange would instruct OCC to disregard a previously reported matched trade and would report new matching trade information to replace the original transaction. No replacement matching trade information would be reported by an exchange if the previously reported matched trade was to be disregarded altogether. Because an exchange may instruct OCC to disregard a previously submitted matched trade, OCC proposes to amend Article VI, Section 7 of its by-laws to reflect that, in accordance with such an instruction, the matched trade would be deemed null and void and given no effect under the by-laws and rules. In addition, Section 7 would be amended to reflect that OCC would not be liable to any writer, holder, buyer, or seller in acting on an exchange's instruction to disregard a previously submitted trade. Article VII, Section 7 and Rules 401 and 402 also would be amended to eliminate references to the receipt of a report of matched trades. Instead, these provisions would reference the reporting of matching trade information by an exchange. Other by-law and rule provisions that describe the receipt of a

[2] The Commission has modified parts of these statements

[3] While the language of this filing reflects OCC's current business of clearing and settling exchange traded options, the filing and the change to OCC's by-laws and rules extend to matching trade information from national securities exchanges, national securities associations, futures merchants, security futures markets, and international markets for which OCC clears and settles transactions.

[4] While OCC receives periodic matched trade transmissions for each option exchange during a business day, it currently uses the cumulative matched trade transmission made by each exchange for position processing and does not use intraday transmissions for position processing. OCC anticipates that the option exchanges will gradually transition to reporting of matched trades on a near real-time basis. Until all exchanges have transitioned to near real-time matched trade reporting during the business day, OCC's systems will accept and process a cumulative batch transmission, intermittent batch transmissions, and near real-time matched trade reporting.

[5] *See* Article VI, Section 7 of OCC's by-laws and OCC Rule 401 for a description of the information required by OCC.

report of matched trades would be similarly revised.[6]

Rule 501, which governs position reporting by OCC to its clearing members, would be amended to reflect that position information updated during a business day would only be provisional and informational in nature and that only clearing members' daily position reports could be relied upon as definitely reflecting their final positions. Daily position reports are made available to clearing members the business day after the trade date.

Rule 801, which relates to exercises of options, also would be amended to reflect that exercise information provided throughout a business day would be provisional and informational only. Exercises accepted by OCC would be definitely reflected in delivery advices and exercise and assignment reports. Such advices or reports are made available the following business day.

OCC requests that the Commission approve this rule change by October 31, 2002, so that the changes are effective when OCC implements the supporting system changes. These system changes are scheduled for implementation in early November 2002.

OCC believes that the proposed rule change is consistent with section 17A of the Act because it facilitates the prompt and accurate clearance and settlement of cleared contracts.

(B) Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition.

(C)Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve the proposed rule change or

(b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of OCC. All submissions should refer to the File No. SR–OCC–2002–18 and should be submitted by September 13, 2002.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–21518 Filed 8–22–02; 8:45 am]

BILLING CODE 8010–01–P

[6] In addition, the term settlement time, as defined in Section 1.S. of Articles XV, XX, and XXIII is being modified to reflect OCC's receipt of matching trade information as opposed to a matched trade report.

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46377; File No. SR–OCC–2002–15]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of a Proposed Rule Change Relating to Dating Assignments

August 19, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on July 3, 2002, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would amend OCC Rule 803 to provide that assignments of exercise notices will be dated and effective on the same date that the applicable exercise notice was accepted by OCC.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of this rule change is to modify Rule 803 to provide that assignments will be dated and effective on the same date that the related exercise notice was accepted by OCC. Rule 803(b) currently provides that assignments are dated and effective as of the business day following the exercise date. This reflects the mechanics of OCC's processing. OCC assigns exercises on an overnight basis, but assigned clearing members do not receive notice of assignment until the morning of the day after exercise. OCC's practice has been to date assignments as of the day the assigned clearing members receive the notice of assignment. However, the trade (*i.e.*, the purchase or sale of stock) resulting from the exercise is treated as having occurred on the exercise date not the assignment date. Thus, settlement takes place on the third business day following the exercise date.[3]

This has the potential to cause confusion for call writers. OCC has learned that some, if not all, clearing members use the same assignment date

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified parts of these statements.

[3] OCC Rule 902.

as OCC. As a result, when a holder exercises a call on the day before an ex-dividend date in order to capture the dividend, the writer who is assigned the exercise may see an assignment date the same as the ex-dividend date. The writer's broker may then have to explain that the writer is required to give up the dividend to the exercising holder because the exercise occurred before the ex-dividend date even though the assignment did not. While the language of this filing reflects OCC's current business of clearing and settling exchange traded options, the filing and the change to OCC's by-laws and rules extend to matching trade information from national securities exchanges, national securities associations, futures merchants, security futures markets, and international markets for which OCC clears and settles transactions. [4] Dating assignments on the same date as the related exercise will lessen the potential for this kind of confusion.

Other, nonsubstantive changes are proposed for Rule 803 for the purposes of updating obsolete language. In addition, a conforming change is made to Rule 402, which pertains to supplemental reports of matched trades.

OCC believes that the proposed rule change is consistent with section 17A of the Act because it eliminates a potential source for investor confusion.

(B) Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve the proposed rule change or

(b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of OCC. All submissions should refer to the File No. SR–OCC–2002–15 and should be submitted by September 13, 2002.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–21519 Filed 8–22–02; 8:45 am]

BILLING CODE 8010–01–P

[4] OCC Rules 912 and 913(e).

[5] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages that will require clearance by the Office of Management and Budget (OMB) in compliance with Pub. L. 104–13 effective October 1, 1995, The Paperwork Reduction Act of 1995. The information collection packages that may be included in this notice are for new information collections, revisions to OMB-approved information collections and extensions (no change) of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Written comments and recommendations regarding the information collection(s) should be submitted to the OMB Desk Officer and the SSA Reports Clearance Officer at the following addresses:

(OMB) Office of Management and Budget, Attn: Desk Officer for SSA, New Executive Office Building, Room 10235, 725 17th St., NW., Washington, DC 20503.

(SSA) Social Security Administration, DCFAM, Attn: Reports Clearance Officer, 1300 Annex Bldg., 6401 Security Blvd., Baltimore, MD 21235.

I. The information collections listed below are pending at SSA and will be submitted to OMB within 60 days from the date of this notice. Therefore, your comments should be submitted to SSA within 60 days from the date of this publication. You can obtain copies of the collection instruments by calling the SSA Reports Clearance Officer at 410–965–0454, or by writing to the address listed above.

1. *Application for Disability Insurance Benefits—0960–0060—20 CFR Subpart P—404.1501–1512 and Subpart D—404.315–404.322.* The information collected on form SSA–16 helps to determine eligibility for social security disability benefits. The respondents are applicants for Social Security disability benefits.

Type of Request: Revision of an OMB-Approved Information Collection.

Number of Respondents: 1,513,677.

Frequency of Response: 1.

Average Burden Per Response: 20 minutes.

Estimated Annual Burden: 504,559 hours.

2. *Worker's Compensation/Public Disability Benefit Questionnaire—0960–0247—20 CFR Subpart R—404.1720 and 404.1725, Subpart F—410.686b, Subpart O—416.1520.* Section 224 of the Act provides for the reduction of disability insurance benefit (DIB) when the combination of DIB benefits and any worker's compensation (WC) and/or certain Federal, State or Local public disability benefits (PDB) exceeds 80% of the worker's predisability earnings. SSA–546 collects the information to determine whether or not the worker's receipt of WC/PDB payments will cause a reduction of DIB. The respondents are applicants for title II DIB.

Type of Request: Extension of an OMB-Approved Information Collection.

Number of Respondents: 100,000.
Frequency of Response: 1.
Average Burden Per Response: 15 minutes.
Estimated Annual Burden: 25,000 hours.

3. *Medical Report on Adult with Allegation of Human Immune Deficiency Virus Infection and Medical Report on Child with Allegation of Human Immune Deficiency Virus Infection—0960–0500—20 CFR Subpart I—416.933.* The information collected on forms SSA–4814–F5 and SSA–4815–F6 assist the field offices/disability determination services to make findings of presumptive disability that confirms the claimants' disease manifestations meet the severity of listing-level criteria for Human Immunodeficency Virus (HIV) infection. The respondents are medical sources of claimants for title XVI disability payments based on HIV infection.
Type of Request: Extension of an OMB-Approved Information Collection.
Number of Respondents: 59,100.
Frequency of Response: 1.
Average Burden Per Response: 10 minutes.
Estimated Annual Burden: 9,850.

II. The information collection listed below has been submitted to OMB for clearance. Your comments on the information collections would be most useful if received by OMB and SSA within 30 days from the date of this publication. You can obtain a copy of the OMB clearance package by calling the SSA Reports Clearance Officer on (410) 965–0454, or by writing to the address listed above.

1. *Petition To Obtain Approval Of A Fee For Representing A Claimant Before the Social Security Administration—0960–0104—20 CFR Subpart R—404.1720, 404.1725, Subpart F—410.686b, Subpart O—416.1520 and 416.1525.* A representative of a claimant for Social Security benefits must file either a fee petition or a fee agreement with SSA in order to charge a fee for representing a claimant in proceedings before SSA. The representative uses Form SSA–1560 to petition SSA for authorization to charge and collect a fee. A claimant may also use the form to agree or disagree with the requested fee amount or other information the representative provides on the form. SSA uses the information to determine a reasonable fee that a representative may charge and collect for his or her services. The respondents are claimants, their attorneys and other persons representing them.
Type of Request: Extension of an OMB-Approved Information Collection
Number of Respondents: 34,624.
Frequency of Response: 1.
Average Burden Per Response: 30 minutes.
Estimated Average Burden: 17,312 hours.

2. *Coverage of Employees of State and Local Governments—0960–0425—20 CFR Subpart M.* In order for State and local employees working in positions covered by Social Security to get credit for their covered wages, States and Interstate Instrumentalities are required to provide wage and deposit contribution information (for Pre-1987 periods) to SSA. The information collected is needed to post wages to individuals' Social Security earnings records and to perform audit and Trust Fund accounting functions. The respondents are State and Local Governments, or Interstate Instrumentalities, that are required to provide SSA with wage and deposit contribution information for Pre-1987 periods.
Type of Request: Extension of an OMB-Approved Information Collection.
Number of Respondents: 55.
Frequency of Response: varies.
Average Burden Per Response: varies (.5–5 hours) .
Estimated Annual Burden: 434 hours.

3. *Application for Mother's or Father's Insurance Benefits—0960–0003—20 CFR Subpart D—404.339–.342, Subpart G—404.601–.603.* SSA uses the information collected on the Form SSA–5–F6 or during a personal interview with a claimant to entitle an individual to mother's or father's insurance benefits. The respondents are applicants for mother's or father's insurance Benefits.
Type of Request: Extension of an OMB-Approved Information Collection
Number of Respondents: 50,000.
Frequency of Response: 1 .
Average Burden Per Response: 15 minutes.
Estimated Annual Burden: 12,500 hours.

4. *Marriage Certification—0960–0009—20 CFR Subpart H—404.725.* Form SSA–3–F6 is used by SSA to determine if the claimant filing for spouse's benefits has the necessary relationship to the worker for eligibility to benefits as required by section 216(h)(1) of the Social Security Act. The respondents are applicants for spouse's benefits.
Type of Request: Extension of an OMB-Approved Information Collection
Number of Respondents: 180,000.
Frequency of Response: 1.
Average Burden Per Response: 5 minutes.
Estimated Annual Burden: 15,000 hours.

5. *Claimant's Work Background—0960–0300—20 CFR P—404.1565, Subpart I—416.965.* SSA uses the information collected on form HA–4633 to provide claimant's their statutory right to a hearing and decision under the Social Security Act. A completed form provides an updated summary of a claimant's past relevant work and helps the Administrative Law Judge to decide whether or not the claimant is disabled. The respondents are claimants requesting hearings on entitlement to benefits based on disability under titles II and/or XVI of the Act.
Type of Request: Extension of an OMB-Approved Information Collection
Number of Respondents: 120,000.
Frequency of Response: 1.
Average Burden Per Response: 30 minutes.
Estimated Annual Burden: 60,000 hours.

6. *Letter to Landlord Requesting Rental Information—0960–0454—20 CFR Subpart K—416.1130.* Form SSA–L5061 is used by SSA to provide a nationally uniform vehicle for collecting information from landlords in making a rental subsidy determination in the Supplemental Security Income (SSI) Program. The information is used in deciding whether income limits are met for SSI eligibility. The respondents are landlords who provide subsidized rental arrangements to SSI applicants and recipients.
Type of Request: Extension of an OMB-Approved Information Collection Number of Respondents: 49,000.
Frequency of Response: 1.
Average Burden Per Response: 10 minutes.
Estimated Average Burden: 8,167.

7. *Pay.Gov Pilot—Phase-2 Testing—0960-New; 20 CFR 401.45(b)*

Background

The Government Paperwork Elimination Act of 1998 directed federal agencies to develop electronic service delivery instruments as an alternative to traditional paper-based methods. SSA plans to expand its Internet services to enable citizens to complete the application process as well as to process their requests for post-entitlement transactions online. A major requirement for filing applications and for processing transactional requests is SSA's ability to adequately authenticate the citizen. SSA cannot disclose information unless it is under the provisions of the Freedom of Information Act and the Privacy Act of 1974. Because these transactions will be taking place online, SSA must authenticate citizens by asking for information that would positively

identify the requester of the information as the proper party. This information will be validated against identifying information residing in databases outside of SSA. Resultantly, SSA is planning to conduct a series of tests of the Treasury Department's ''Pay.Gov'' authentication engine as a possible tool for out-of-band authentication.

The Collection Pay.Gov—Phase-2

SSA plans to conduct a limited pilot using its online Direct Deposit application to test the Treasury Department's Pay.Gov authentication engine as a possible tool for the Agency to validate beneficiaries online that do not have a current Pin/Password. The respondents to this test will be SSA Title II recipients who need to be authenticated before access can be granted to SSA's Direct Deposit online service.

Type of Request: New Information Collection

Number of Respondents: 161.

Frequency of Response: 1.

Average Burden Per Response: 5 minutes.

Estimated Annual Burden: 13 hours.

8. *Statement for Determining Continuing Eligibility for Supplemental Security Income Payments—Adult, Form SSA–3988–TEST; Statement for Determining Continuing Eligibility for Supplemental Security Income Payments—Child, Form SSA–3989–TEST—0960–0643; 20 CFR Subpart B—416.204.*

Background

The Social Security Act mandates periodic redeterminations of the non-medical factors that relate to the SSI recipients' continuing eligibility for SSI payments. Recent SSA studies have indicated that as many as ⅔ of all scheduled redeterminations completed, with the assistance of a SSA employee, did not result in any change in circumstances that affected payment. Therefore, SSA is planning to expand the respondents and revise the test methodology of the currently approved test forms. The expansion of the test is needed to further validate whether the test redetermination process actually results in significant operational savings and a decrease in recipient inconvenience, while still timely obtaining the accurate data needed to determine continuing eligibility through the process.

The Collection

A test of forms SSA–3988–TEST and SSA–3989–TEST will be used to determine whether SSI recipients have met and continue to meet all statutory and regulatory non-medical requirements for SSI eligibility, and whether they have been and are still receiving the correct payment amount. The SSA–3988–TEST and SSA–3989–TEST are designed as self-help forms that will be mailed to recipients or to their representative payees for completion and return to SSA. The objectives of the expanded test are to determine the public's ability to understand and accurately complete the test forms. The respondents are recipients of SSI benefits or their representatives.

Type of Request: Revision of Currently Approval OMB Collection.

	Respondents	Frequency of response	Average burden per response (in minutes)	Estimated annual burden
SSA–3988–TEST	46,500	1	20	15,500
SSA–3989–TEST	8,500	1	20	2,833
Total				18,333

Dated: August 19, 2002.

Nicholas E. Tagliareni,

Acting Reports Clearance Officer, Social Security Administration.

[FR Doc. 02–21483 Filed 8–22–02; 8:45 am]

BILLING CODE 4191–02–P

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request

The Social Security Administration (SSA) publishes a list of information collection packages that will require clearance by the Office of Management and Budget (OMB) in compliance with P.L. 104–13 effective October 1, 1995, The Paperwork Reduction Act of 1995. The information collection package(s) that may be included in this notice are for new information collections, revisions to OMB-approved information collections and extensions (no charge) of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Written comments and recommendations regarding the information collection should be submitted to the SSA Reports Clearance Officer. The information can be mailed and/or faxed to the address or fax number listed below: (SSA) Social Security Administration, DCFAM, Attn: Reports Clearance Officer 1300 Annex Bldg., 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–965–6400.

The Internet Social Security Benefits Application (ISBA)—0960—0618. One of the requirements for obtaining Social Security benefits is the filing of an application so that a determination may be made on the applicant's eligibility for monthly benefits. ISBA, which is available at the Social Security Administration's (SSA) Internet site, is one method that an individual can choose to file an applicant for benefits. Individuals can use ISBA to apply for retirement insurance benefits (RIB), disability insurance benefits (DIB) and spouse's insurance benefits based on age. SSA gathers only information relevant to the individual applicant's circumstances and will use the information collected by ISBA to entitle individuals to RIB, DIB and/or spouses benefits. Below is an estimate of the public reporting burden:

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 169,000.

Frequency of Response: 1.

Average Burden Per Response: 21.4 minutes.

Estimated Annual Burden: 60,277 hours.

Dated: August 19, 2002.

Nicholas E. Tagliareni,

Acting Reports Clearance Officer, Social Security Administration.

[FR Doc. 02–21482 Filed 8–22–02; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

Bureau of Nonproliferation

[Public Notice 4107]

Determination Under the Arms Export Control Act

AGENCY: Department of State.

ACTION: Notice.

Pursuant to section 654(c) of the Foreign Assistance Act of 1961, as amended, notice is hereby given that the Secretary of State has made a determination pursuant to section 73 of the Arms Export Control Act and has concluded that publication of the determination would be harmful to the national security of the United States.

Dated: August 20, 2002.

Susan F. Burk,

Acting Assistant Secretary of State for Nonproliferation, Department of State.

[FR Doc. 02–21672 Filed 8–22–02; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF STATE

[Public Notice 4104]

Culturally Significant Objects Imported for Exhibition; Determinations: ''Degas and the Dance''

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999 (64 FR 56014), and Delegation of Authority No. 236 of October 19, 1999 (64 FR 57920), as amended, I hereby determine that the objects to be included in the exhibition, ''Degas and the Dance,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. These objects are imported pursuant to loan agreements with foreign lenders. I also determine that the exhibition or display of the exhibit objects at the Detroit Institute of Arts, Detroit, Michigan, from on or about October 20, 2002, to on or about January 12, 2003, the Philadelphia Museum of Art, Philadelphia, Pennsylvania, from on or about February 12, 2003, to on or about May 11, 2003, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of exhibit objects, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, 202/619–5997, and the address is United States Department of State, SA–44, Room 700, 301 4th Street, SW., Washington, DC 20547–0001.

Dated: August 19, 2002.

Patricia S. Harrison,

Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 02–21544 Filed 8–22–02; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

[Public Notice 4105]

Culturally Significant Object Imported for Exhibition; Determinations: ''Pierre Bonnard: Early and Late''

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236 of October 19, 1999, as amended, I hereby determine that the objects to be included in the exhibition ''Pierre Bonnard: Early and Late,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign owners. I also determine that the exhibition or display of the exhibit objects at The Phillips Collection, Washington, DC from on or about September 22, 2002 to on or about January 19, 2003, and then at the Denver Art Museum from on or about March 1, 2003 until on or about May 25, 2003, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, contact Orde F. Kittrie, Attorney-Advisor, Office of the Legal Adviser, Department of State, (telephone: 202/401–4779). The address is Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: August 15, 2002.

Patricia S. Harrison,

Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 02–21543 Filed 8–22–02; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

Bureau of Nonproliferation

[Public Notice 4106]

Imposition of Missile Proliferation Sanctions Against a North Korean Entity

AGENCY: Bureau of Nonproliferation, Department of State.

ACTION: Notice.

SUMMARY: A determination has been made that a North Korean entity has engaged in activities that require the imposition of measures pursuant to the Arms Export Control Act, as amended, and the Export Administration Act of 1979, as amended (as carried out under Executive Order 13222 of August 17, 2001).

EFFECTIVE DATE: August 16, 2002.

FOR FURTHER INFORMATION CONTACT: Pamela K. Roe, Office of Chemical, Biological and Missile Nonproliferation, Bureau of Nonproliferation, Department of State (202–647–4931).

SUPPLEMENTARY INFORMATION: Pursuant to section 73(a)(1) of the Arms Export Control Act (22 U.S.C. 2797b(a)(1)); section 11B(b)(1) of the Export Administration Act of 1979 (50 U.S.C. app. 2401b(b)(1)), as carried out under Executive Order 13222 of August 17, 2001 (hereinafter cited as the ''Export Administration Act of 1979''); and Executive Order 12851 of June 11, 1993; the U.S. Government determined on August 16, 2002 that the following foreign person has engaged in missile technology proliferation activities that require the imposition of the sanctions described in section 73(a)(2)(A) of the Arms Export Control Act (22 U.S.C. 2797b(a)(2)(A) and section 11B(b)(1)(B)(i) of the Export Administration Act of 1979 (50 U.S.C. app. 2410b(b)(1)(B)(i) on this person: Changgwang Sinyong Corporation (North Korea) and its sub-units and successors.

Accordingly, the following sanctions are being imposed on this person:

(A) New individual licenses for exports to the person described above of MTCR Annex-controlled equipment or technology controlled pursuant to the Export Administration Act of 1979 will be denied for two years;

(B) New licenses for export to the person described above of MTCR Annex-controlled equipment or technology controlled pursuant to the Arms Export Control Act will be denied for two years; and

(C) No new United States Government contracts relating to MTCR Annex-controlled equipment or technology involving the person described above will be entered into for two years.

With respect to items controlled pursuant to the Export Administration Act of 1979, the export sanctions only apply to exports made pursuant to individual export licenses.

Additionally, because North Korea is a country with a non-market economy that is not a former member of the Warsaw pact (as referenced in the definition of ''person'' in section 74(8)(B) of the Arms Export Control Act), the following sanctions shall be applied to all activities of the North Korean government relating to the development or production of missile equipment or technology and all activities of the North Korean government affecting the development or production of electronics, space systems or equipment, and military aircraft:

(A) New individual licenses for export to the government activities described above of MTCR Annex-controlled equipment or technology controlled pursuant to the Arms Export Control Act will be denied for two years; and

(B) No new U.S. Government contracts relating to MTCR Annex-controlled equipment or technology involving the government activities described above will be entered into for two years.

These measures shall be implemented by the responsible departments and agencies of the United States Government as provided in Executive Order 12851 of June 11, 1993.

Dated: August 20, 2002.

Susan F. Burk,

Acting Assistant Secretary of State for Nonproliferation, Department of State.

[FR Doc. 02–21671 Filed 8–22–02; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending August 16, 2002

The following applications for certificates of public convenience and necessity and foreign air carrier permits were filed under subpart B (formerly subpart Q) of the Department of Transportation's procedural regulations (*See* 14 CFR 301.201 *et seq.*). The due date for answers, conforming applications, or motions to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–2002–13159.

Date Filed: August 16, 2002.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: September 6, 2002.

Description: Application of Valley Air Express, Inc., pursuant to 49 U.S.C. Section 41738 and Subpart B, requesting authority to operate scheduled passenger service as a commuter air carrier.

Andrea M. Jenkins,

Federal Register Liaison.

[FR Doc. 02–21571 Filed 8–22–02; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Proposed Advisory Circular 43–L39, L–39 Albatross Military Jet Recommended Inspection Program and Overhaul Times

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability of proposed Advisory Circular; extension of comment period.

SUMMARY: This notice announces the extension of the comment period on proposed Advisory Circular (AC) 43–L39, L–39 Albatross Military Jet Recommended Inspection Program and Overhaul Times. The proposed AC provides a recommended inspection program and overhaul times for L–39 Albatross aircraft issued experimental airworthiness certificates for the purpose of exhibition. This AC provides a means, but not the only means, of addressing the inspections and overhaul times for the purpose of complying with continued airworthiness requirements specified in an aircraft's operating limitations. This notice is necessary to give all interested persons the opportunity to present their views on the proposed AC.

DATES: Comments must be received on or before November 21, 2002.

ADDRESSES: Send all comments on the proposed AC to: Federal Aviation Administration, Continuous Airworthiness Maintenance Division (Attention: AFS–305), 800 Independence Avenue SW., Washington, DC 20591, or electronically to *William.O'Brien@faa.gov.*

FOR FURTHER INFORMATION CONTACT: Bill O'Brien, AFS–305, at the address above, by e-mail at *William.O'Brien@faa.gov*, or telephonically at (202) 267–3796.

SUPPLEMENTARY INFORMATION:

Comments Invited

The proposed AC is available on the FAA Web site at *http://www.faa.gov/avr/afs/acs/ac-idx.htm*, under AC No. 43–L39. Interested persons are invited to comment on the proposed AC by submitting such written data, views, or arguments as they may desire. Please identify AC 43–L39, L–39 Albatross Military Jet Recommended Inspection Program and Overhaul Times, and submit comments, either hard copy or electronic, to the appropriate address listed above. Comments may be inspected at the above address between 9 a.m. and 4 p.m. weekdays, except Federal holidays.

Background

The L–39 Albatross aircraft is an all metal, two place, tandem, military jet training aircraft. Almost 3000 L–39 aircraft have been manufactured in the Czech Republic by Aero Vodochody and the aircraft currently constitutes the most numerous former military jet trainer imported into the United States civilian aircraft market. There are currently over 110 registered L–39 aircraft operating in the United States. Additionally, almost 200 L–39 aircraft are undergoing repairs and alterations in the United States in preparation for the issuance of airworthiness certificates.

L–39 aircraft registered in the United States have been issued experimental certificates for the purpose of exhibition. In conjunction with the issuance of experimental certificates for the purpose of exhibition, the Administrator issues operating

limitations under Title 14, Code of Federal Regulations (14 CFR) 91.319. These operating limitations have required the aircraft to be inspected in accordance with a specified program. Applicants for experimental exhibition airworthiness certificates, however, have experienced difficulty in developing or obtaining acceptable inspection programs for L–39 aircraft. This has resulted in a lack of standardization in the inspection programs used to support these aircraft and has significantly increased the time required for these aircraft to obtain airworthiness certification. The FAA therefore has developed the recommended aircraft inspection program specified in this proposed AC. Making this program available to applicants should encourage standardization in the scope and detail of inspection programs referenced in operating limitations and facilitate the issuance of airworthiness certificates to operate L–39 aircraft for the purpose of exhibition.

The FAA recognizes that the manufacturer's inspection program did not originally contemplate civilian operation of the aircraft for the purpose of exhibition and therefore is specifically requesting comments on the scope of the program for civilian application and that portion of the program pertaining to ejection seat inspection. The FAA is particularly interested in comments on how the manufacturer's engine overhaul times can be extended and comments that include more detailed procedures for performing L–39 ejection seat and canopy inspections.

Use of the recommended inspection program and compliance with recommended overhaul times should provide a uniform level of safety for operators of these aircraft while simultaneously streamlining the process for airworthiness certification.

Issued in Washington, DC, on August 19, 2002.

Louis C. Cusimano,

Deputy Director, Flight Standards Service.

[FR Doc. 02–21578 Filed 8–22–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent to Rule on Application 02–06–C–00–MOT to Impose and Use the Revenue from a Passenger Facility Charge (PFC) at Minot International Airport, Minot, ND

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Minot International Airport under the provisions of the 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before September 23, 2002.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Bismarck Airports District Office, 2301 University Drive Building 23B, Bismarck, North Dakota 58504.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Michael Ryan, Airport Director, City of Minot, North Dakota at the following address: Minot International Airport, 25 Airport Road, Suite 10, Minot, North Dakota 58701–1457.

Air Carriers and foreign air carriers may submit copies of written comments previously provided to the City of Minot, North Dakota under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Steven J. Obenauer, Manager, Bismarck Airports District Office, 2301 University Drive, Building 23B, Bismarck, North Dakota 58504, (701) 323–7380. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Minot International Airport under the provisions of the 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR part 158).

On July 23, 2002, the FAA determined that the application to impose and use the revenue from a PFC submitted by the City of Minot was substantially complete within the requirements of section 185.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than October 26, 2002.

The following is a brief overview of the application.

Proposed charge effective date: March 26, 2003.

Proposed charge expiration date: June 13, 2011.

Level of the proposed PFC: $4.50.

Total estimated PFC revenue: $2,432,182.

Brief description of proposed projects: (1) Runway 13–31 reconstruction, Runway 13–31 and Taxiway C translation and extension, association taxiway reconstruction, (2) land avigation easements, (3) friction measuring equipment, (4) install airport perimeter fencing and associated outflow attenuation structures, (5) preparation of PFC amendment ($3.00 to $4.50), (6) preparation of PFC application, (7) snow removal, (8) construct 48-inch storm sewer. Class or classes of air carriers which the public agency has requested not be required to collect PFCs: air taxi/commercial operator (ATCO) filing FAA Form 1800–31. Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the City of Minot, North Dakota—Airport Director's office at the Minot International Airport.

Issued in Des Plaines, Illinois on August 9, 2002.

Mark McClardy,

Manager, Planning and Programming Branch, Airports Division, Great Lakes Region.

[FR Doc. 02–21577 Filed 8–22–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Denial of Motor Vehicle Defect Petition

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Denial of petition for a defect investigation.

SUMMARY: This notice sets forth the reasons for the denial of a petition submitted by Mr. William H. Muzzy III, dated January 23, 2001, to NHTSA under 49 U.S.C. 30162, requesting that the agency commence a proceeding to determine the existence of a defect related to motor vehicle safety in model year 1990 through 1995 Toyota 4Runner vehicles. After a review of the petition and other information, NHTSA has concluded that further expenditure of

the agency's investigative resources on the issues raised by the petition does not appear to be warranted. The agency accordingly has denied the petition. The petition is hereinafter identified as DP02–002.

FOR FURTHER INFORMATION CONTACT: Mr. Jonathan White, Chief, Defect and Recall Information Analysis Division, Office of Defects Investigation (ODI), NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Telephone: (202) 366–5226.

SUPPLEMENTARY INFORMATION: By letter dated January 23, 2001, Mr. William H. Muzzy III, submitted a petition requesting that the agency investigate the rear seat belt routing in model year (MY) 1990 through 1995 Toyota 4Runner vehicles (subject vehicles). The petitioner alleges that when the second row (rear) seat is folded down and then placed in its upright position, the outboard seat belt webbings can become caught behind the folding seat back latches. When this occurs, the seat belt routing is no longer proper, and occupant(s) using the seat belts in this condition would not be properly restrained. The petitioner alleges this seat belt misrouting condition has resulted in a serious injury and a fatality for the rear seat occupants of a subject vehicle that was in an accident. Finally, the petitioner alleges that the warning labels near the rear seat and the warning in the owner's manual for misrouting of rear seat belts are inadequate.

In response to ODI's information request letter, Toyota Motor North America, Inc. (Toyota), indicated that it has received one complaint of a damaged rear outboard seat belt because of possible contact with the rear seat back striker. Also, there has been one lawsuit filed against Toyota involving the aforementioned accident. ODI has not received any other reports of similar seat belt misrouting on the subject vehicles.

Considering the fact that over 367,000 subject vehicles were produced and the average vehicle age is about 10 years, the probability for the aforementioned rear seat outboard seat belt misrouting condition to occur, go unnoticed, and subsequently result in an injury and/or a fatality is extremely low. Further, warning notices to prevent seat belt misrouting are near the rear seat and in the owner's manual.

In view of the foregoing, it is unlikely that NHTSA would issue an order for the notification and remedy of the alleged defect as defined by the petitioner at the conclusion of the investigation requested in the petition. Therefore, in view of the need to allocate and prioritize NHTSA's limited resources to best accomplish the agency's safety mission, the petition is denied.

Authority: 49 U.S.C. 30162(d); delegations of authority at CFR 1.50 and 501.8.

Issued on: August 16, 2002.

Kenneth N. Weinstein,

Associate Administrator for Safety Assurance.

[FR Doc. 02–21574 Filed 8–22–02; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Treasury Advisory Committee on Commercial Operations of the Customs Service

AGENCY: Departmental Offices, Treasury.

ACTION: Notice of meeting.

SUMMARY: This notice announces the date, time, and location for the quarterly meeting of the Treasury Advisory Committee on Commercial Operations of the U.S. Customs Service (COAC), and the provisional meeting agenda.

DATES: The next meeting of the COAC will be held on Friday, September 20, 2002, starting at 9 a.m., in Seattle, Washington. The meeting will be held at Microsoft Conference Center—Building 33, (Conference Center), 16070 NE 36th Way, Redmond, WA 98052, for approximately four hours.

FOR FURTHER INFORMATION CONTACT: Gordana S. Earp, Director, Tariff and Trade Affairs (Enforcement), Office of the Under Secretary (Enforcement), Telephone: (202) 622–0336.

At the meeting, the Advisory Committee is expected to pursue the following draft agenda. The agenda may be modified prior to the meeting.

Agenda

I. Security
  A. Update on Customs Reorganization; Cargo Security Fees;
  B. Update on Supply Chain Security and Customs—Trade Partnership Against Terrorism (''C–TPAT'');
II. Other Issues
  A. Report of the Customs Office of Rulings and Regulations;
  B. Customs Business Regulations;
  C. Focused Assessment and Importer Self-Assessment Programs;
III. Administrative Issues
  A. 2002 Annual Report
  B. Update on COAC Re-chartering

SUPPLEMENTARY INFORMATION: The COAC was created by Congress in Public Law 100–203, Title IX, Section 9503(c), December 22, 1987, 100 Stat. 1330–381 (19 U.S.C. 2071 note). The Committee advises the Secretary of the Treasury and reports to Congress any recommendations on matters involving the commercial operations of the United States Customs Service. By statute, the Secretary of the Treasury appoints the members of this Committee, and the Assistant Secretary of the Treasury for Enforcement presides over the meetings.

The September 20, 2002 meeting of the Committee is open to the public; however, participation in the Committee's deliberations is limited to Committee members, Customs and Treasury Department staff, and persons invited to address the meeting for special presentations. A person other than an Advisory Committee member who wishes to attend the meeting should contact Theresa Manning at (202) 622–0220 or Helen Belt at (202) 622–0230.

Dated: August 15, 2002.

Gordana Earp,

Acting Deputy Assistant Secretary, Regulatory, Tariff, and Trade (Enforcement).

[FR Doc. 02–21486 Filed 8–22–02; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0016]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments for information needed to determine the insured's eligibility for disability insurance benefits.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before October 22, 2002.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits

Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail: *irmnkess@vba.va.gov.* Please refer to ''OMB Control No. 2900–0016'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (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 respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Claim for Disability Insurance Benefits, Government Life Insurance, VA Form 29–357.

OMB Control Number: 2900–0016.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 29–357 is used by the policyholder to claim disability insurance on National Service Life Insurance and the United States Government Life Insurance policies. The information collected is used to determine the insured person's eligibility for disability insurance benefits.

Affected Public: Individuals or households.

Estimated Annual Burden: 14,175 hours.

Estimated Average Burden Per Respondent: 1 hour and 45 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 8,100.

Dated: August 12, 2002.

By direction of the Secretary.

Loise Russell,

Acting Director, Records Management Service.

[FR Doc. 02–21526 Filed 8–22–02; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0004]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments for information needed to determine spouse's and/or children's eligibility for survivors benefits.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before October 22, 2002.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail: *irmnkess@vba.va.gov.* Please refer to ''OMB Control No. 2900–0004'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (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 respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Application for Dependency and Indemnity Compensation, Death Pension and Accrued Benefits by a Surviving Spouse or Child (Including Death Compensation if Applicable), VA Form 21–534.

OMB Control Number: 2900–0004.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 21–534 is used to gather the necessary information to determine the spouse's and/or children's eligibility, dependency and income, as applicable, for death benefit sought.

Affected Public: Individuals or households.

Estimated Annual Burden: 79,125 hours.

Estimated Average Burden Per Respondent: 1 hour and 15 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 63,300.

Dated: August 12, 2002.

By direction of the Secretary.

Loise Russell,

Acting Director, Records Management Service.

[FR Doc. 02–21527 Filed 8–22–02; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0104]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection and allow 60 days for public comment in response to the notice. This notice solicits comments on the

information needed to support a claim for disability benefits based on accidental injury.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before October 22, 2002.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail: *irmnkess@vba.va.gov.* Please refer to ''OMB Control No. 2900–0104'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (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 respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Report of Accidental Injury in Support of Claim for Compensation or Pension, VA Form 21–4176.

OMB Control Number: 2900–0104.

Type of Review: Extension of a currently approved collection.

Abstract: The form is used in support of claims for disability benefits based on disability, which is the result of an accident. The information given by the veteran is used as a source to gather specific data regarding the accident and to afford the veteran an opportunity to provide information from his or her own knowledge regarding the accident.

Affected Public: Individuals or households.

Estimated Annual Burden: 2,200.

Estimated Average Burden Per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 4,400.

Dated: August 14, 2002.

By direction of the Secretary.

Loise Russell,

Acting Director, Records Management Service.

[FR Doc. 02–21528 Filed 8–22–02; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0399]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to confirm the continued entitlement of a beneficiary under the Restored Entitlement Program for Survivors (REPS).

DATES: Written comments and recommendations on the proposed collection of information should be received on or before October 22, 2002.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail: *irmnkess@vba.va.gov.* Please refer to ''OMB Control No. 2900–0399'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (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 respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Student Beneficiary Report—REPS (Restored Entitlement Program For Survivors), VA Form 21–8938.

OMB Control Number: 2900–0399.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 21–8938 is used to verify that an individual who is receiving REPS (Restored Entitlement Program for Survivors) benefits based on schoolchild status is in fact enrolled full-time in an approved school and is otherwise eligible for continued benefits. The form is released each March and sent to all student beneficiaries.

Affected Public: Individuals or households.

Estimated Annual Burden: 1,767.

Estimated Average Burden Per Respondent: 20 minutes.

Frequency of Response: Annually.

Estimated Number of Respondents: 5,300.

Dated: August 14, 2002.

By direction of the Secretary.

Loise Russell,

Acting Director, Records Management Service.

[FR Doc. 02–21529 Filed 8–22–02; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0006]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of

Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before September 23, 2002.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Records Management Service (005E3), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–8030, FAX (202) 273–5981 or e-mail: *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–0006.''

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0006'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Title: Application for Accrued Amounts of Veteran's Benefits Payable to Surviving Spouse, Child or Dependent Parents, VA Form 21–614.

OMB Control Number: 2900–0006.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Abstract: VA Form 21–614 is used by dependents of deceased veterans for the sole purpose of making a claim for accrued benefits available at the time of the veteran's death.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on June 6, 2002, at page 39099.

Affected Public: Individuals or households.

Estimated Annual Burden: 1,200 hours.

Estimated Average Burden Per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 2,400.

Dated: August 12, 2002.

By direction of the Secretary.

Loise Russell,

Acting Director, Records Management Service.

[FR Doc. 02–21525 Filed 8–22–02; 8:45 am]

BILLING CODE 8320–01–P

Corrections

Federal Register

Vol. 67, No. 164

Friday, August 23, 2002

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 30–2002]

Foreign-Trade Zone 61—San Juan, PR; Expansion of Facilities and Manufacturing Authority—Subzone 61F; IPR Pharmaceuticals, Inc. Plant (Pharmaceuticals), Guayama, PR

Correction

In notice document 02–20236 beginning on page 51820 in the issue of Friday, August 9, 2002, make the following correction:

On page 51821, in the second column, in the fourth line, ''September 9, 2002'' should read ''October 8, 2002''.

[FR Doc. C2–20236 Filed 8–22–02; 8:45 am]

BILLING CODE 1505–01–D

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

Changes in Flood Elevation Determinations

Correction

In rule document 02–19576 beginning on page 50362 in the issue of Friday, August 2, 2002, make the following corrections:

§ 65.4 [Corrected]

1. On page 50363, in § 65.4, in the table, in the second column, in the second entry, ''Town of Cave Creek, (02–09–241XO'' should read, ''Town of Cave Creek, (02–09–241X)''.

2. On page 50364, in the same section, in the table, in the second column, in the fourth entry, ''City of Scottsdale,)01–09–1199P)'' should read, ''City of Scottsdale, (01–09–1199P)''.

3. On page 50365, in the same section, in the table, in the second column, in the fourth entry, ''City of Escondido, (01–09–8498X)''should read, ''City of Escondido, (02–09–498X)''.

4. On page 50366, in the same section, in the table, in the second column, in the fourth entry, ''City of Fort Collins, (01–08–045P)'' should read, ''City of Fort Collins, (01–08–349P)''.

[FR Doc. C2–19576 Filed 8–22–02; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Adminstration

14 CFR Part 71

[Airspace Docket No. 02–ACE–9]

Amendment to Class E Airspace; Gordon, NE

Correction

In rule document 02–21138 beginning on page 53877 in the issue of August 20, 2002, make the following correction:

On page 53878, in the first column, in the sixth line from the bottom, ''Comments'' should read ''Commenters''.

[FR Doc. C2–21138 Filed 8–22–02; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Friday,
August 23, 2002

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Final Frameworks for Early-Season Migratory Bird Hunting Regulations; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018–AI30

Migratory Bird Hunting; Final Frameworks for Early-Season Migratory Bird Hunting Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes final early-season frameworks from which the States, Puerto Rico, and the Virgin Islands may select season dates, limits, and other options for the 2002–03 migratory bird hunting seasons. Early seasons are those that generally open prior to October 1, and include seasons in Alaska, Hawaii, Puerto Rico, and the Virgin Islands. The effect of this final rule is to facilitate the selection of hunting seasons by the States and Territories to further the annual establishment of the early-season migratory bird hunting regulations.

DATES: This rule takes effect on August 23, 2002.

ADDRESSES: States and Territories should send their season selections to: Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, ms 634–ARLSQ, 1849 C Street, NW., Washington, DC 20240. You may inspect the comments we received on this rulemaking action during normal business hours in room 634, 4401 N. Fairfax Drive, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Robert Blohm, Acting Chief, or Ron W. Kokel, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, (703) 358–1714.

SUPPLEMENTARY INFORMATION:

Regulations Schedule for 2002

On March 19, 2002, we published in the **Federal Register** (67 FR 12501) a proposal to amend 50 CFR part 20. The proposal provided a background and overview of the migratory bird hunting regulations process, and dealt with the establishment of seasons, limits, the proposed regulatory alternatives for the 2002–03 duck hunting season, and other regulations for migratory game birds under §§ 20.101 through 20.107, 20.109, and 20.110 of subpart K. On June 11, 2002, we published in the **Federal Register** (67 FR 40128) a second document providing supplemental proposals for early- and late-season migratory bird hunting regulations frameworks and the proposed regulatory alternatives for the 2002–03 duck hunting season. The June 11 supplement also provided detailed information on the 2002–03 regulatory schedule and announced the Service Migratory Bird Regulations Committee (SRC) and Flyway Council meetings.

On June 19 and 20, we held open meetings with the Flyway Council Consultants at which the participants reviewed information on the current status of migratory shore and upland game birds and developed recommendations for the 2002–03 regulations for these species plus regulations for migratory game birds in Alaska, Puerto Rico, and the Virgin Islands, special September waterfowl seasons in designated States, special sea duck seasons in the Atlantic Flyway, and extended falconry seasons. In addition, we reviewed and discussed preliminary information on the status of waterfowl as it relates to the development and selection of the regulatory packages for the 2002–03 regular waterfowl seasons. On July 17, we published in the **Federal Register** (67 FR 47224) a third document specifically dealing with the proposed frameworks for early-season regulations and the final regulatory alternatives for the 2002–03 duck hunting season. This document is the fourth in a series of proposed, supplemental, and final rulemaking documents. It establishes final frameworks from which States may select season dates, shooting hours, and daily bag and possession limits for the 2002–03 season. These selections will be published in the **Federal Register** as amendments to §§ 20.101 through 20.107, and § 20.109 of title 50 CFR part 20.

Review of Public Comments

The preliminary proposed rulemaking, which appeared in the March 19 **Federal Register**, opened the public comment period for migratory game bird hunting regulations. The public comment period for early-season issues ended on July 30, 2002. We have considered all pertinent comments received. Comments are summarized below and numbered in the order used in the March 19 **Federal Register**. We have included only the numbered items pertaining to early-seasons issues for which we received written comments. Consequently, the issues do not follow in direct numerical or alphabetical order. We received recommendations from all four Flyway Councils. Some recommendations supported continuation of last year's frameworks. Due to the comprehensive nature of the Councils' annual review of the frameworks, we assume support for continuation of last year's frameworks for items for which we received no recommendation. Council recommendations for changes in the frameworks are summarized below.

1. Ducks

Categories used to discuss issues related to duck harvest management are: (A) General Harvest Strategy, (B) Regulatory Alternatives, including specification of framework dates, season length, and bag limits, (C) Zones and Split Seasons, and (D) Special Seasons/Species Management. The categories correspond to previously published issues/discussion, and only those containing substantial recommendations are discussed below.

D. Special Seasons/Species Management

i. September Teal Seasons

Council Recommendations: The Central Flyway Council recommended that the geographic boundaries for the September teal season in Colorado be amended to include Lake and Chaffee Counties and all lands east of I–25.

Service Response: We concur with the Central Flyway Council's recommendation. The change is included in the framework proposed.

ii. September Teal/Wood Duck Seasons

Written Comments: The Florida Fish and Wildlife Conservation Commission requested that the daily bag limit for Florida's special September wood duck/teal season remain at four wood ducks and teal in the aggregate.

Service Response: Last year, the Service granted operational status to September teal/wood duck seasons in the States of Florida, Kentucky, and Tennessee. The September teal/wood duck season in all three States is a 5-day season, with a daily bag limit of four birds, no more than two of which can be wood ducks. We do not support Florida's request for a four wood duck daily bag limit due to concerns for low hen wood duck survival rates noted during the recently completed Monitoring Initiative.

4. Canada Geese

A. Special Seasons

Council Recommendations: The Atlantic Flyway Council recommended that Georgia and Lake Seminole in Florida be offered an early Canada goose hunting season not to exceed 30 days between September 1–30, with a bag limit not to exceed 5 geese daily (10 in possession). They further recommended that Connecticut's Special September

Canada goose season framework be extended from September 25 to September 30.

The Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council recommended that Minnesota be allowed to continue their experimental special September Canada goose season (1-week extension) in 2002 while the 3-year evaluation is being completed.

Service Response: We concur with the Atlantic Flyway Council's recommended changes. The addition of Georgia and Lake Seminole in Florida will have no impact to migrant Canada geese and would allow the harvest of resident Canada geese during their September teal season. Regarding Connecticut's special September Canada goose season, leg-band recoveries and neck-collar observations suggest few migrants are available. Additionally, this season would be experimental.

We also concur with the extension of Minnesota's experimental special season to allow completion of the evaluation.

B. Regular Seasons

Council Recommendations: The Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council recommended that the framework opening date for all species of geese for the regular goose seasons in Michigan and Wisconsin be September 16, 2002.

Service Response: We concur with the earlier regular Canada goose season opening dates in Michigan and Wisconsin.

9. Sandhill Cranes

Council Recommendations: The Central Flyway Council recommended accepting the 2002 Rocky Mountain sandhill crane population harvest allocation of 833 birds as proposed by the Pacific Flyway. However, during the next revision of the Cooperative Population Management Plan, the Council desires a better definition of what factors will be used to determine when a survey should be considered unreliable.

The Pacific Flyway Council recommended establishing an experimental season for Rocky Mountain Population sandhill cranes for 2002–03, in Uintah County, Utah. The framework for the 30-day season would be September 1, 2002 to January 31, 2003, with a bag limit not to exceed 3 daily and 9 per season. Participants must have a valid permit, issued by the appropriate State, in their possession while hunting. Numbers of permits, open areas, season dates, protection plans for other species, and other provisions of seasons must be consistent with the management plan and approved by the Central and Pacific Flyway Councils.

Service Response: The Service concurs with the recommended changes.

14. Woodcock

Council Recommendations: The Atlantic Flyway Council recommended that the hunting regulations framework dates for American woodcock in the Eastern Region be changed back to the pre-1997 dates of October 1 to January 31.

Service Response: In 1997, the framework opening date for American woodcock in the Eastern Region was changed from October 1 to October 6. This change, coupled with a reduction in the season length from 45 days to 30 days, was made in an effort to reduce overall harvest. An analysis of daily wing-receipt data suggests that changing the framework opening date back to October 1 likely will not result in a meaningful increase in harvest, given that the season length is only 30 days. Therefore, we concur with the Council's recommendation.

17. White-Winged and White-Tipped Doves

Council Recommendations: The Central Flyway Council recommended that the hunting area for white-winged doves be expanded from its current area in New Mexico and Texas to include the remainder of the Central Flyway States in the Central Management Unit. The white-winged dove season should run concurrently with the mourning dove season with an aggregate bag.

Service Response: We concur with the Council's recommendation to allow all Central-Flyway states in the Central Management Unit to select a white-winged dove season that runs concurrently with the mourning dove season with an aggregate bag limit. However, we believe that this change should apply to all States in the Central Management Unit, rather than just those in the Central-Flyway portion of the unit.

NEPA Consideration

NEPA considerations are covered by the programmatic document, ''Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FSES 88–14),'' filed with the Environmental Protection Agency on June 9, 1988. We published a Notice of Availability in the **Federal Register** on June 16, 1988 (53 FR 22582). We published our Record of Decision on August 18, 1988 (53 FR 31341). Copies are available from the address indicated under the caption **ADDRESSES**.

Endangered Species Act Consideration

Section 7 of the Endangered Species Act, as amended (16 U.S.C. 1531–1543; 87 Stat. 884), provides that, ''The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act'' (and) shall ''insure that any action authorized, funded or carried out * * * is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat * * *.'' Consequently, we conducted formal consultations to ensure that actions resulting from these regulations would not likely jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of their critical habitat. Findings from these consultations are included in a biological opinion and concluded that the regulations are not likely to adversely affect any endangered or threatened species. Additionally, these findings may have caused modification of some regulatory measures previously proposed and the final frameworks reflect any such modifications. Our biological opinions resulting from this Section 7 consultation are public documents available for public inspection at the address indicated under the caption **ADDRESSES**.

Executive Order 12866

This rule was reviewed by the Office of Management and Budget'(OMB). The migratory bird hunting regulations are economically and are annually reviewed by OMB under E.O. 12866. As such, a cost/benefit analysis was prepared in 1998 and is further discussed under the heading Regulatory Flexibility Act. Copies of the cost/benefit analysis are available upon request from the address indicated under the caption **ADDRESSES**.

Regulatory Flexibility Act

These regulations have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). We analyzed the economic impacts of the annual hunting regulations on small business entities in detail and issued a Small Entity Flexibility Analysis (Analysis) in 1998. The Analysis documented the significant beneficial economic effect on a substantial number of small entities.

The primary source of information about hunter expenditures for migratory game bird hunting is the National Hunting and Fishing Survey, which is conducted at 5-year intervals. The Analysis was based on the 1996 National Hunting and Fishing Survey and the U.S. Department of Commerce's County Business Patterns, from which it was estimated that migratory bird hunters would spend between $429 million and $1.084 billion at small businesses in 1998. Copies of the Analysis are available upon request from the address indicated under the caption **ADDRESSES**.

Small Business Regulatory Enforcement Fairness Act

This rule is a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. For the reasons outlined above, this rule has an annual effect on the economy of $100 million or more. However, because this rule establishes hunting seasons, we do not plan to defer the effective date under the exemption contained in 5 U.S.C. 808(1) .

Paperwork Reduction Act

We examined these regulations under the Paperwork Reduction Act of 1995. We utilize the various recordkeeping and reporting requirements imposed under regulations established in 50 CFR part 20, Subpart K, in the formulation of migratory game bird hunting regulations. Specifically, OMB has approved the information collection requirements of the Migratory Bird Harvest Information Program and assigned clearance number 1018–0015 (expires 10/31/2004). This information is used to provide a sampling frame for voluntary national surveys to improve our harvest estimates for all migratory game birds in order to better manage these populations. OMB has also approved the information collection requirements of the Sandhill Crane Harvest Questionnaire and assigned clearance number 1018–0023 (expires 7/31/2003). The information from this survey is used to estimate the magnitude and the geographical and temporal distribution of harvest, and the portion it constitutes of the total population.

A Federal agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Unfunded Mandates Reform Act

We have determined and certify, in compliance with the requirements of the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not ''significantly or uniquely'' affect small governments, and will not produce a Federal mandate of $100 million or more in any given year on local or State government or private entities. Therefore, this rule is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

Civil Justice Reform—Executive Order 12988

The Department, in promulgating this rule, has determined that this rule will not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of Executive Order 12988.

Energy Effects—Executive Order 13211

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. While this rule is a significant regulatory action under Executive Order 12866, it is not expected to adversely affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

Takings Implication Assessment

In accordance with Executive Order 12630, this rule does not have significant takings implications and does not affect any constitutionally protected property rights. This rule will not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property. In fact, this rule will allow hunters to exercise otherwise unavailable privileges, and, therefore, reduces restrictions on the use of private and public property.

Federalism Effects

Due to the migratory nature of certain species of birds, the Federal Government has been given responsibility over these species by the Migratory Bird Treaty Act. We annually prescribe frameworks from which the States make selections and employ guidelines to establish special regulations on Federal Indian reservations and ceded lands. This process preserves the ability of the States and Tribes to determine which seasons meet their individual needs. Any State or Tribe may be more restrictive than the Federal frameworks at any time. The frameworks are developed in a cooperative process with the States and the Flyway Councils. This allows States to participate in the development of frameworks from which they will make selections, thereby having an influence on their own regulations. These rules do not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State governments, or intrude on State policy or administration. Therefore, in accordance with Executive Order 13132, these regulations do not have significant federalism effects and do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Regulations Promulgation

The rulemaking process for migratory game bird hunting must, by its nature, operate under severe time constraints. However, we intend that the public be given the greatest possible opportunity to comment. Thus, when the preliminary proposed rulemaking was published, we established what we believed were the longest periods possible for public comment. In doing this, we recognized that when the comment period closed, time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, States would have insufficient time to select season dates and limits; to communicate those selections to us; and to establish and publicize the necessary regulations and procedures to implement their decisions. We therefore find that ''good cause'' exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and these frameworks will, therefore, take effect immediately upon publication.

Therefore, under authority of the Migratory Bird Treaty Act (July 3, 1918), as amended, (16 U.S.C. 703–711), we prescribe final frameworks setting forth the species to be hunted, the daily bag and possession limits, the shooting hours, the season lengths, the earliest opening and latest closing season dates, and hunting areas, from which State conservation agency officials will select hunting season dates and other options. Upon receipt of season and option selections from these officials, we will publish in the **Federal Register** a final rulemaking amending 50 CFR part 20 to reflect seasons, limits, and shooting hours for the conterminous United States for the 2002–03 season.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

The rules that eventually will be promulgated for the 2002–03 hunting

season are authorized under 16 U.S.C. 703–712 and 16 U.S.C. 742 a–j, Pub. L. 106–108.

Dated: August 9, 2002.

David P. Smith,

Acting Assistant Secretary for Fish and Wildlife and Parks.

Final Regulations Frameworks for 2002–03 Early Hunting Seasons on Certain Migratory Game Birds

Pursuant to the Migratory Bird Treaty Act and delegated authorities, the Department of the Interior approved the following frameworks, which prescribe season lengths, bag limits, shooting hours, and outside dates, within which States may select for certain migratory game birds between September 1, 2002, and March 10, 2003.

General

Dates: All outside dates noted below are inclusive.

Shooting and Hawking (taking by falconry) Hours: Unless otherwise specified, from one-half hour before sunrise to sunset daily.

Possession Limits: Unless otherwise specified, possession limits are twice the daily bag limit.

Flyways and Management Units

Waterfowl Flyways

Atlantic Flyway—includes Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia.

Mississippi Flyway—includes Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Ohio, Tennessee, and Wisconsin.

Central Flyway—includes Colorado (east of the Continental Divide), Kansas, Montana (Counties of Blaine, Carbon, Fergus, Judith Basin, Stillwater, Sweetgrass, Wheatland, and all counties east thereof), Nebraska, New Mexico (east of the Continental Divide except the Jicarilla Apache Indian Reservation), North Dakota, Oklahoma, South Dakota, Texas, and Wyoming (east of the Continental Divide).

Pacific Flyway—includes Alaska, Arizona, California, Idaho, Nevada, Oregon, Utah, Washington, and those portions of Colorado, Montana, New Mexico, and Wyoming not included in the Central Flyway.

Management Units

Mourning Dove Management Units

Eastern Management Unit—All States east of the Mississippi River, and Louisiana.

Central Management Unit—Arkansas, Colorado, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming.

Western Management Unit—Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington.

Woodcock Management Regions

Eastern Management Region—Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia.

Central Management Region—Alabama, Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Texas, and Wisconsin.

Other geographic descriptions are contained in a later portion of this document.

Compensatory Days in the Atlantic Flyway: In the Atlantic Flyway States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Jersey, North Carolina, Pennsylvania, and Virginia, where Sunday hunting is prohibited statewide by State law, all Sundays are closed to all take of migratory waterfowl (including mergansers and coots).

Special September Teal Season

Outside Dates: Between September 1 and September 30, an open season on all species of teal may be selected by the following States in areas delineated by State regulations:

Atlantic Flyway—Delaware, Florida, Georgia, Maryland, North Carolina, South Carolina, and Virginia. All seasons are experimental.

Mississippi Flyway—Alabama, Arkansas, Illinois, Indiana, Kentucky, Louisiana, Mississippi, Missouri, Ohio, and Tennessee.

Central Flyway—Colorado (part), Kansas, Nebraska (part), New Mexico (part), Oklahoma, and Texas. The season in Nebraska is experimental.

Hunting Seasons and Daily Bag Limits: Not to exceed 9 consecutive days. The daily bag limit is 4 teal.

Shooting Hours:

Atlantic Flyway—One-half hour before sunrise to sunset except in Maryland, where the hours are from sunrise to sunset.

Mississippi and Central Flyways—One-half hour before sunrise to sunset, except in the States of Arkansas, Illinois, Indiana, Missouri, and Ohio, where the hours are from sunrise to sunset.

Special September Duck Seasons

Florida, Kentucky and Tennessee: In lieu of a special September teal season, a 5-consecutive-day season may be selected in September. The daily bag limit may not exceed 4 teal and wood ducks in the aggregate, of which no more than 2 may be wood ducks.

Iowa: Iowa may hold up to 5 days of its regular duck hunting season in September. All ducks that are legal during the regular duck season may be taken during the September segment of the season. The September season segment may commence no earlier than the Saturday nearest September 20 (September 21). The daily bag and possession limits will be the same as those in effect last year, but are subject to change during the late-season regulations process. The remainder of the regular duck season may not begin before October 10.

Special Youth Waterfowl Hunting Days

Outside Dates: States may select two consecutive days (hunting days in Atlantic Flyway States with compensatory days) per duck-hunting zone, designated as ''Youth Waterfowl Hunting Days,'' in addition to their regular duck seasons. The days must be held outside any regular duck season on a weekend, holidays, or other non-school days when youth hunters would have the maximum opportunity to participate. The days may be held up to 14 days before or after any regular duck-season frameworks or within any split of a regular duck season, or within any other open season on migratory birds.

Daily Bag Limits: The daily bag limits may include ducks, geese, mergansers, coots, moorhens, and gallinules and would be the same as those allowed in the regular season. Flyway species and area restrictions would remain in effect.

Shooting Hours: One-half hour before sunrise to sunset.

Participation Restrictions: Youth hunters must be 15 years of age or younger. In addition, an adult at least 18 years of age must accompany the youth hunter into the field. This adult could not duck hunt but may participate in other seasons that are open on the special youth day.

Scoter, Eider, and Oldsquaw Ducks (Atlantic Flyway)

Outside Dates: Between September 15 and January 20.

Hunting Seasons and Daily Bag Limits: Not to exceed 107 days, with a daily bag limit of 7, singly or in the aggregate of the listed sea-duck species, of which no more than 4 may be scoters.

Daily Bag Limits During the Regular Duck Season: Within the special sea duck areas, during the regular duck season in the Atlantic Flyway, States may choose to allow the above sea duck limits in addition to the limits applying to other ducks during the regular duck season. In all other areas, sea ducks may be taken only during the regular open season for ducks and are part of the regular duck season daily bag (not to exceed 4 scoters) and possession limits.

Areas: In all coastal waters and all waters of rivers and streams seaward from the first upstream bridge in Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, and New York; in any waters of the Atlantic Ocean and in any tidal waters of any bay which are separated by at least 1 mile of open water from any shore, island, and emergent vegetation in New Jersey, South Carolina, and Georgia; and in any waters of the Atlantic Ocean and in any tidal waters of any bay which are separated by at least 800 yards of open water from any shore, island, and emergent vegetation in Delaware, Maryland, North Carolina and Virginia; and provided that any such areas have been described, delineated, and designated as special sea-duck hunting areas under the hunting regulations adopted by the respective States.

Special Early Canada Goose Seasons

Atlantic Flyway

General Seasons

Canada goose seasons of up to 15 days during September 1–15 may be selected for the Eastern Unit of Maryland and Delaware. Seasons not to exceed 20 days during September 1–20 may be selected for the Northeast Hunt Unit of North Carolina. Seasons not to exceed 30 days during September 1–30 may be selected by New Jersey. Except for experimental seasons described below, seasons may not exceed 25 days during September 1–25 in the remainder of the Flyway. Areas open to the hunting of Canada geese must be described, delineated, and designated as such in each State's hunting regulations.

Daily Bag Limits: Not to exceed 5 Canada geese.

Experimental Seasons

Experimental Canada goose seasons of up to 25 days during September 1–25 may be selected for the Montezuma Region of New York and the Lake Champlain Region of New York and Vermont. Experimental seasons of up to 30 days during September 1–30 may be selected by Connecticut, Florida, Georgia, New York (Long Island Zone), North Carolina (except in the Northeast Hunt Unit), Rhode Island, and South Carolina. Areas open to the hunting of Canada geese must be described, delineated, and designated as such in each State's hunting regulations.

Daily Bag Limits: Not to exceed 5 Canada geese.

Mississippi Flyway

General Seasons

Canada goose seasons of up to 15 days during September 1–15 may be selected, except in the Upper Peninsula in Michigan, where the season may not extend beyond September 10. The daily bag limit may not exceed 5 Canada geese. Areas open to the hunting of Canada geese must be described, delineated, and designated as such in each State's hunting regulations.

Experimental Seasons

An experimental Canada goose season of up to 7 consecutive days during September 16–22 may be selected by Minnesota, except in the Northwest Goose Zone. The daily bag limit may not exceed 5 Canada geese.

An experimental Canada goose season of up to 10 consecutive days during September 1–10 may be selected by Michigan for Huron, Saginaw, and Tuscola Counties, except that the Shiawassee National Wildlife Refuge, Shiawassee River State Game Area Refuge, and the Fish Point Wildlife Area Refuge will remain closed. The daily bag limit may not exceed 2 Canada geese.

Central Flyway

General Seasons

Canada goose seasons of up to 15 days during September 1–15 may be selected. The daily bag limit may not exceed 5 Canada geese. Areas open to the hunting of Canada geese must be described, delineated, and designated as such in each State's hunting regulations.

Experimental Seasons

An experimental Canada goose season of up to 12 consecutive days during September 16–27 may be selected by South Dakota. The daily bag limit may not exceed 5 Canada geese.

An experimental Canada goose season of up to 9 consecutive days during September 22–30 may be selected by Oklahoma. The daily bag limit may not exceed 5 Canada geese.

An experimental Canada goose season of up to 5 consecutive days during September 16–20 may be selected by North Dakota. The daily bag limit may not exceed 5 Canada geese.

Pacific Flyway

General Seasons

California may select a 9-day season in Humboldt County during the period September 1–15. The daily bag limit is 2.

Colorado may select a 9–day season during the period of September 1–15 in Grand County, excluding Shadow Mountain Reservoir, and that portion of Summit County north of U.S. Interstate 70. The daily bag limit is 3.

Oregon may select a special Canada goose season of up to 15 days during the period September 1–15. In addition, in the NW goose management zone in Oregon, a 15-day season may be selected during the period September 1–20. Daily bag limits may not exceed 5 Canada geese.

Idaho may select a 7-day season in the special East Canada Goose Zone, as described in State regulations, during the period September 1–15. All participants must have a valid State permit, and the total number of permits issued is not to exceed 110 for this zone. The daily bag limit is 2.

Idaho may select a 7-day Canada Goose Season during the period September 1–15 in Nez Perce County, with a bag limit of 4.

Washington may select a special Canada goose season of up to 15 days during the period September 1–15. Daily bag limits may not exceed 5 Canada geese.

Wyoming may select an 8-day season on Canada geese between September 1–15. This season is subject to the following conditions:

1. Where applicable, the season must be concurrent with the September portion of the sandhill crane season.
2. All participants must have a valid State permit for the special season.
3. A daily bag limit of 3, with season and possession limits of 6, will apply to the special season.

Areas open to hunting of Canada geese in each State must be described, delineated, and designated as such in each State's hunting regulations.

Regular Goose Seasons

Regular goose seasons may open as early as September 16 in Wisconsin and Michigan. Season lengths, bag and possession limits, and other provisions will be established during the late-season regulations process.

Sandhill Cranes

Regular Seasons in the Central Flyway:

Outside Dates: Between September 1 and February 28.

Hunting Seasons: Seasons not to exceed 37 consecutive days may be selected in designated portions of North Dakota (Area 2) and Texas (Area 2). Seasons not to exceed 58 consecutive days may be selected in designated portions of the following States: Colorado, Kansas, Montana, North Dakota, South Dakota, and Wyoming. Seasons not to exceed 93 consecutive days may be selected in designated portions of the following States: New Mexico, Oklahoma, and Texas.

Daily Bag Limits: 3 sandhill cranes, except 2 sandhill cranes in designated portions of North Dakota (Area 2) and Texas (Area 2).

Permits: Each person participating in the regular sandhill crane seasons must have a valid Federal sandhill crane hunting permit and/or, in those States where a Federal sandhill crane permit is not issued, a State-issued Harvest Information Survey Program (HIP) certification for game bird hunting in their possession while hunting.

Special Seasons in the Central and Pacific Flyways:

Arizona, Colorado, Idaho, Montana, New Mexico, Utah, and Wyoming may select seasons for hunting sandhill cranes within the range of the Rocky Mountain Population (RMP) subject to the following conditions:

Outside Dates: Between September 1 and January 31.

Hunting Seasons: The season in any State or zone may not exceed 30 days.

Bag limits: Not to exceed 3 daily and 9 per season.

Permits: Participants must have a valid permit, issued by the appropriate State, in their possession while hunting.

Other provisions: Numbers of permits, open areas, season dates, protection plans for other species, and other provisions of seasons must be consistent with the management plan and approved by the Central and Pacific Flyway Councils with the following exceptions:

1. In Utah, the requirement for monitoring the racial composition of the harvest in the experimental season is waived, and 100 percent of the harvest will be assigned to the RMP quota;

2. In Arizona, the annual requirement for monitoring the racial composition of the harvest is changed to once every 3 years;

3. In Idaho, seasons are experimental, and the requirement for monitoring the racial composition of the harvest is waived; 100 percent of the harvest will be assigned to the RMP quota; and

4. In New Mexico, the season in the Estancia Valley is experimental, with a requirement to monitor the level and racial composition of the harvest; greater sandhill cranes in the harvest will be assigned to the RMP quota.

Common Moorhens and Purple Gallinules

Outside Dates: Between September 1 and January 20 in the Atlantic Flyway, and between September 1 and the Sunday nearest January 20 (January 19) in the Mississippi and Central Flyways. States in the Pacific Flyway have been allowed to select their hunting seasons between the outside dates for the season on ducks; therefore, they are late-season frameworks, and no frameworks are provided in this document.

Hunting Seasons and Daily Bag Limits: Seasons may not exceed 70 days in the Atlantic, Mississippi, and Central Flyways. Seasons may be split into 2 segments. The daily bag limit is 15 common moorhens and purple gallinules, singly or in the aggregate of the two species.

Zoning: Seasons may be selected by zones established for duck hunting.

Rails

Outside Dates: States included herein may select seasons between September 1 and January 20 on clapper, king, sora, and Virginia rails.

Hunting Seasons: The season may not exceed 70 days, and may be split into 2 segments.

Daily Bag Limits:

Clapper and King Rails—In Rhode Island, Connecticut, New Jersey, Delaware, and Maryland, 10, singly or in the aggregate of the two species. In Texas, Louisiana, Mississippi, Alabama, Georgia, Florida, South Carolina, North Carolina, and Virginia, 15, singly or in the aggregate of the two species.

Sora and Virginia Rails—In the Atlantic, Mississippi, and Central Flyways and the Pacific-Flyway portions of Colorado, Montana, New Mexico, and Wyoming, 25 daily and 25 in possession, singly or in the aggregate of the two species. The season is closed in the remainder of the Pacific Flyway.

Common Snipe

Outside Dates: Between September 1 and February 28, except in Maine, Vermont, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, and Virginia, where the season must end no later than January 31.

Hunting Seasons and Daily Bag Limits: Seasons may not exceed 107 days and may be split into two segments. The daily bag limit is 8 snipe.

Zoning: Seasons may be selected by zones established for duck hunting.

American Woodcock

Outside Dates: States in the Eastern Management Region may select hunting seasons between October 1 and January 31. States in the Central Management Region may select hunting seasons between the Saturday nearest September 22 (September 21) and January 31.

Hunting Seasons and Daily Bag Limits: Seasons may not exceed 30 days in the Eastern Region and 45 days in the Central Region. The daily bag limit is 3. Seasons may be split into two segments.

Zoning: New Jersey may select seasons in each of two zones. The season in each zone may not exceed 24 days.

Band-tailed Pigeons

Pacific Coast States (California, Oregon, Washington, and Nevada)

Outside Dates: Between September 15 and January 1.

Hunting Seasons and Daily Bag Limits: Not more than 9 consecutive days, with a daily bag limit of 2 band-tailed pigeons.

Zoning: California may select hunting seasons not to exceed 9 consecutive days in each of two zones. The season in the North Zone must close by October 3.

Four-Corners States (Arizona, Colorado, New Mexico, and Utah)

Outside Dates: Between September 1 and November 30.

Hunting Seasons and Daily Bag Limits: Not more than 30 consecutive days, with a daily bag limit of 5 band-tailed pigeons.

Zoning: New Mexico may select hunting seasons not to exceed 20 consecutive days in each of two zones. The season in the South Zone may not open until October 1.

Mourning Doves

Outside Dates: Between September 1 and January 15, except as otherwise provided, States may select hunting seasons and daily bag limits as follows:

Eastern Management Unit

Hunting Seasons and Daily Bag Limits: Not more than 70 days with a daily bag limit of 12, or not more than 60 days with a daily bag limit of 15.

Zoning and Split Seasons: States may select hunting seasons in each of two zones. The season within each zone may be split into not more than three periods. The hunting seasons in the South Zones of Alabama, Florida, Georgia, and Louisiana, may commence no earlier than September 20.

Regulations for bag and possession limits, season length, and shooting hours must be uniform within specific hunting zones.

Central Management Unit

Hunting Seasons and Daily Bag Limits: Not more than 70 days with a daily bag limit of 12, or not more than 60 days with a daily bag limit of 15 mourning and white-winged doves in the aggregate.

Zoning and Split Seasons:

States may select hunting seasons in each of two zones. The season within each zone may be split into not more than three periods.

Texas may select hunting seasons for each of three zones subject to the following conditions:

A. The hunting season may be split into not more than two periods, except in that portion of Texas in which the special white-winged dove season is allowed, where a limited mourning dove season may be held concurrently with that special season (see white-winged dove frameworks).

B. A season may be selected for the North and Central Zones between September 1 and January 25; and for the South Zone between September 20 and January 25.

C. Daily bag limits are aggregate bag limits with mourning, white-winged, and white-tipped doves (see white-winged dove frameworks for specific daily bag limit restrictions).

D. Except as noted above, regulations for bag and possession limits, season length, and shooting hours must be uniform within each hunting zone.

Western Management Unit

Hunting Seasons and Daily Bag Limits:

Idaho, Oregon, Utah, and Washington—Not more than 30 consecutive days with a daily bag limit of 10 mourning doves.

Nevada—Not more than 30 consecutive days with a daily bag limit of 10 mourning doves, except in Clark and Nye Counties where the daily bag limit may not exceed 10 mourning and white-winged doves in the aggregate.

Arizona and California—Not more than 60 days, which may be split between two periods, September 1–15 and November 1–January 15. In Arizona, during the first segment of the season, the daily bag limit is 10 mourning and white-winged doves in the aggregate, of which no more than 6 may be white-winged doves. During the remainder of the season, the daily bag limit is 10 mourning doves. In California, the daily bag limit is 10 mourning doves, except in Imperial, Riverside, and San Bernardino Counties where the daily bag limit may not exceed 10 mourning and white-winged doves in the aggregate.

White-Winged and White-Tipped Doves

Hunting Seasons and Daily Bag Limits:

Except as shown below, seasons must be concurrent with mourning dove seasons.

Eastern Management Unit:

In Florida, the daily bag limit may not exceed 12 mourning and white-winged doves (15 under the alternative) in the aggregate, of which no more than 4 may be white-winged doves.

In the remainder of the Eastern Management Unit, the season is closed.

Central Management Unit:

In Texas, the daily bag limit may not exceed 12 mourning, white-winged, and white-tipped doves (15 under the alternative) in the aggregate, of which no more than 2 may be white-tipped doves. In addition, Texas also may select a hunting season of not more than 4 days for the special white-winged dove area of the South Zone between September 1 and September 19. The daily bag limit may not exceed 10 white-winged, mourning, and white-tipped doves in the aggregate, of which no more than 5 may be mourning doves and 2 may be white-tipped doves.

In the remainder of the Central Management Unit, the daily bag limit may not exceed 12 (15 under the alternative) mourning and white-winged doves in the aggregate.

Western Management Unit:

Arizona may select a hunting season of not more than 30 consecutive days, running concurrently with the first segment of the mourning dove season. The daily bag limit may not exceed 10 mourning and white-winged doves in the aggregate, of which no more than 6 may be white-winged doves.

In the Nevada Counties of Clark and Nye, and in the California Counties of Imperial, Riverside, and San Bernardino, the daily bag limit may not exceed 10 mourning and white-winged doves in the aggregate.

In the remainder of the Western Management Unit, the season is closed.

Alaska

Outside Dates: Between September 1 and January 26.

Hunting Seasons: Alaska may select 107 consecutive days for waterfowl, sandhill cranes, and common snipe in each of five zones. The season may be split without penalty in the Kodiak Zone. The seasons in each zone must be concurrent.

Closures: The season is closed on Canada geese from Unimak Pass westward in the Aleutian Island chain. The hunting season is closed on emperor geese, spectacled eiders, and Steller's eiders.

Daily Bag and Possession Limits:

Ducks—Except as noted, a basic daily bag limit of 7 and a possession limit of 21 ducks. Daily bag and possession limits in the North Zone are 10 and 30, and in the Gulf Coast Zone, they are 8 and 24, respectively. The basic limits may include no more than 1 canvasback daily and 3 in possession and may not include sea ducks.

In addition to the basic duck limits, Alaska may select sea duck limits of 10 daily, 20 in possession, singly or in the aggregate, including no more than 6 each of either harlequin or long-tailed ducks. Sea ducks include scoters, common and king eiders, harlequin ducks, long-tailed ducks, and common and red-breasted mergansers.

Light Geese—A basic daily bag limit of 3 and a possession limit of 6.

Dark Geese—A basic daily bag limit of 4 and a possession limit of 8.

Dark-goose seasons are subject to the following exceptions:

1. In Units 5 and 6, the taking of Canada geese is permitted from September 28 through December 16. A special, permit-only Canada goose season may be offered on Middleton Island. No more than 10 permits can be issued. A mandatory goose identification class is required. Hunters must check-in and check-out. Bag limit of 1 daily and 1 in possession. Season to close if incidental harvest includes 5 dusky Canada geese. A dusky Canada goose is any dark-breasted Canada goose (Munsell 10 YR color value five or less) with a bill length between 40 and 50 millimeters.

2. In Unit 10 (except Unimak Island), the taking of Canada geese is prohibited.

3. In Unit 9(D) and the Unimak Island portion of Unit 10, the limits for dark geese are 6 daily and 12 in possession.

Brant—A daily bag limit of 2.

Common snipe—A daily bag limit of 8.

Sandhill cranes—Bag and possession limits of 2 and 4, respectively, in the Southeast, Gulf Coast, Kodiak, and Aleutian Zones, and Unit 17 in the Northern Zone. In the remainder of the Northern Zone (outside Unit 17), bag and possession limits of 3 and 6, respectively.

Tundra Swans—Open seasons for tundra swans may be selected subject to the following conditions:

1. All seasons are by registration permit only.

2. All season framework dates are September 1–October 31.

3. In Game Management Unit (GMU) 17, an experimental season may be

selected. No more than 200 permits may be issued for this during the experimental season. No more than 3 tundra swans may be authorized per permit with no more than 1 permit issued per hunter per season. An evaluation of the season must be completed, adhering to the guidelines for experimental seasons as described in the Pacific Flyway Management Plan for the Western Population of (tundra) Swans.

4. In Game Management Unit (GMU) 18, no more than 500 permits may be issued during the operational season. Up to 3 tundra swans may be authorized per permit. No more than 1 permit may be issued per hunter per season.

5. In GMU 22, no more than 300 permits may be issued during the operational season. Each permittee may be authorized to take up to 3 tundra swan per permit. No more than 1 permit may be issued per hunter per season.

6. In GMU 23, no more than 300 permits may be issued during the operational season. No more than 3 tundra swans may be authorized per permit with no more than 1 permit issued per hunter per season.

Hawaii

Outside Dates: Between October 1 and January 31.

Hunting Seasons: Not more than 65 days (75 under the alternative) for mourning doves.

Bag Limits: Not to exceed 15 (12 under the alternative) mourning doves.

Note: Mourning doves may be taken in Hawaii in accordance with shooting hours and other regulations set by the State of Hawaii, and subject to the applicable provisions of 50 CFR part 20.

Puerto Rico

Doves and Pigeons:

Outside Dates: Between September 1 and January 15.

Hunting Seasons: Not more than 60 days.

Daily Bag and Possession Limits: Not to exceed 10 Zenaida, mourning, and white-winged doves in the aggregate. Not to exceed 5 scaly-naped pigeons.

Closed Areas: There is no open season on doves or pigeons in the following areas: Municipality of Culebra, Desecheo Island, Mona Island, El Verde Closure Area, and Cidra Municipality and adjacent areas.

Ducks, Coots, Moorhens, Gallinules, and Snipe:

Outside Dates: Between October 1 and January 31.

Hunting Seasons: Not more than 55 days may be selected for hunting ducks, common moorhens, and common snipe. The season may be split into two segments.

Daily Bag Limits:

Ducks—Not to exceed 6.

Common moorhens—Not to exceed 6.

Common snipe—Not to exceed 8.

Closed Seasons: The season is closed on the ruddy duck, white-cheeked pintail, West Indian whistling duck, fulvous whistling duck, and masked duck, which are protected by the Commonwealth of Puerto Rico. The season also is closed on the purple gallinule, American coot, and Caribbean coot.

Closed Areas: There is no open season on ducks, common moorhens, and common snipe in the Municipality of Culebra and on Desecheo Island.

Virgin Islands

Doves and Pigeons:

Outside Dates: Between September 1 and January 15.

Hunting Seasons: Not more than 60 days for Zenaida doves.

Daily Bag and Possession Limits: Not to exceed 10 Zenaida doves.

Closed Seasons: No open season is prescribed for ground or quail doves, or pigeons in the Virgin Islands.

Closed Areas: There is no open season for migratory game birds on Ruth Cay (just south of St. Croix).

Local Names for Certain Birds: Zenaida dove, also known as mountain dove; bridled quail-dove, also known as Barbary dove or partridge; Common ground-dove, also known as stone dove, tobacco dove, rola, or tortolita; scaly-naped pigeon, also known as red-necked or scaled pigeon.

Ducks

Outside Dates: Between December 1 and January 31.

Hunting Seasons: Not more than 55 consecutive days.

Daily Bag Limits: Not to exceed 6.

Closed Seasons: The season is closed on the ruddy duck, white-cheeked pintail, West Indian whistling duck, fulvous whistling duck, and masked duck.

Special Falconry Regulations

Falconry is a permitted means of taking migratory game birds in any State meeting Federal falconry standards in 50 CFR 21.29(k). These States may select an extended season for taking migratory game birds in accordance with the following:

Extended Seasons: For all hunting methods combined, the combined length of the extended season, regular season, and any special or experimental seasons shall not exceed 107 days for any species or group of species in a geographical area. Each extended season may be divided into a maximum of 3 segments.

Framework Dates: Seasons must fall between September 1 and March 10.

Daily Bag and Possession Limits: Falconry daily bag and possession limits for all permitted migratory game birds shall not exceed 3 and 6 birds, respectively, singly or in the aggregate, during extended falconry seasons, any special or experimental seasons, and regular hunting seasons in all States, including those that do not select an extended falconry season.

Regular Seasons: General hunting regulations, including seasons and hunting hours, apply to falconry in each State listed in 50 CFR 21.29(k). Regular-season bag and possession limits do not apply to falconry. The falconry bag limit is not in addition to gun limits.

Area, Unit, and Zone Descriptions

Mourning and White-winged Doves

Alabama

South Zone—Baldwin, Barbour, Coffee, Conecuh, Covington, Dale, Escambia, Geneva, Henry, Houston, and Mobile Counties.

North Zone—Remainder of the State.

California

White-winged Dove Open Areas—Imperial, Riverside, and San Bernardino Counties.

Florida

Northwest Zone—The Counties of Bay, Calhoun, Escambia, Franklin, Gadsden, Gulf, Holmes, Jackson, Liberty, Okaloosa, Santa Rosa, Walton, Washington, Leon (except that portion north of U.S. 27 and east of State Road 155), Jefferson (south of U.S. 27, west of State Road 59 and north of U.S. 98), and Wakulla (except that portion south of U.S. 98 and east of the St. Marks River).

South Zone—Remainder of State.

Georgia

Northern Zone—That portion of the State lying north of a line running west to east along U.S. Highway 280 from Columbus to Wilcox County, thence southward along the western border of Wilcox County; thence east along the southern border of Wilcox County to the Ocmulgee River, thence north along the Ocmulgee River to Highway 280, thence east along Highway 280 to the Little Ocmulgee River; thence southward along the Little Ocmulgee River to the Ocmulgee River; thence southwesterly along the Ocmulgee River to the western border of Jeff Davis County; thence south along the western border of Jeff Davis County; thence east along the

southern border of Jeff Davis and Appling Counties; thence north along the eastern border of Appling County, to the Altamaha River; thence east to the eastern border of Tattnall County; thence north along the eastern border of Tattnall County; thence north along the western border of Evans to Candler County; thence east along the northern border of Evans County to U.S. Highway 301; thence northeast along U.S. Highway 301 to the South Carolina line.

South Zone—Remainder of the State.

Louisiana

North Zone—That portion of the State north of Interstate Highway 10 from the Texas State line to Baton Rouge, Interstate Highway 12 from Baton Rouge to Slidell and Interstate Highway 10 from Slidell to the Mississippi State line.

South Zone—The remainder of the State.

Nevada

White-winged Dove Open Areas—Clark and Nye Counties.

Texas

North Zone—That portion of the State north of a line beginning at the International Bridge south of Fort Hancock; north along FM 1088 to TX 20; west along TX 20 to TX 148; north along TX 148 to I–10 at Fort Hancock; east along I–10 to I–20; northeast along I–20 to I–30 at Fort Worth; northeast along I–30 to the Texas-Arkansas State line.

South Zone—That portion of the State south and west of a line beginning at the International Bridge south of Del Rio, proceeding east on U.S. 90 to San Antonio; then east on I–10 to Orange, Texas.

Special White-winged Dove Area in the South Zone—That portion of the State south and west of a line beginning at the International Bridge south of Del Rio, proceeding east on U.S. 90 to Uvalde; south on U.S. 83 to TX 44; east along TX 44 to TX 16 at Freer; south along TX 16 to TX 285 at Hebbronville; east along TX 285 to FM 1017; southwest along FM 1017 to TX 186 at Linn; east along TX 186 to the Mansfield Channel at Port Mansfield; east along the Mansfield Channel to the Gulf of Mexico.

Area with additional restrictions—Cameron, Hidalgo, Starr, and Willacy Counties.

Central Zone—That portion of the State lying between the North and South Zones.

Band-tailed Pigeons

California

North Zone—Alpine, Butte, Del Norte, Glenn, Humboldt, Lassen, Mendocino, Modoc, Plumas, Shasta, Sierra, Siskiyou, Tehama, and Trinity Counties.

South Zone—The remainder of the State.

New Mexico

North Zone—North of a line following U.S. 60 from the Arizona State line east to I–25 at Socorro and then south along I–25 from Socorro to the Texas State line.

South Zone—Remainder of the State.

Washington

Western Washington—The State of Washington excluding those portions lying east of the Pacific Crest Trail and east of the Big White Salmon River in Klickitat County.

Woodcock

New Jersey

North Zone—That portion of the State north of NJ 70.

South Zone—The remainder of the State.

Special September Canada Goose Seasons

Atlantic Flyway

Connecticut

North Zone—That portion of the State north of I–95.

South Zone—Remainder of the State.

Maryland

Eastern Unit—Anne Arundel, Calvert, Caroline, Cecil, Charles, Dorchester, Harford, Kent, Queen Anne's, St. Mary's, Somerset, Talbot, Wicomico, and Worcester Counties, and those portions of Baltimore, Howard, and Prince George's Counties east of I–95.

Western Unit—Allegany, Carroll, Frederick, Garrett, Montgomery, and Washington Counties, and those portions of Baltimore, Howard, and Prince George's Counties west of I–95.

Massachusetts

Western Zone—That portion of the State west of a line extending south from the Vermont border on I–91 to MA 9, west on MA 9 to MA 10, south on MA 10 to U.S. 202, south on U.S. 202 to the Connecticut border.

Central Zone—That portion of the State east of the Berkshire Zone and west of a line extending south from the New Hampshire border on I–95 to U.S. 1, south on U.S. 1 to I–93, south on I–93 to MA 3, south on MA 3 to U.S. 6, west on U.S. 6 to MA 28, west on MA 28 to I–195, west to the Rhode Island border; except the waters, and the lands 150 yards inland from the high-water mark, of the Assonet River upstream to the MA 24 bridge, and the Taunton River upstream to the Center St.-Elm St. bridge shall be in the Coastal Zone.

Coastal Zone—That portion of Massachusetts east and south of the Central Zone.

New York

Lake Champlain Zone—The U.S. portion of Lake Champlain and that area east and north of a line extending along NY 9B from the Canadian border to U.S. 9, south along U.S. 9 to NY 22 south of Keesville; south along NY 22 to the west shore of South Bay, along and around the shoreline of South Bay to NY 22 on the east shore of South Bay; southeast along NY 22 to U.S. 4, northeast along U.S. 4 to the Vermont border.

Long Island Zone—That area consisting of Nassau County, Suffolk County, that area of Westchester County southeast of I–95, and their tidal waters.

Western Zone—That area west of a line extending from Lake Ontario east along the north shore of the Salmon River to I–81, and south along I–81 to the Pennsylvania border, except for the Montezuma Zone.

Montezuma Zone—Those portions of Cayuga, Seneca, Ontario, Wayne, and Oswego Counties north of U.S. Route 20, east of NYS Route 14, south of NYS Route 104, and west of NYS Route 34.

Northeastern Zone—That area north of a line extending from Lake Ontario east along the north shore of the Salmon River to I–81, south along I–81 to NY 49, east along NY 49 to NY 365, east along NY 365 to NY 28, east along NY 28 to NY 29, east along NY 29 to I–87, north along I–87 to U.S. 9 (at Exit 20), north along U.S. 9 to NY 149, east along NY 149 to U.S. 4, north along U.S. 4 to the Vermont border, exclusive of the Lake Champlain Zone.

Southeastern Zone—The remaining portion of New York.

North Carolina

Northeast Hunt Unit—Counties of Bertie, Camden, Chowan, Currituck, Dare, Hyde, Pasquotank, Perquimans, Tyrrell, and Washington.

Vermont

Lake Champlain Zone: The U.S. portion of Lake Champlain and that area north and west of the line extending from the New York border along U.S. 4 to VT 22A at Fair Haven; VT 22A to U.S. 7 at Vergennes; U.S. 7 to the Canadian border.

Interior Zone: That portion of Vermont west of the Lake Champlain

Zone and eastward of a line extending from the Massachusetts border at Interstate 91; north along Interstate 91 to US 2; east along US 2 to VT 102; north along VT 102 to VT 253; north along VT 253 to the Canadian border.

Connecticut River Zone: The remaining portion of Vermont east of the Interior Zone.

Mississippi Flyway

Illinois

Northeast Canada Goose Zone—Cook, Du Page, Grundy, Kane, Kankakee, Kendall, Lake, McHenry, and Will Counties.

North Zone: That portion of the State outside the Northeast Canada Goose Zone and north of a line extending east from the Iowa border along Illinois Highway 92 to Interstate Highway 280, east along I–280 to I–80, then east along I–80 to the Indiana border.

Central Zone: That portion of the State outside the Northeast Canada Goose Zone and south of the North Zone to a line extending east from the Missouri border along the Modoc Ferry route to Modoc Ferry Road, east along Modoc Ferry Road to Modoc Road, northeasterly along Modoc Road and St. Leo's Road to Illinois Highway 3, north along Illinois 3 to Illinois 159, north along Illinois 159 to Illinois 161, east along Illinois 161 to Illinois 4, north along Illinois 4 to Interstate Highway 70, east along I–70 to the Bond County line, north and east along the Bond County line to Fayette County, north and east along the Fayette County line to Effingham County, east and south along the Effingham County line to I–70, then east along I–70 to the Indiana border.

South Zone: The remainder of Illinois.

Iowa

North Zone: That portion of the State north of a line extending east from the Nebraska border along State Highway 175 to State 37, southeast along State 37 to U.S. Highway 59, south along U.S. 59 to Interstate Highway 80, then east along I–80 to the Illinois border.

South Zone: The remainder of Iowa.

Michigan

North Zone: The Upper Peninsula.

Middle Zone: That portion of the Lower Peninsula north of a line beginning at the Wisconsin border in Lake Michigan due west of the mouth of Stony Creek in Oceana County; then due east to, and easterly and southerly along the south shore of, Stony Creek to Scenic Drive, easterly and southerly along Scenic Drive to Stony Lake Road, easterly along Stony Lake and Garfield Roads to Michigan Highway 20, east along Michigan 20 to U.S. Highway 10 Business Route (BR) in the city of Midland, east along U.S. 10 BR to U.S. 10, east along U.S. 10 to Interstate Highway 75/U.S. Highway 23, north along I–75/U.S. 23 to the U.S. 23 exit at Standish, east along U.S. 23 to Shore Road in Arenac County, east along Shore Road to the tip of Point Lookout, then on a line directly east 10 miles into Saginaw Bay, and from that point on a line directly northeast to the Canada border.

South Zone: The remainder of Michigan.

Minnesota

Twin Cities Metropolitan Canada Goose Zone—

A. All of Hennepin and Ramsey Counties.

B. In Anoka County, all of Columbus Township lying south of County State Aid Highway (CSAH) 18, Anoka County; all of the cities of Ramsey, Andover, Anoka, Coon Rapids, Spring Lake Park, Fridley, Hilltop, Columbia Heights, Blaine, Lexington, Circle Pines, Lino Lakes, and Centerville; and all of the city of Ham Lake except that portion lying north of CSAH 18 and east of U.S. Highway 65.

C. That part of Carver County lying north and east of the following described line: Beginning at the northeast corner of San Francisco Township; thence west along the north boundary of San Francisco Township to the east boundary of Dahlgren Township; thence north along the east boundary of Dahlgren Township to U.S. Highway 212; thence west along U.S. Highway 212 to State Trunk Highway (STH) 284; thence north on STH 284 to County State Aid Highway (CSAH) 10; thence north and west on CSAH 10 to CSAH 30; thence north and west on CSAH 30 to STH 25; thence east and north on STH 25 to CSAH 10; thence north on CSAH 10 to the Carver County line.

D. In Scott County, all of the cities of Shakopee, Savage, Prior Lake, and Jordan, and all of the Townships of Jackson, Louisville, St. Lawrence, Sand Creek, Spring Lake, and Credit River.

E. In Dakota County, all of the cities of Burnsville, Eagan, Mendota Heights, Mendota, Sunfish Lake, Inver Grove Heights, Apple Valley, Lakeville, Rosemount, Farmington, Hastings, Lilydale, West St. Paul, and South St. Paul, and all of the Township of Nininger.

F. That portion of Washington County lying south of the following described line: Beginning at County State Aid Highway (CSAH) 2 on the west boundary of the county; thence east on CSAH 2 to U.S. Highway 61; thence south on U.S. Highway 61 to State Trunk Highway (STH) 97; thence east on STH 97 to the intersection of STH 97 and STH 95; thence due east to the east boundary of the State.

Northwest Goose Zone—That portion of the State encompassed by a line extending east from the North Dakota border along U.S. Highway 2 to State Trunk Highway (STH) 32, north along STH 32 to STH 92, east along STH 92 to County State Aid Highway (CSAH) 2 in Polk County, north along CSAH 2 to CSAH 27 in Pennington County, north along CSAH 27 to STH 1, east along STH 1 to CSAH 28 in Pennington County, north along CSAH 28 to CSAH 54 in Marshall County, north along CSAH 54 to CSAH 9 in Roseau County, north along CSAH 9 to STH 11, west along STH 11 to STH 310, and north along STH 310 to the Manitoba border.

Southeast Goose Zone—That part of the State within the following described boundaries: beginning at the intersection of U.S. Highway 52 and the south boundary of the Twin Cities Metro Canada Goose Zone; thence along the U.S. Highway 52 to State Trunk Highway (STH) 57; thence along STH 57 to the municipal boundary of Kasson; thence along the municipal boundary of Kasson County State Aid Highway (CSAH) 13, Dodge County; thence along CSAH 13 to STH 30; thence along STH 30 to U.S. Highway 63; thence along U.S. Highway 63 to the south boundary of the State; thence along the south and east boundaries of the State to the south boundary of the Twin Cities Metro Canada Goose Zone; thence along said boundary to the point of beginning.

Five Goose Zone—That portion of the State not included in the Twin Cities Metropolitan Canada Goose Zone, the Northwest Goose Zone, or the Southeast Goose Zone.

West Zone—That portion of the State encompassed by a line beginning at the junction of State Trunk Highway (STH) 60 and the Iowa border, then north and east along STH 60 to U.S. Highway 71, north along U.S. 71 to Interstate Highway 94, then north and west along I–94 to the North Dakota border.

Tennessee

Middle Tennessee Zone—Those portions of Houston, Humphreys, Montgomery, Perry, and Wayne Counties east of State Highway 13; and Bedford, Cannon, Cheatham, Coffee, Davidson, Dickson, Franklin, Giles, Hickman, Lawrence, Lewis, Lincoln, Macon, Marshall, Maury, Moore, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, and Wilson Counties.

East Tennessee Zone—Anderson, Bledsoe, Bradley, Blount, Campbell, Carter, Claiborne, Clay, Cocke, Cumberland, DeKalb, Fentress, Grainger, Greene, Grundy, Hamblen, Hamilton, Hancock, Hawkins, Jackson, Jefferson, Johnson, Knox, Loudon, Marion, McMinn, Meigs, Monroe, Morgan, Overton, Pickett, Polk, Putnam, Rhea, Roane, Scott, Sequatchie, Sevier, Sullivan, Unicoi, Union, Van Buren, Warren, Washington, and White Counties.

Wisconsin

Early-Season Subzone A—That portion of the State encompassed by a line beginning at the intersection of U.S. Highway 141 and the Michigan border near Niagara, then south along U.S. 141 to State Highway 22, west and southwest along State 22 to U.S. 45, south along U.S. 45 to State 22, west and south along State 22 to State 110, south along State 110 to U.S. 10, south along U.S. 10 to State 49, south along State 49 to State 23, west along State 23 to State 73, south along State 73 to State 60, west along State 60 to State 23, south along State 23 to State 11, east along State 11 to State 78, then south along State 78 to the Illinois border.

Early-Season Subzone B—The remainder of the State.

Central Flyway

Kansas

September Canada Goose Kansas City/Topeka Unit—That part of Kansas bounded by a line from the Kansas-Missouri State line west on K–68 to its junction with K–33, then north on K–33 to its junction with U.S.–56, then west on U.S.–56 to its junction with K–31, then west-northwest on K–31 to its junction with K–99, then north on K–99 to its junction with U.S.–24, then east on U.S.–24 to its junction with K–63, then north on K–63 to its junction with K–16, then east on K–16 to its junction with K–116, then east on K–116 to its junction with U.S.–59, then northeast on U.S.–59 to its junction with the Kansas-Missouri line, then south on the Kansas-Missouri line to its junction with K–68.

September Canada Goose Wichita Unit—That part of Kansas bounded by a line from I–135 west on U.S. 50 to its junction with Burmac Road, then south on Burmac Road to its junction with 279 Street West (Sedgwick/Harvey County line), then south on 279 Street West to its junction with K–96, then east on K–96 to its junction with K–296, then south on K–296 to its junction with 247 Street West, then south on 247 Street West to its junction with U.S.–54, then west on U.S.–54 to its junction with 263 Street West, then south on 263 Street West to its junction with K–49, then south on K–49 to its junction with 90 Avenue North, then east on 90 Avenue North to its junction with KS–55, then east on KS–55 to its junction with KS–15, then east on KS–15 to its junction with U.S.–77, then north on U.S.–77 to its junction with Ohio Street, then north on Ohio to its junction with KS–254, then east on KS–254 to its junction with KS–196, then northwest on KS–196 to its junction with I–135, then north on I–135 to its junction with U.S.–50.

South Dakota

September Canada Goose North Unit—Clark, Codington, Day, Deuel, Grant, Hamlin, Marshall, and Roberts County.

September Canada Goose South Unit—Beadle, Brookings, Hanson, Kingsbury, Lake, Lincoln, McCook, Miner, Minnehaha, Moody, Sanborn, and Turner Counties,

Pacific Flyway

Idaho

East Zone—Bonneville, Caribou, Fremont, and Teton Counties.

Oregon

Northwest Zone—Benton, Clackamas, Clatsop, Columbia, Lane, Lincoln, Linn, Marion, Polk, Multnomah, Tillamook, Washington, and Yamhill Counties.

Southwest Zone—Coos, Curry, Douglas, Jackson, Josephine, and Klamath Counties.

East Zone—Baker, Gilliam, Malheur, Morrow, Sherman, Umatilla, Union, and Wasco Counties.

Washington

Area 1—Skagit, Island, and Snohomish Counties.

Area 2A (SW Quota Zone)—Clark County, except portions south of the Washougal River; Cowlitz, and Wahkiakum counties.

Area 2B (SW Quota Zone)—Pacific and Grays Harbor counties.

Area 3—All areas west of the Pacific Crest Trail and west of the Big White Salmon River that are not included in Areas 1, 2A, and 2B.

Area 4—Adams, Benton, Chelan, Douglas, Franklin, Grant, Kittitas, Lincoln, Okanogan, Spokane, and Walla Walla Counties.

Area 5—All areas east of the Pacific Crest Trail and east of the Big White Salmon River that are not included in Area 4.

Wyoming

Bear River Area—That portion of Lincoln County described in State regulations.

Salt River Area—That portion of Lincoln County described in State regulations.

Farson-Eden Area—Those portions of Sweetwater and Sublette Counties described in State regulations.

Teton Area—Those portions of Teton County described in State regulations.

Bridger Valley Area—The area described as the Bridger Valley Hunt Unit in State regulations.

Ducks

Atlantic Flyway

New York

Lake Champlain Zone: The U.S. portion of Lake Champlain and that area east and north of a line extending along NY 9B from the Canadian border to U.S. 9, south along U.S. 9 to NY 22 south of Keesville; south along NY 22 to the west shore of South Bay, along and around the shoreline of South Bay to NY 22 on the east shore of South Bay; southeast along NY 22 to U.S. 4, northeast along U.S. 4 to the Vermont border.

Long Island Zone: That area consisting of Nassau County, Suffolk County, that area of Westchester County southeast of I–95, and their tidal waters.

Western Zone: That area west of a line extending from Lake Ontario east along the north shore of the Salmon River to I–81, and south along I–81 to the Pennsylvania border.

Northeastern Zone: That area north of a line extending from Lake Ontario east along the north shore of the Salmon River to I–81, south along I–81 to NY 49, east along NY 49 to NY 365, east along NY 365 to NY 28, east along NY 28 to NY 29, east along NY 29 to I–87, north along I–87 to U.S. 9 (at Exit 20), north along U.S. 9 to NY 149, east along NY 149 to U.S. 4, north along U.S. 4 to the Vermont border, exclusive of the Lake Champlain Zone.

Southeastern Zone: The remaining portion of New York.

Mississippi Flyway

Indiana

North Zone: That portion of the State north of a line extending east from the Illinois border along State Road 18 to U.S. Highway 31, north along U.S. 31 to U.S. 24, east along U.S. 24 to Huntington, then southeast along U.S. 224 to the Ohio border.

Ohio River Zone: That portion of the State south of a line extending east from the Illinois border along Interstate Highway 64 to New Albany, east along

State Road 62 to State 56, east along State 56 to Vevay, east and north on State 156 along the Ohio River to North Landing, north along State 56 to U.S. Highway 50, then northeast along U.S. 50 to the Ohio border.

South Zone: That portion of the State between the North and Ohio River Zone boundaries.

Iowa

North Zone: That portion of the State north of a line extending east from the Nebraska border along State Highway 175 to State 37, southeast along State 37 to U.S. Highway 59, south along U.S. 59 to Interstate Highway 80, then east along I–80 to the Illinois border.

South Zone: The remainder of Iowa.

Central Flyway

Colorado

Special Teal Season Area: Lake and Chaffee Counties and that portion of the State east of Interstate Highway 25.

Kansas

High Plains Zone: That portion of the State west of U.S. 283.

Low Plains Early Zone: That portion of the State east of the High Plains Zone and west of a line extending south from the Nebraska border along KS 28 to U.S. 36, east along U.S. 36 to KS 199, south along KS 199 to Republic County Road 563, south along Republic County Road 563 to KS 148, east along KS 148 to Republic County Road 138, south along Republic County Road 138 to Cloud County Road 765, south along Cloud County Road 765 to KS 9, west along KS 9 to U.S. 24, west along U.S. 24 to U.S. 281, north along U.S. 281 to U.S. 36, west along U.S. 36 to U.S. 183, south along U.S. 183 to U.S. 24, west along U.S. 24 to KS 18, southeast along KS 18 to U.S. 183, south along U.S. 183 to KS 4, east along KS 4 to I–135, south along I–135 to KS 61, southwest along KS 61 to KS 96, northwest on KS 96 to U.S. 56, west along U.S. 56 to U.S. 281, south along U.S. 281 to U.S. 54, then west along U.S. 54 to U.S. 283.

Low Plains Late Zone: The remainder of Kansas.

Nebraska

Special Teal Season Area: That portion of the State south of a line beginning at the Wyoming State line; east along U.S. 26 to Nebraska Highway L62A; east to U.S. 385; south to U.S. 26; east to NE 92; east along NE 92 to NE 61; south along NE 61 to U.S. 30; east along U.S. 30 to the Iowa border.

New Mexico (Central Flyway Portion)

North Zone: That portion of the State north of I–40 and U.S. 54.

South Zone: The remainder of New Mexico.

Pacific Flyway

California

Northeastern Zone: In that portion of California lying east and north of a line beginning at the intersection of the Klamath River with the California-Oregon line; south and west along the Klamath River to the mouth of Shovel Creek; along Shovel Creek to its intersection with Forest Service Road 46N05 at Burnt Camp; west to its junction with Forest Service Road 46N10; south and east to its Junction with County Road 7K007; south and west to its junction with Forest Service Road 45N22; south and west to its junction with Highway 97 and Grass Lake Summit; south along to its junction with Interstate 5 at the town of Weed; south to its junction with Highway 89; east and south along Highway 89 to main street Greenville; north and east to its junction with North Valley Road; south to its junction of Diamond Mountain Road; north and east to its junction with North Arm Road; south and west to the junction of North Valley Road; south to the junction with Arlington Road (A22); west to the junction of Highway 89; south and west to the junction of Highway 70; east on Highway 70 to Highway 395; south and east on Highway 395 to the point of intersection with the California-Nevada state line; north along the California-Nevada state line to the junction of the California-Nevada-Oregon state lines west along the California-Oregon state line to the point of origin.

Colorado River Zone: Those portions of San Bernardino, Riverside, and Imperial Counties east of a line extending from the Nevada border south along U.S. 95 to Vidal Junction; south on a road known as ''Aqueduct Road'' in San Bernardino County through the town of Rice to the San Bernardino-Riverside County line; south on a road known in Riverside County as the ''Desert Center to Rice Road'' to the town of Desert Center; east 31 miles on I–10 to the Wiley Well Road; south on this road to Wiley Well; southeast along the Army-Milpitas Road to the Blythe, Brawley, Davis Lake intersections; south on the Blythe-Brawley paved road to the Ogilby and Tumco Mine Road; south on this road to U.S. 80; east 7 miles on U.S. 80 to the Andrade-Algodones Road; south on this paved road to the Mexican border at Algodones, Mexico.

Southern Zone: That portion of southern California (but excluding the Colorado River Zone) south and east of a line extending from the Pacific Ocean east along the Santa Maria River to CA 166 near the City of Santa Maria; east on CA 166 to CA 99; south on CA 99 to the crest of the Tehachapi Mountains at Tejon Pass; east and north along the crest of the Tehachapi Mountains to CA 178 at Walker Pass; east on CA 178 to U.S. 395 at the town of Inyokern; south on U.S. 395 to CA 58; east on CA 58 to I–15; east on I–15 to CA 127; north on CA 127 to the Nevada border.

Southern San Joaquin Valley Temporary Zone: All of Kings and Tulare Counties and that portion of Kern County north of the Southern Zone.

Balance-of-the-State Zone: The remainder of California not included in the Northeastern, Southern, and Colorado River Zones, and the Southern San Joaquin Valley Temporary Zone.

Canada Geese

Michigan

North Zone: The Upper Peninsula.

Middle Zone: That portion of the Lower Peninsula north of a line beginning at the Wisconsin border in Lake Michigan due west of the mouth of Stony Creek in Oceana County; then due east to, and easterly and southerly along the south shore of, Stony Creek to Scenic Drive, easterly and southerly along Scenic Drive to Stony Lake Road, easterly along Stony Lake and Garfield Roads to Michigan Highway 20, east along Michigan 20 to U.S. Highway 10 Business Route (BR) in the city of Midland, east along U.S. 10 BR to U.S. 10, east along U.S. 10 to Interstate Highway 75/U.S. Highway 23, north along I–75/U.S. 23 to the U.S. 23 exit at Standish, east along U.S. 23 to Shore Road in Arenac County, east along Shore Road to the tip of Point Lookout, then on a line directly east 10 miles into Saginaw Bay, and from that point on a line directly northeast to the Canada border.

South Zone: The remainder of Michigan.

Sandhill Cranes

Central Flyway

Colorado—The Central Flyway portion of the State except the San Luis Valley (Alamosa, Conejos, Costilla, Hinsdale, Mineral, Rio Grande, and Saguache Counties east of the Continental Divide) and North Park (Jackson County).

Kansas—That portion of the State west of a line beginning at the Oklahoma border, north on I–35 to Wichita, north on I–135 to Salina, and north on U.S. 81 to the Nebraska border.

New Mexico

Regular-Season Open Area—Chaves, Curry, De Baca, Eddy, Lea, Quay, and Roosevelt Counties.

Middle Rio Grande Valley Area—The Central Flyway portion of New Mexico in Socorro and Valencia Counties.

Estancia Valley Area—Those portions of Santa Fe, Torrance and Bernalillo Counties within an area bounded on the west by New Mexico Highway 55 beginning at Mountainair north to NM 337, north to NM 14, north to I–25; on the north by I–25 east to U.S. 285; on the east by U.S. 285 south to U.S. 60; and on the south by U.S. 60 from U.S. 285 west to NM 55 in Mountainair.

Southwest Zone—Sierra, Luna, Dona Ana Counties, and those portions of Grant and Hidalgo Counties south of I–10.

Oklahoma—That portion of the State west of I–35.

Texas

Area 1—That portion of the State west of a line beginning at the International Bridge at Laredo, north along I–35 to the Oklahoma border.

Area 2—That portion of the State east and south of a line from the International Bridge at Laredo northerly along I–35 to U.S. 290; southeasterly along U.S. 290 to I–45; south and east on I–45 to State Highway 87, south and east on TX 87 to the channel in the Gulf of Mexico between Galveston and Point Bolivar; EXCEPT: That portion of the State lying within the area bounded by the Corpus Christi Bay Causeway on U.S. 181 at Portland; north and west on U.S. 181 to U.S. 77 at Sinton; north and east along U.S. 77 to U.S. 87 at Victoria; east and south along U.S. 87 to Texas Highway 35; north and east on TX 35 to the west end of the Lavaca Bay Bridge; then south and east along the west shoreline of Lavaca Bay and Matagorda Island to the Gulf of Mexico; then south and west along the shoreline of the Gulf of Mexico to the Corpus Christi Bay Causeway.

North Dakota

Area 1—That portion of the State west of U.S. 281.

Area 2—That portion of the State east of U.S. 281.

South Dakota—That portion of the State west of U.S. 281.

Montana—The Central Flyway portion of the State except that area south of I–90 and west of the Bighorn River.

Wyoming

Regular-Season Open Area—Campbell, Converse, Crook, Goshen, Laramie, Niobrara, Platte, and Weston Counties.

Riverton-Boysen Unit—Portions of Fremont County.

Park and Big Horn County Unit—Portions of Park and Big Horn Counties.

Pacific Flyway

Arizona

Special-Season Area—Game Management Units 30A, 30B, 31, and 32.

Montana

Special-Season Area—See State regulations.

Utah

Special-Season Area—Rich, Cache, and Unitah Counties and that portion of Box Elder County beginning on the Utah-Idaho State line at the Box Elder-Cache County line; west on the State line to the Pocatello Valley County Road; south on the Pocatello Valley County Road to I–15; southeast on I–15 to SR–83; south on SR–83 to Lamp Junction; west and south on the Promontory Point County Road to the tip of Promontory Point; south from Promontory Point to the Box Elder-Weber County line; east on the Box Elder-Weber County line to the Box Elder-Cache County line; north on the Box Elder-Cache County line to the Utah-Idaho State line.

Wyoming

Bear River Area—That portion of Lincoln County described in State regulations.

Salt River Area—That portion of Lincoln County described in State regulations.

Eden-Farson Area—Those portions of Sweetwater and Sublette Counties described in State regulations.

All Migratory Game Birds in Alaska

North Zone—State Game Management Units 11–13 and 17–26.

Gulf Coast Zone—State Game Management Units 5–7, 9, 14–16, and 10 (Unimak Island only).

Southeast Zone—State Game Management Units 1–4.

Pribilof and Aleutian Islands Zone—State Game Management Unit 10 (except Unimak Island).

Kodiak Zone—State Game Management Unit 8.

All Migratory Birds in the Virgin Islands

Ruth Cay Closure Area—The island of Ruth Cay, just south of St. Croix.

All Migratory Game Birds in Puerto Rico

Municipality of Culebra Closure Area—All of the municipality of Culebra.

Desecheo Island Closure Area—All of Desecheo Island.

Mona Island Closure Area—All of Mona Island.

El Verde Closure Area—Those areas of the municipalities of Rio Grande and Loiza delineated as follows: (1) All lands between Routes 956 on the west and 186 on the east, from Route 3 on the north to the juncture of Routes 956 and 186 (Km 13.2) in the south; (2) all lands between Routes 186 and 966 from the juncture of 186 and 966 on the north, to the Caribbean National Forest Boundary on the south; (3) all lands lying west of Route 186 for 1 kilometer from the juncture of Routes 186 and 956 south to Km 6 on Route 186; (4) all lands within Km 14 and Km 6 on the west and the Caribbean National Forest Boundary on the east; and (5) all lands within the Caribbean National Forest Boundary whether private or public.

Cidra Municipality and adjacent areas—All of Cidra Municipality and portions of Aguas Buenas, Caguas, Cayey, and Comerio Municipalities as encompassed within the following boundary: beginning on Highway 172 as it leaves the municipality of Cidra on the west edge, north to Highway 156, east on Highway 156 to Highway 1, south on Highway 1 to Highway 765, south on Highway 765 to Highway 763, south on Highway 763 to the Rio Guavate, west along Rio Guavate to Highway 1, southwest on Highway 1 to Highway 14, west on Highway 14 to Highway 729, north on Highway 729 to Cidra Municipality boundary to the point of the beginning.

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Federal Register

Friday,
August 23, 2002

Part III

Department of Housing and Urban Development

Notice of Regulatory Waiver Requests Granted for the First Quarter of Calendar Year 2002; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4767–N–01]

Notice of Regulatory Waiver Requests Granted for the First Quarter of Calendar Year 2002

AGENCY: Office of the Secretary, HUD.

ACTION: Public Notice of the Granting of Regulatory Waivers from January 1, 2002, through March 31, 2002.

SUMMARY: Section 106 of the Department of Housing and Urban Development Reform Act of 1989 (the HUD Reform Act) requires HUD to publish quarterly **Federal Register** notices of all regulatory waivers that HUD has approved. Each notice must cover the quarterly period since the most recent **Federal Register** notice. The purpose of this notice is to comply with the requirements of section 106 of the HUD Reform Act. This notice contains a list of regulatory waivers granted by HUD during the quarter beginning on January 1, 2002, and ending on March 31, 2002.

FOR FURTHER INFORMATION CONTACT: For general information about this notice, contact Aaron Santa Anna, Assistant General Counsel for Regulations, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–3055 (this is not a toll-free number). Hearing- or speech-impaired persons may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8391.

For information concerning a particular waiver action for which public notice is provided in this document, contact the person whose name and address follow the description of the waiver granted in the accompanying list of waiver-grant actions.

SUPPLEMENTARY INFORMATION: As part of the HUD Reform Act, the Congress adopted, at HUD's request, legislation to limit and control the granting of regulatory waivers by HUD. Section 106 of the HUD Reform Act added a new section 7(q) to the Department of Housing and Urban Development Act (2 U.S.C. 3535(q)), which provides that:

1. Any waiver of a regulation must be in writing and must specify the grounds for approving the waiver;

2. Authority to approve a waiver of a regulation may be delegated by the Secretary only to an individual of Assistant Secretary rank or equivalent rank, and the person to whom authority to waive is delegated must also have authority to issue the particular regulation to be waived;

3. Not less than quarterly, the Secretary must notify the public of all waivers of regulations that HUD has approved, by publishing a notice in the **Federal Register**. These notices (each covering the period since the most recent previous notification) shall:

a. Identify the project, activity, or undertaking involved;

b. Describe the nature of the provision waived, and the designation of the provision;

c. Indicate the name and title of the person who granted the waiver request;

d. Describe briefly the grounds for approval of the request; and

e. State how additional information about a particular waiver-grant action may be obtained.

Section 106 of the HUD Reform Act also contains requirements applicable to waivers of HUD handbook provisions that are not relevant to the purpose of this notice.

Today's document follows publication of HUD's Statement of Policy on Waiver of Regulations and Directives issued by HUD on April 22, 1991 (56 FR 16337). This notice covers HUD's waiver-grant activity from January 1, 2002, through March 31, 2002. This notice also includes a waiver from an earlier reporting period that was inadvertently omitted from the appropriate earlier report. For ease of reference, the waivers granted by HUD are listed by HUD program office (for example, the Office of Community Planning and Development, the Office of Housing, the Office of Public and Indian Housing, etc.). Within each program office grouping, the waivers are listed sequentially by the section of title 24 being waived. For example, a waiver-grant action involving the waiver of a provision in 24 CFR part 58 would come before a waiver of a provision in 24 CFR part 570.

Where more than one regulatory provision is involved in the granting of a particular waiver request, the action is listed under the section number of the first regulatory requirement that appears in title 24 of the Code of Federal Regulations and that is being waived as part of the waiver-grant action. For example, a waiver of both § 58.73 and § 58.74 would appear sequentially in the listing under § 58.73.

Waiver-grant actions involving the same initial regulatory citation are in time sequence beginning with the earliest-dated waiver-grant action.

Should HUD receive additional reports of waiver actions taken during the period covered by this report before the next report is published, the next updated report will include these earlier actions, as well as those that occurred during April 1, 2002, through June 30, 2002.

Accordingly, information about approved waiver requests pertaining to HUD regulations is provided in the Appendix that follows this notice.

Dated: August 16, 2002.

Alphonso Jackson,

Deputy Secretary.

Appendix—Listing of Waivers of Regulatory Requirements Granted by Offices of the Department of Housing and Urban Development January 1, 2002 Through March 31, 2002

Note to Reader: More information about the granting of these waivers, including a copy of the waiver request and approval, may be obtained by contacting the person whose name is listed as the contact person directly after each set of waivers granted.

The regulatory waivers granted appear in the following order:

I. Regulatory waivers granted by the Office of Community Planning and Development.

II. Regulatory waivers granted by the Office of Healthy Homes and Lead Hazard Control.

III. Regulatory waivers granted by the Office of Housing.

IV. Regulatory waivers granted by the Office of Multifamily Housing Assistance Restructuring.

V. Regulatory waivers granted by the Office of Public and Indian Housing.

I. Regulatory Waivers Granted by the Office of Community Planning and Development

For further information about the following waiver actions, please see the name of the contact person immediately following the description of the waiver granted.

• Regulation: 24 CFR 91.520(a).

Project/Activity: The City of Edmond, Oklahoma, requested a waiver of the submission deadline for the city's 2000 program year Consolidated Annual Performance and Evaluation Report (CAPER).

Nature of Requirement: Section 91.520(a) requires each grantee to submit a performance report to HUD within 90 days after the close of the grantee's program year.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: January 17, 2002.

Reasons Waived: The staff person responsible for CAPER preparation was unable to prepare the report due to a family emergency. The city does not have staff that can prepare the report during the absence of the key person. While HUD is desirous of a timely report, the Department is also interested in ensuring that the performance report is complete and accurate. The city received an extension to March 29, 2002, to submit its 2000 CAPER to HUD.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–2565, extension 4556.

• *Regulation:* 24 CFR 582.105(e).

Project/Activity: Milwaukee County, Wisconsin, requested a waiver of 8 percent administrative cap for its 1996 Shelter Plus Care grant.

Nature of Requirement: Section 582.105(e) allows grantees to expend 8 percent of its Shelter Plus Care grant funds for administrative fees.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: February 15, 2002.

Reasons Waived: Milwaukee County requested the waiver to extend the term of its Shelter Plus Care grant by five years. This requires additional funds to administer the grant. Milwaukee County is requesting an additional 1.6 percent per year for the extension. This will allow Milwaukee County to serve more than the 24 households originally targeted in its application. This added workload along with the added term of the grant supports a waiver of the current 8 percent limitation on administrative fees.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–2565, extension 4556.

• *Regulation:* 24 CFR 570.511.

Project/Activity: The City of Columbus, Ohio, requested a waiver of the regulations at 24 CFR 570.511(a)(4) and 570.511(b) in order to utilize Community Development Block Grant (CDBG) funds with the Federal Housing Administration's Section 203(k) program while complying with rules and regulations applicable to lead-based paint hazard control.

Nature of Requirement: Section 570.511(a)(4) provides that a recipient may withdraw funds from its letter of credit for immediate deposit into an escrow account for use in funding loans and grants for the rehabilitation of privately owned residential properties. The amount of funds deposited into an escrow account shall be limited to the amount expected to be disbursed within 10 working days after the deposit. If the escrow account, for whatever reason, at any time contains funds exceeding 10 days cash needs, the grantee immediately shall transfer the excess funds to its program account.

Section 570.511(b) provides that interest earned on escrow accounts established in accordance with this section shall be remitted to HUD at least quarterly, but not more frequently than monthly, less any service charges for the account. Section 570.511(a)(2) provides that the contract between the property owner and the contractor shall specifically provide that payment to the contractor shall be made through an escrow account maintained by the recipient, a subrecipient as defined at 24 CFR 570.500 (c), by a public agency designated under § 570.501(a), or by an agent under a procurement contract governed by 24 CFR 85.36. Section 570.511(a)(3) requires that all funds drawn under this section shall be deposited into one interest earning account.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: March 5, 2002.

Reasons Waived: Four waivers were granted in order for the city to use CDBG funds with Section 203(k) program funds. There is good cause for these waivers since the city's proposal combines the resources of two HUD programs into one that will promote homeownership and address lead-based paint hazards in homes purchased by low- and moderate-income households. Section 570.511(a)(4) is waived to allow CDBG funds to be placed in an escrow account for 90 days. Section 570.511(B) will allow the interest earned on CDBG funds in the escrow account to be treated the same as the interest earned on the Section 203(k) program funds and be applied to the mortgagor's principal balance. Section 570.511(a)(3) will allow the city to establish several individual escrow accounts rather than one escrow account. Section 570.511(a)(2) will allow CDBG funds to be awarded to the Section 203(k) lenders since they do not meet the definition of a public agency.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–2565, extension 4556.

II. Regulatory Waivers Granted by the Office of Healthy Homes and Lead Hazard Control

For further information about the following waiver actions, please see the name of the contact person who immediately follows the description of the waiver granted.

• *Regulation:* 24 CFR 35.100–1355.

Project/Activity: Compliance with the Lead Safe Housing Rule in Ohio (granted to the Ohio State Department of Development).

Nature of Requirement: The regulation requires compliance with the Lead Safe Housing Rule by May 31, 2002.

Granted By: Alphonso Jackson, Deputy Secretary.

Date Granted: February 12, 2002.

Reason Waived: The waiver allows the necessary time to train additional workers who will be working on rehabilitation that may disturb lead-based paint (thereby creating lead hazards).

Contact: David E. Jacobs, Director, Office of Healthy Housing and Lead Hazard Control, Department of Housing and Urban Development, Room P3206, L'Enfant Plaza, Washington, DC 20410; telephone: (202) 755–4973.

III. Regulatory Waivers Granted by the Office of Housing

For further information about the following waiver actions, please see the name of the contact person who immediately follows the description of the waiver granted.

• *Regulation:* 24 CFR 200.54(a).

Project/Activity: Hearts United III, Chicago, IL; Project Number: 071–32137.

Nature of Requirement: Section 200.54(a) permits a pro-rata disbursement of the mortgagor's front money escrow funds and FHA insured mortgage proceeds for the subject property.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 28, 2002.

Reason Waived: Since the front money escrow is so large, the insured proceeds would not be disbursed for 6 to 8 months after initial endorsement, resulting in payment of extension fees to the investors who purchased the Government National Mortgage Association (GNMA) mortgage-backed securities. Providing a waiver of 24 CFR 200.54(a) will permit the Chicago Multifamily Hub to approve a pro-rata disbursement of front money and mortgage proceeds, thereby allowing the mortgagee not to pay GNMA extension fees.

Contact: Michael McCullough, Director, Office of Multifamily Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–7000; telephone: (202) 708–1142.

• *Regulation:* 24 CFR 200.54(a).

Project/Activity: Curtis Park Hope VI (Phase II), Denver, CO; Project No. 101–35544.

Nature of Requirement: Section 200.54(a) permits a pro-rata disbursement of the mortgagor's front money escrow funds and FHA insured mortgage proceeds for the subject project.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 29, 2002.

Reason Waived: Since the front money escrow is so large, the insured proceeds would not be disbursed for several months, resulting in the payment of extension fees to the investors who purchased the GNMA mortgage-backed securities. Providing a waiver of 24 CFR 200.54 (a) will permit the Denver Hub to approve a pro-rata disbursement of front money and mortgage proceeds, thereby allowing the mortgagee not to pay GNMA extension fees.

Contact: Michael McCullough, Director, Office of Multifamily Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–7000; telephone: (202) 708–1142.

• *Regulation:* 24 CFR 202.3(c)(2)(iii).

Project/Activity: Credit Watch/Termination Threshold—Washington, DC.

Nature of Requirement: Section 202.23(c)(2)(iii) establishes the threshold for placing a HUD-approved lender on credit watch status when its default and claim rate exceeds the field office defaults and claim rate.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: February 20, 2002.

Reason Waived: Waiving the regulation permits the Department to focus on those lenders who originated the worst performing loans. The waiver will adjust the credit watch threshold from 150% to 200.9% of the HUD field office default and claim rate to 200% and 300.9% of that rate. This waiver is limited to credit watch reviews conducted in the first quarter of calendar year 2002.

Contact: Joy L. Hadley, Director, Quality Assurance Division, Department of Housing and Urban Development, 451 Seventh Street, SW., Room B133–P3214, Washington, DC 20410–7000; telephone: (202) 708–2830.

• *Regulation:* 24 CFR 891.100(d).
Project/Activity: Northwest Housing Initiatives, Jacksonville, FL; Project Number: 063–HD013/FL29–Q981–010.
Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.
Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.
Date Granted: January 4, 2002.
Reason Waived: Additional funds were needed to cover site lighting and increased construction costs. The project is economically designed and comparable to other projects developed in the area.
Contact: Frank Tolliver, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000, extension 3821.

• *Regulation:* 24 CFR 891.100(d).
Project/Activity: Mt. Zion Apartments Phase II, St. Louis, MO; Project Number: 085–EE050/MO36–S001–003.
Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.
Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.
Date Granted: January 4, 2002.
Reason Waived: The sponsor exhausted all efforts to obtain additional funding from other sources. The project is economically designed and comparable to other similar projects developed in the area.
Contact: Frank Tolliver, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000, extension 3821.

• *Regulation:* 24 CFR 891.100(d).
Project/Activity: Pilgrim Heights, Omaha, NE; Project Number: 103–EE023/NE26–S001–002.
Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.
Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.
Date Granted: January 4, 2002.
Reason Waived: The sponsor exhausted all efforts to obtain additional funding from other sources. The project is comparable to other similar projects developed in the area and is economically designed.
Contact: Faye Norman, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000, extension 2482.

• *Regulation:* 24 CFR 891.100(d).
Project/Activity: Lake Winds Apartments, St. Petersburg, FL; Project Number: 067–HD081/FL29–Q001–006.
Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.
Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.
Date Granted: January 28, 2002.
Reason Waived: The project is economically designed, comparable to other similar projects developed in the area, and the owner has obtained additional funding from other sources for the purchase of the land.
Contact: Alicia Anderson, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000, extension 5787.

• *Regulation:* 24 CFR 891.100(d).
Project/Activity: Holston Hills Apartments, Rogersville, TN; Project Number: 087–EE041/TN37–S001–001.
Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.
Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.
Date Granted: February 26, 2002.
Reason Waived: Delays by the original sponsor, the requirement to use Davis-Bacon wage rates, and the limited availability of contractors to build the project have attributed to higher construction costs.
Contact: Frank Tolliver, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000, extension 3821.

• *Regulation:* 24 CFR 891.100(d).
Project/Activity: Pejepscot Terrace, Brunswick, ME; Project Number: 043–EE068/OH16–S991–004.
Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.
Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.
Date Granted: February 26, 2002.
Reason Waived: The sponsor/owner secured additional funding. The project is comparable to other similar projects developed in the area, and is economically designed.
Contact: Rita Ross, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000, extension 2696.

• *Regulation:* 24 CFR 891.100(d).
Project/Activity: Inverness Homes, Inverness, MS; Project Number: 065–HD021/MS26–Q991–001.
Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.
Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.
Date Granted: February 26, 2002.
Reason Waived: Additional funds are needed to cover the cost of extensive cut and fill preparation due to poor soil conditions and to comply with the accessibility requirements for projects for persons with physical disabilities.
Contact: Brenda Butler, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000, extension 6788.

• *Regulation:* 24 CFR 891.100(d).
Project/Activity: Holiday Drive Place, Kansas City, MO; Project Number: 084–HD034/MO16–Q001–002.
Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.
Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.
Date Granted: February 26, 2002.
Reason Waived: Increased construction activities in the area have resulted in contractors paying premium prices for materials and labor subsequently increasing the cost of the project. The sponsor has exhausted all efforts to find additional funds from outside sources.
Contact: Alicia Anderson, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000, extension 5787.

• *Regulation:* 24 CFR 891.100(d).
Project/Activity: Good Samaritan Hospital of Maryland, Baltimore, MD; Project Number: 052–EE037/MD06–S001–003.
Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.
Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.
Date Granted: February 28, 2002.
Reason Waived: The project is economically designed, comparable to other projects in the area, and the sponsor exhausted all efforts to obtain additional funding from other sources.
Contact: Evelyn Berry, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000, extension 2483.

• *Regulation:* 24 CFR 891.100(d).
Project/Activity: Woodbourne Woods, Baltimore, MD; Project Number: 052–EE037/MD06–S001–003.
Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.
Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.
Date Granted: February 28, 2002.
Reason Waived: The project is economically designed, comparable to other similar projects in the area, and the sponsor has exhausted all efforts to obtain additional funding.

Contact: Evelyn Berry, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000, extension 2483.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Floyd-Kress Homes, Frederick, MD; Project Number: 052–HD043/MD06–Q001–003.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: February 28, 2002.

Reason Waived: The sponsor exhausted all efforts to obtain additional funding from other sources. The project is comparable to other similar projects developed in the area and is economically designed.

Contact: Frank Tolliver, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000, extension 3821.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Greater St. Stephen Manor, New Orleans, LA; Project Number: 061–EE093/GA06–S001–001.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 4, 2002.

Reason Waived: The project is comparable to other similar projects developed in the area and is economically designed. The sponsor has exhausted all efforts to obtain additional funding.

Contact: Frank Tolliver, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000, extension 3821.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Greenview Apartments, Cheyenne, WY; Project Number: 109–HD011/WY99–Q991–001.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 5, 2002.

Reason Waived: Higher construction costs have substantially increased the cost of the project. The project is economically designed and the sponsor has exhausted all efforts to obtain additional funds from other sources.

Contact: Frank Tolliver, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000, extension 3821.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Great Falls Elder Housing, Great Falls, MT; Project Number: 012–EE266/NY36–S991–006.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 5, 2002.

Reason Waived: The sponsor exhausted all efforts to obtain additional funding from other sources. The project is economically designed and comparable to other similar projects developed in the area.

Contact: Frank Tolliver, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000, extension 3821.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: PARC Place, Peoria, IL; Project Number: 072–HD112/IL06–Q001–003.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 8, 2002.

Reason Waived: The project is economically designed, comparable to other similar projects developed in the area, and the sponsor/owner has exhausted all efforts to secure additional funds from other sources.

Contact: Rita Ross, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000, extension 2696.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Our Savior's Manor, Westland, MI; Project Number: 044–EE071/MI28–S000–004.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 8, 2002.

Reason Waived: In a previous memorandum, amendment funds in the amount of $897,200 were requested but included the minimum capital investment of $10,000 as a part of the additional funds being provided by the sponsor to the project. HUD approved only $887,200 resulting in a $10,000 shortfall. Based on the fact that the $10,000 was included in error as a part of the sponsor's contribution of additional funds, the waiver was granted for the additional $10,000.

Contact: Rita Ross, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000, extension 2696.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Northport Apartments, North Sioux City, SD; Project Number: 091–EE004/SD99–S001–001.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 21, 2002.

Reason Waived: The project is economically designed, comparable to other similar projects developed in the area, and the sponsor/owner secured a $200,000 grant from the Federal Home Loan Bank.

Contact: Rita Ross, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000, extension 2696.

• *Regulation:* 24 CFR 891.100(d) and 24 CFR 891.165.

Project/Activity: Developmental Pathways, Incorporated, Aurora, CO; Project Number: 101–HD025/CO99–Q991–002.

Nature of Requirement: Section CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing. Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: January 30, 2002.

Reason Waived: The project is economically designed and comparable to other projects developed in the area. The sponsor has exhausted all efforts to obtain funding from other sources other than the $150,000 it is receiving from the Colorado Division of Housing. Also, additional time is necessary to issue the firm commitment and arrange for the initial closing.

Contact: Gail Williamson, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000, extension 2473.

• *Regulation:* 24 CFR 891.100(d) and 24 CFR 891.165.

Project/Activity: ARC MU 11, Tinton Falls, NJ; Project Number: 031–HD079/NJ39–Q971–002.

Nature of Requirement: Section CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing. Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: January 30, 2002.

Reason Waived: A significant portion of the delay in processing the Firm

Commitment was due to the loss of staff and other priorities and it took 8 months to find another contractor after the first one withdrew from the project. Amendment funds were needed because the new contractor's costs were higher due to an increase in the Davis-Bacon wage rates. The project is economically and modestly designed, comparable to similar projects developed in the area, and the owner has no additional funds to cover the shortfall of funds required to close the project.

Contact: Rita Ross, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000, extension 2696.

• *Regulation:* 24 CFR 891.100(d) and 24 CFR 891.165.

Project/Activity: Pontiac Volunteers of America Elderly Housing, Inc., Pontiac, MI; Project Number: 044–EE067/MI28–S991–001.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing. Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: February 14, 2002.

Reason Waived: The project is economically designed and comparable to other similar projects developed in the jurisdiction but additional costs were incurred due to the dramatic rise in construction costs in Southeast Michigan. The sponsor has exhausted all efforts to obtain additional funding from other sources. Additionally, the project was delayed due to the need for the owner to locate another site.

Contact: Evelyn Berry, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000, extension 2483.

• *Regulation:* 24 CFR 891.100(d) and 24 CFR 891.165.

Project/Activity: Belfast Volunteers of America (VOA) Elderly Housing, Belfast, ME, Project Number: 024–EE042/ME36–S981–001.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing. Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: February 19, 2002.

Reason Waived: The project is economically designed, is comparable to other similar projects developed in the jurisdiction, and the sponsor has exhausted all efforts to obtain additional funding from other sources. Also, the owner incurred delays in an effort to locate additional funds to cover construction costs and the construction start will be delayed until spring due to harsh winter conditions.

Contact: Brenda Butler, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000, extension 6788.

• *Regulation:* 24 CFR 891.100(d) and 24 CFR 891.165.

Project/Activity: The Salvation Army Lake View Terrace Silverlake Residence, Los Angeles, CA; Project Number: 122–EE159/CA16–S991–010.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing. Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 23, 2002.

Reason Waived: The project is economically designed and comparable to other similar projects developed in the jurisdiction. The sponsor has exhausted all efforts to obtain additional funding from other sources, and the requested increase is due, in part, to rising construction costs and extraordinary high fees imposed by the city. Also, the project incurred significant delays associated with the lengthy application process required for an amendment to the general plan for the project, zoning change and building line adjustment and variance.

Contact: Evelyn Berry, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000, extension 2483.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Palms Manor, Los Angeles, CA; Project Number: 122–HD113/CA16–Q981–005P.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: February 1, 2002.

Reason Waived: The sponsor needed to acquire additional funds to purchase the site and for the architect to correct an error to the architectural drawings.

Contact: Brenda Butler, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000, extension 6788.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Pathways, Greenwich, CT; Project Number: 017–HD022–/CT26–Q981–001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: February 27, 2002.

Reason Waived: Project is being challenged by an adjacent neighborhood group and is currently tied up in court.

Contact: Monique S. Love, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000, extension 2475.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Presbyterian Home at Stafford, Stafford Township, NJ; Project Number: 035–EE037–/NJ39–S991–001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: February 28, 2002.

Reason Waived: The sponsor experienced delays due to difficulty in finding an architect and slow responses from contractors who were submitting bids for the project.

Contact: Alicia Anderson, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000, extension 5787.

• *Regulation:* 24 CFR 891.165.

Project/Activity: TWB Residential Opportunities II, Suffolk County, NY; Project Number: 012–HD093–/NY36–Q991–004.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: February 28, 2002.

Reason Waived: The owner is experiencing difficulty in obtaining a building permit for one of the sites.

Contact: Faye Norman, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000, extension 2482.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Project Live XI, East Orange, NJ, Project Number: 031–HD098–/NJ39–Q991–002.

Nature of Requirement: Section 891.165 provides that the duration of the fund

reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: February 28, 2002.

Reason Waived: The sponsor experienced delays due to the additional requirements in securing secondary financing and selecting a suitable general contractor.

Contact: Alicia Anderson, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000, extension 5787.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Evergreen Village Senior Apartments, Everett, WA; Project Number: 127–EE024/WA19–S991–002.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: February 28, 2002.

Reason Waived: The project has been delayed due to a change in the county's planned residential development regulations that required the owner to address additional planning issues.

Contact: Alicia Anderson, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000, extension 5787.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Visalia Senior Housing, Visalia, CA; Project Number: 121–EE127/CA39–S991–006.

Nature Of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 8, 2002.

Reason Waived: A major project redesign was needed to reduce project costs.

Contact: Sennai Cham, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000, extension 2610.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Greater Community Housing, Louisville, KY; Project Number: 083–HD056/KY36–Q991–003.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 8, 2002.

Reason Waived: The sponsor had difficulty obtaining an acceptable appraisal and experienced difficulty locating a contractor who would work in the area.

Contact: Rita Ross, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000, extension 2696.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Ada S. McKinley IV, Chicago, IL; Project Number: 071–HD110/IL06–Q981–007.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 8, 2002.

Reason Waived: A new site had to be located since the proximity of the two sites did not meet the requirements of the State.

Contact: Rita Ross, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000, extension 2696.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Kiva Apartments, Tucson, AZ; Project Number: 123–HD026/AZ20–Q991–001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 11, 2002.

Reason Waived: The project experienced delays in securing approval of the drawings for repairs to meet Americans with Disabilities Act guidelines, securing an appropriate asbestos abatement plan, and the loss of the sponsor's first project manager.

Contact: Sennai Cham, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000, extension 2610.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Advance Supportive Housing Project, Bergen County, NJ; Project Number: 031–HD101/NJ39–Q991–006.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 11, 2002.

Reason Waived: The project incurred delays due to the need to substitute a new unit for one of the original scattered sites and secure a qualified contractor.

Contact: Brenda Butler, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000, extension 6788.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Haiku Group Home, Kaneohe, HI; Project Number: 140–HD020/HI10–Q991–001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 21, 2002.

Reason Waived: The contractor selected for the project filed bankruptcy and the owners had to search for a new contractor.

Contact: Sennai Cham, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000, extension 2610.

• *Regulation:* 24 CFR 891.165.

Project/Activity: St. Paul Elder Housing Development, St. Paul, MN; Project Number: 092–EE060/MN46–S991–004.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 21, 2002.

Reason Waived: Due to poor soil conditions at the site, delays occurred while a cost effective foundation system for the building was developed.

Contact: Sennai Cham, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000, extension 2610.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Hayworth Housing, Los Angeles, CA; Project Number: 122–HD118–WPD–NP/CA16–Q991–002.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 23, 2002.

Reason Waived: Additional time was needed for the sponsor to address a full seismic retrofit for the project and to finalize secondary funding sources.

Contact: Monique S. Love, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000, extension 2475.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Obed Avenue, North Providence, RI; Project Number: 016–HD025/RI43–Q991–001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 26, 2002.

Reason Waived: Additional time was needed to resolve zoning issues.

Contact: Frank Tolliver, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000, extension 3821.

• *Regulation:* 24 CFR 891.165.

Project/Activity: St. Boniface Gardens Inc., Pembroke Pines, Broward County, FL; Project Number: 066–EE074–/FL29–S991–006.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: April 2, 2002.

Reason Waived: There was an unexpected delay in getting a plat recorded.

Contact: Sennai Cham, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000, extension 2610.

• *Regulation:* 24 CFR 891.205.

Project/Activity: Bridgeway Apartments, Phase II, Picayune, MS; Project Number: 065-HD025/MS26-Q001–002.

Nature of Requirement: Single-Purpose Owner. Section 891.205 requires that Section 202 project owners be single-purpose corporations.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 26, 2002.

Reason Waived: The project will be built adjacent to the sponsor's existing project and one owner-entity would promote greater service provision.

Contact: Rita Ross, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000, extension 2696.

• *Regulation:* 24 CFR 891.310(b)(1) and (b)(3).

Project/Activity: Bridgeway Apartments Phase II, Picayune, MS, Project Number: 065-HD025/MS26-Q001–002.

Nature of Requirement: HUD's regulation at 24 CFR 891.310(b)(1) and (b)(3) requires that all entrances, common areas, units to be occupied by resident staff, and amenities must be readily accessible to and usable by persons with disabilities.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 14, 2002.

Reason Waived: The project consists of two developments on non-contiguous sites; a new construction group home to serve eight persons with developmental disabilities and an independent living apartment project containing five units for persons with developmental disabilities. The group home will be fully accessible. As a result, more than 50 percent of the project's units would meet all accessibility requirements even though the majority of potential occupants do not require handicapped accessibility.

Contact: Alicia Anderson, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000, extension 5787.

• *Regulation:* 24 CFR 891.410(c).

Project Activity: Sunset Fields Apartments, Fennimore, WI; Project Number: 075–EE058–NP–WAH/L8.

Nature of Requirement: HUD regulations at 24 CFR 891.410(c) limit occupancy to very low-income elderly persons, i.e., households of one or more persons at least one of whom must be 62 years of age at the time of initial occupancy.

Granted by: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 26, 2002.

Reason Waived: The Milwaukee Multifamily Program Center requested waiver of this regulation due to the project's severe vacancy problems. If occupancy is not increased, revenue will be insufficient to meet the operating expenses of the project. The management agent has aggressively pursued advertising strategies to market units; however, in spite of his efforts vacancies still exist. This waiver will allow elderly and near elderly families who are at or over age 55 and low-income to apply for admission, thereby attempting to improve occupancy rates. This waiver is effective for one year from the date of approval.

Contact: Beverly J. Miller, Director, Office of Asset Management, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6160, Washington, DC 20410–7000; telephone: (202) 708–3730.

• *Regulation:* 24 CFR 891.410(c) and 24 CFR 5.110.

Project Activity: Birmingham Building Trades Towers (BBTT), Birmingham, AL; Project Number: 062–SH006.

Nature of Requirement: Section 891.410(c) limits occupancy to very low-income elderly persons, i.e., households of one or more persons at least one of whom must be 62 years of age at the time of initial occupancy. Section 5.110 relates to admission of families to projects for elderly or handicapped families that received reservations under Section 202 of the Housing Act of 1959 and housing assistance under Section 8 of the U.S. Housing Act of 1937.

Granted by: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: February 4, 2002.

Reason Waived: The Jacksonville Multifamily Hub requested an age waiver for the subject project because the current occupancy level will not support the project. Vacant units will be marketed to people between the ages of 55 and 62 with or without disabilities. Providing for a waiver of the elderly and handicapped requirements will allow the owner additional flexibility to rent up units. This waiver is in effect for one year from the date of approval.

Contact: Beverly J. Miller, Director, Office of Asset Management, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6160, Washington, DC 20410–7000; telephone: (202) 708–3730.

IV. Regulatory Waivers Granted by the Office of Multifamily Housing Assistance Restructuring (OMHAR)

For further information about the following waiver actions, please see the name of the contact person who immediately follows the description of the waiver granted.

• *Regulation:* 24 CFR 401.600.

Project/Activity: The following projects requested waivers to the 12-month limit at above-market rents (24 CFR 401.600):

FHA No.	Project name	State
10335072	Cheyenne Villa	NE
02335298	City Wide Apartments	MA
01635043	Cross Street Apartments	RI
05435436	Dillon Manor	SC
06135287	Edgewood Housing I	GA
04832006	Gardenview	MI
01257111	Grant Development Associates.	NY
05435451	Kalmia Apartments	SC
01635051	Medina Village Apartments.	RI
04335223	Nichols Townhomes	OH
04635578	Northland Village Apartments.	OH
07235066	Orlando Northbrook Estates.	IL
04335224	Plumly Townhomes	OH
08335289	Walnut Court Apartments.	KY
01257106	Williamsburg Apartments	NY
04335203	Williamsburg Square	OH
01235200	675 Empire Boulevard	NY
04535094	Clarksburg Towers	WV
01635053	Curtis Arms Apartments	RI
01257083	Howard Avenue Rehabilitation.	NY
05935199	Middle Creek Apartments.	LA
06435034	Shady Oaks Homes	LA
09335083	The Elmwoods	MT

Nature of Requirement: Section 401.600 requires that projects be marked down to market rents within 12 months of their first

expiration date after January 1, 1998. The intent of this provision is to ensure timely processing of requests for restructuring, and that the properties will not default on their FHA insured mortgages during the restructuring process.

Granted By: Barbara Chiapella, Acting Director, Office of Multifamily Housing Assistance Restructuring.

Date Granted: January 7, 2002.

Reasons Waived: The projects identified above were not assigned to the participating administrative entities (PAEs) in a timely manner or for which the restructuring analysis was unavoidably delayed due to no fault of the owner.

Contact: Alberta Zinno, Office of Multifamily Housing Assistance Restructuring, Department of Housing and Urban Development, Portals Building, Suite 400, 1280 Maryland Avenue, Washington, DC 20410; telephone: (202) 708–0001.

• *Regulation:* 24 CFR 401.600.

Project/Activity: The following projects requested waivers to the 12-month limit at above-market rents (24 CFR 401.600):

FHA No.	Project name	State
05335320	Academy Village Apartments.	NC
03135195	Aspen Stratford C	NJ
09335086	Cedar View Apartments	MT
04844005	Cranbrook Village Cooperative.	MI
04335242	Delaware Village	OH
11535199	Falfurrias Village Apartments.	TX
17135141	Hifumi En Apartments	WA
10235120	Horizon Plaza	KS
01257083	Howard Avenue Rehabilitation.	NY
00035193	Hunter Pines East Apartments.	DC
05935193	Monterey Hills Apartments.	LA
08335316	Mountainview Estates	KY
08335333	Pegasus 80	KY
11535213	Queens Village Apartments.	TX
10135269	Ridgeview Apartments	CO
10135263	Sleeping Ute Apartments	CO
11835098	Southwind Acres	OK
04535010	Tri-City Housing Cooperation.	WV
04335245	Urbana Village North (Gwynne Village).	OH
12335106	Westward Ho Apartments.	AZ
11535187	Woodland Creek Apartments.	TX

Nature of Requirement: Section 401.600 requires that projects be marked down to market rents within 12 months of their first expiration date after January 1, 1998. The intent of this provision is to ensure timely processing of requests for restructuring, and that the properties will not default on their FHA insured mortgages during the restructuring process.

Granted By: Barbara Chiapella, Acting Director, Office of Multifamily Housing Assistance Restructuring.

Date Granted: February 15, 2002.

Reasons Waived: The projects identified above were not assigned to the PAEs in a timely manner or for which the restructuring analysis was unavoidably delayed due to no fault of the owner.

Contact: Alberta Zinno, Office of Multifamily Housing Assistance Restructuring, Department of Housing and Urban Development, Portals Building, Suite 400, 1280 Maryland Avenue, Washington, DC 20410; telephone: (202) 708–0001.

• *Regulation:* 24 CFR 401.600.

Project/Activity: The following projects requested waivers to the 12-month limit at above-market rents (24 CFR 401.600):

FHA No.	Project name	State
05335320	Academy Village Apartments.	NC
01257128	Andrews Plaza	NY
03135194	Aspen Stratford B	NJ
04335257	Calumet/Horizon	OH
06157001	Capitol Avenue School	GA
04844005	Cranbrook Village Cooperative.	MI
12135677	Eureka Central Residence.	CA
01257101	Grand Concourse Phase I.	NY
11535221	Los Ebanos Apartments	TX
08335316	Mountainview Estates	KY
05135329	North Fork Manor Apartments.	VA
14311047	Pioneer Park Plaza Apartments.	CA
05235308	Upton Courts	MD
04235294	Westland Gardens	OH
12735313	Willapa Landing Apartments.	WA

Nature of Requirement: Section 401.600 requires that projects be marked down to market rents within 12 months of their first expiration date after January 1, 1998. The intent of this provision is to ensure timely processing of requests for restructuring, and that the properties will not default on their FHA insured mortgages during the restructuring process.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 6, 2002.

Reasons Waived: The projects identified above were not assigned to the PAEs in a timely manner or for which the restructuring analysis was unavoidably delayed due to no fault of the owner.

Contact: Alberta Zinno, Office of Multifamily Housing Assistance Restructuring, Department of Housing and Urban Development, Portals Building, Suite 400, 1280 Maryland Avenue, Washington, DC 20410; telephone: (202) 708–0001.

V. Regulatory Waivers Granted by the Office of Public and Indian Housing

For further information about the following public housing drug elimination program (PHDEP) waiver actions, please see the name of the contact person immediately following the description of the waiver granted.

• *Regulation:* 24 CFR 761.30(b)(2).

Project/Activity: Indianapolis Housing Authority (IHA), Indianapolis, IN; IN36DEP0170197.

Nature of Requirement: Section 761.30(b)(2) provides that terms of the grant agreement may not exceed 12 months for the Assisted Housing program, and 24 months for PHDEP. In accordance with this section, HUD may grant an extension of the grant term in response to a written request for an extension stating the need for the extension and indicating the additional time required.

Granted By: Michael Liu, Assistant Secretary for Public and Indian Housing.

Date Granted: February 13, 2002.

Reason Waived: The IHA experienced extenuating circumstances relating to the PHDEP grant's eligible activities, which HUD was attempting to resolve. This required an extended period of time to complete an assessment of grant activities and costs, submit vouchers for payment and process the necessary documents for close-out of the grant. The field office made a determination that the costs were allowable expenses and eligible for payment.

Contact: Sonia L. Burgos, Director, Community Safety and Conservation Division, Office of Public and Assisted Housing Delivery, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–1197, extension 4237.

• *Regulation:* 24 CFR 761.30(b)(2).

Project/Activity: Hampton Redevelopment Housing Authority, Hampton, VA; VA36DEP017099.

Nature of Requirement: Section 761.30(b)(2) provides that terms of the grant agreement may not exceed 12 months for the assisted housing program, and 24 months for the public housing program. In accordance with this section, HUD may grant an extension of the grant term in response to a written request stating the need for the extension and indicating the additional time required.

Granted By: Michael Liu, Assistant Secretary for Public and Indian Housing.

Date Granted: February 25, 2002.

Reason Waived: The waiver was granted to allow the housing authority to proceed with implementation of its planned PHDEP grant activities, enough time to draw down the remaining grant funds from the Line of Credit Control System (LOCCS), and time to close out the grant.

Contact: Sonia L. Burgos, Director, Community Safety and Conservation Division, Office of Public and Assisted Housing Delivery, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–1197, extension 4237.

• *Regulation:* 24 CFR 761.30(b)(2).

Project/Activity: Wilmington Housing Authority, Wilmington, DE; DE26DEP0010197.

Nature of Requirement: Section 761.30(b)(2) provides that terms of the grant agreement may not exceed 12 months for the assisted housing program, and 24 months for the public housing program. In accordance with this section, HUD may grant an extension of the grant term in response to a written request stating the need for the

extension and indicating the additional time required.

Granted By: Michael Liu, Assistant Secretary for Public and Indian Housing.

Date Granted: March 5, 2002.

Reason Waived: The waiver was granted to allow the housing authority to use the balance of the PHDEP grant for reimbursement for services rendered and to cover grant related administrative expenses.

Contact: Sonia L. Burgos, Director, Community Safety and Conservation Division, Office of Public and Assisted Housing Delivery, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–1197, extension 4237.

• *Regulation:* 24 CFR 761.30(b)(2).

Project/Activity: Chester County Housing Authority, Chester County, PA; PA01DEP0460198.

Nature of Requirement: Section 761.30(b)(2) provides that terms of the grant agreement may not exceed 12 months for the assisted housing program, and 24 months for the public housing program. In accordance with this section, HUD may grant an extension of the grant term in response to a written request stating the need for the extension and indicating the additional time required.

Granted By: Michael Liu, Assistant Secretary for Public and Indian Housing.

Date Granted: March 11, 2002.

Reason Waived: The Chester County Housing Authority felt that they should not move forward with these programs under the PHDEP until a determination could be made of the authority's financial situation. The Chester County Housing Authority ceased any planning for programmatic activities such as after school care, adult skills training and the purchase of equipment requiring the full procurement process.

Contact: Sonia L. Burgos, Director, Community Safety and Conservation Division, Office of Public and Assisted Housing Delivery, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–1197, extension 4237.

• *Regulation:* 24 CFR 761.30(b)(2).

Project/Activity: Chester County Housing Authority, Chester County, PA; PA01DEP0460197.

Nature of Requirement: Section 761.30(b)(2) provides that terms of the grant agreement may not exceed 12 months for the assisted housing program, and 24 months for the public housing program. In accordance with this section, HUD may grant an extension of the grant term in response to a written request stating the need for the extension and indicating the additional time required.

Granted By: Michael Liu, Assistant Secretary for Public and Indian Housing.

Date Granted: March 11, 2002.

Reason Waived: The Chester County Housing Authority felt that they should not move forward with their programs under the PHDEP grant until a determination was made of the authority's financial situation. The Chester County Housing Authority ceased any planning for programmatic activities. An operational assessment was completed and the housing authority was granted the waiver to proceed with the planning and implementation of its grant activities.

Contact: Sonia L. Burgos, Director, Community Safety and Conservation Division, Office of Public and Assisted Housing Delivery, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–1197, extension 4237.

• *Regulation:* 24 CFR 761.30(b)(2).

Project/Activity: Charleston Housing Authority, Charleston, WV; WV15DEP0010197.

Nature of Requirement: Section 761.30(b)(2) provides that terms of the grant agreement may not exceed 12 months for the assisted housing program, and 24 months for the public housing program. In accordance with this section, HUD may grant an extension of the grant term in response to a written request stating the need for the extension and indicating the additional time required.

Granted By: Michael Liu, Assistant Secretary for Public and Indian Housing.

Date Granted: March 14, 2002.

Reason Waived: The Charleston Housing Authority requested a time extension in order to draw down the remaining grant funds to pay vendors that have provided services for the PHDEP activities, and sufficient time to close out the grant.

Contact: Sonia L. Burgos, Director, Community Safety and Conservation Division, Office of Public and Assisted Housing Delivery, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–1197, extension 4237.

• *Regulation:* 24 CFR 982.306(d).

Project/Activity: Lincoln County Public Housing Agency, Bowling Green, MO; Housing Choice Voucher Program.

Nature of Requirement: Section 982.306(d) limits the circumstances under which a public housing agency may approve the leasing of a unit if the owner of the unit is a close relative of the family.

Granted By: Michael Liu, Assistant Secretary for Public and Indian Housing.

Date Granted: February 21, 2002.

Reason Waived: Approval of the waiver permitted a large family to lease a unit from a relative because of the unavailability of suitable vacant rental housing in the public housing agency's jurisdiction.

Contact: Gerald Benoit, Director, Real Estate and Housing Performance Division, Office of Public and Assisted Housing Delivery, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410; telephone: (202) 708–0477.

• Regulation: 24 CFR 982.503(c)(2)(ii).

Project/Activity: City of Tucson Community Services Department, Tucson, AZ; Housing Choice Voucher Program.

Nature of Requirement: Section 982.503(a)(2)(ii) provides that the HUD field office may approve an exception payment standard between 110% and 120% of the published fair market rent if required as a reasonable accommodation for a family that includes a person with disabilities.

Granted By: Michael Liu, Assistant Secretary for Public and Indian Housing.

Date Granted: January 8, 2002.

Reason Waived: Approval of the waiver to allow the field office to approve an exception payment standard in excess of 120% made it possible for a family that includes a person with disabilities to lease suitable housing under the program.

Contact: Gerald Benoit, Director, Real Estate and Housing Performance Division, Office of Public and Assisted Housing Delivery, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410; telephone: (202) 708–0477.

• *Regulation:* 24 CFR 982.503(c)(2)(ii).

Project/Activity: Housing Authority of the County of Los Angeles, Monterey Park, CA; Housing Choice Voucher Program.

Nature of Requirement: Section 982.503(c)(2)(ii) provides that the HUD field office may approve an exception payment standard between 110% and 120% of the published fair market rent if required as a reasonable accommodation for a family that includes a person with disabilities.

Granted By: Michael Liu, Assistant Secretary for Public and Indian Housing.

Date Granted: January 15, 2002.

Reason Waived: Approval of the waiver to allow the field office to approve an exception payment standard in excess of 120% made it possible for a family that includes a person with disabilities to remain in their current unit. It would have been a hardship on this family to seek alternative housing due to current health issues.

Contact: Gerald Benoit, Director, Real Estate and Housing Performance Division, Office of Public and Assisted Housing Delivery, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410; telephone: (202) 708–0477.

• *Regulation:* 24 CFR 983.51.

Project/Activity: The Virgin Islands Housing Authority (VIHA), St. Thomas, VI; Project-based Assistance (PBA) program. VIHA requested a waiver to permit it to attach PBA to all 80 units at Croixville Apartments. Croixville Apartments was selected to undergo rehabilitation under the Moderate Rehabilitation (Mod Rehab) Program over twelve years ago. Prior to the execution of a housing assistance payments contract under the Mod Rehab Program, the project suffered substantial damage as a result of Hurricane Hugo. The units have stood vacant and unsuitable for occupancy since that time. The VIHA has acquired the property and has selected Michaels Development Company, Inc. to accomplish the rehabilitation of the Croixville Apartments.

Nature of Requirement: Section 983.51 requires HUD review and approval of a written selection policy and advertisement for the competitive selection of units to receive project-based assistance.

Granted By: Michael Liu, Assistant Secretary for Public and Indian Housing.

Date Granted: March 6, 2002.

Reason Waived: Approval of the waiver will permit VIHA to renovate Croixville

Apartments and maintain its original intended use as an affordable housing development for low-income families.

Contact: Gerald Benoit, Director, Real Estate and Housing Performance Division, Office of Public and Assisted Housing Delivery, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410; telephone: (202) 708–0477.

• *Regulation:* 24 CFR 983.51(a) and (b).

Project/Activity: Housing Authority of the County of Chester (HACC), West Chester, PA; PBA program. HACC requested a waiver to permit it to attach PBA to all 33 units of a PHA-owned, mixed financed senior citizen facility, Honey Brook. The development plan for this facility was already submitted to a tax credit competition by the Pennsylvania Housing Finance Authority unit.

Nature of Requirement: Section 983.51(a) and (b) requires HUD review and approval of a written selection policy and advertisement for the competitive selection of units to receive project-based assistance.

Granted By: Michael Liu, Assistant Secretary for Public and Indian Housing.

Date Granted: February 5, 2002.

Reason Waived: Approval of the waivers will provide affordable rental housing units for very low-income senior citizens.

Contact: Gerald Benoit, Director, Real Estate and Housing Performance Division, Office of Public and Assisted Housing Delivery, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410; telephone: (202) 708–0477.

• *Regulation:* 24 CFR 983.51(a) and (b).

Project/Activity: Lowell Housing Authority (LHA), Lowell, MA; PBA program. LHA requested a waiver to permit it to select owner proposals from the Residents First Development Corporation (RFDC) and Winn Development (owner of Princeton Village) to provide PBA to 45 duplex units in a 180-unit development of proposed new construction and 37 units in a 151-unit project (Princeton Village). Both developments are located in state-designated revitalization areas. RFDC is a non-profit affiliate of the LHA and Princeton Village was competitively selected for Low Income Tax Credits.

Nature of Requirement: Section 983.51 (a) and (b) requires HUD review and approval of a written selection policy and advertisement for the competitive selection of units to receive project-based assistance.

Granted By: Michael Liu, Assistant Secretary for Public and Indian Housing.

Date Granted: March 5, 2002.

Reason Waived: Approval of the waivers will permit LHA to support the City of Lowell's revitalization efforts. The City of Lowell and LHA want to ensure that low-income people maintain access to housing in the revitalization areas as the areas are redeveloped to attract residents from higher income ranges.

Contact: Gerald Benoit, Director, Real Estate and Housing Performance Division, Office of Public and Assisted Housing Delivery, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410; telephone: (202) 708–0477.

• *Regulation:* 24 CFR 983.51(a) and (b).

Project/Activity: Housing Authority of the City of Aiken (HACA), Aiken, SC; PBA program. HACA requested a waiver to permit it to select owner proposals from the New Labor Housing and Economic Development Corporation (a non-profit affiliate of HACA) to provide PBA to 27 proposed single-family units that are part of a 44-unit project, Busch Crossing. The New Labor Housing and Economic Development Corporation was competitively awarded low-income housing tax credits by the South Carolina State Housing Finance and Development Authority. Busch Crossing will replace 60 condemned public housing units that were demolished.

Nature of Requirement: Section 983.51(a) and (b) requires HUD review and approval of a written selection policy and advertisement for the competitive selection of units to receive project-based assistance.

Granted By: Michael Liu, Assistant Secretary for Public and Indian Housing.

Date Granted: March 5, 2002.

Reason Waived: Approval of the waivers will provide for new development of affordable rental housing units for very low-income families.

Contact: Gerald Benoit, Director, Real Estate and Housing Performance Division, Office of Public and Assisted Housing Delivery, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410; telephone: (202) 708–0477.

• *Regulation:* 24 CFR 983.51(a) and (b).

Project/Activity: The Tampa Housing Authority (THA), Tampa, FL; PBA program. THA requested a waiver to permit it to provide PBA to all of the units of a HUD-owned 63-unit assisted living facility Palm Terrace. The THA intends to purchase the facility through the Atlanta Multifamily Disposition Office.

Nature of Requirement: Section 983.51(a) and (b) requires HUD review and approval of a written selection policy and advertisement for the competitive selection of units to receive project-based assistance.

Granted By: Michael Liu, Assistant Secretary for Public and Indian Housing.

Date Granted: March 7, 2002.

Reason Waived: Approval of the waivers meets the Department's goal of housing elders in assisted living facilities with vouchers; and the units would be affordable to voucher program participants in need of this type of facility since the THA will own and manage the units.

Contact: Gerald Benoit, Director, Real Estate and Housing Performance Division, Office of Public and Assisted Housing Delivery, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410; telephone: (202) 708–0477.

• *Regulation:* 24 CFR 983.51(a) and (b).

Project/Activity: Housing Authority of the County of Chester (HACC), West Chester, PA; PBA program. HACC and its partner, The Community Builders, Inc., who will be the general partner of the owner of the project, Downtown Revival Limited Partnership requested a waiver to permit it to attach PBA to ten out of 22 general occupancy units in six contiguous revitalized commercial buildings in downtown Coatesville, Pennsylvania. The project, Apartments-Over-Commercial Phase, is part of a HOPE VI revitalization plan to replace 192 demolished Oak Street and Woodland Parkway public housing units. This project has already been competitively awarded HOPE VI grant funds by the Department in 1997 as well as low-income tax credits by the Pennsylvania Housing Finance Agency.

Nature of Requirement: Section 983.51(a) and (b) requires HUD review and approval of a written selection policy and advertisement for the competitive selection of units to receive project-based assistance.

Granted By: Michael Liu, Assistant Secretary for Public and Indian Housing.

Date Granted: March 12, 2002.

Reason Waived: Approval of the waivers will provide affordable rental housing units for low-income families.

Contact: Gerald Benoit, Director, Real Estate and Housing Performance Division, Office of Public and Assisted Housing Delivery, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410; telephone: (202) 708–0477.

• *Regulation:* 24 CFR 983.51(a) and (b).

Project/Activity: San Francisco Housing Authority (SFHA), San Francisco, CA; PBA program. SFHA requested a waiver to permit it to attach PBA assistance to 119 units out of 341 replacement units in a HOPE VI development, the North Beach Redevelopment Project. The project will be owned and managed by North Beach Development Associates, LLC (NBDA). The SFHA will continue to own the property upon which the project will be developed. NBDA was competitively awarded HOPE VI funds by the Department to demolish and revitalize the North Beach Place public housing project.

Nature of Requirement: Section 983.51(a) and (b) requires HUD review and approval of a written selection policy and advertisement for the competitive selection of units to receive project-based assistance.

Granted By: Michael Liu, Assistant Secretary for Public and Indian Housing.

Date Granted: March 13, 2002.

Reason Waived: Approval of the waivers will provide affordable rental housing units for low-income families.

Contact: Gerald Benoit, Director, Real Estate and Housing Performance Division, Office of Public and Assisted Housing Delivery, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410; telephone: (202) 708–0477.

• *Regulation:* 24 CFR 1000.214.

Project/Activity: The Native Village of Pilot Station, AK, requested a waiver of the deadline for submission of the Indian Housing Plan.

Nature of Requirement: Section 1000.214 provides that recipients must initially send

the Indian Housing Plan (IHP) to the Area Office of Native American Programs (ONAP) no later than July 1 of each year. Grant funds cannot be provided until the plan is submitted and determined to be in compliance with section 102 of the Native American Housing Assistance and Self-Determination Act (NAHASDA) of 1996.

Granted By: Michael Liu, Assistant Secretary, Office of Public and Indian Housing.

Date Granted: March 15, 2002.

Reason Waived: The Native Village of Pilot Station initially designated the Calista Corporation to be its tribally designated housing entity (TDHE) for Fiscal Year (FY) 2001 Indian Housing Block Grant (IHBG) funding. The Calista Corporation submitted an IHP for FY 2001 funds, including the Native Village of Pilot Station. After reviewing the IHP of Calista Corporation, ONAP made the determination that Calista Corporation, as a tribe, cannot be a TDHE for the Native Village of Pilot Station or any other tribes as defined by NAHASDA. On August 24, 2001, the Calista Corporation revised their IHP and the Native Village of Pilot Station was not included. Since the Native Village of Pilot Station can be a recipient of IHBG funds, they requested to submit their own IHP after the regulatory due date for FY 2001 funds.

Contact: Deborah Lalancette, Director, Grants Management, Denver Program ONAP, Department of Housing and Urban Development, 1999 Broadway, Suite 3390, Denver, CO 80202; telephone: (303) 675–1600, extension 3325.

• *Regulation:* 24 CFR 1000.312.

Project/Activity: The Housing Authority of the Creek Nation of Oklahoma requested a waiver to allow units to be counted as formula assisted stock.

Nature of Requirement: Section 1000.312 requires that only units owned or operated pursuant to an Annual Contributions Contract (ACC) be included in the Formula Current Assisted Stock (FCAS).

Granted By: Michael Liu, Assistant Secretary, Office of Public and Indian Housing.

Date Granted: January 24, 2002.

Reason Waived: The housing authority determined that structural deficiencies found in foundations were extreme and posed a serious threat to the health and safety of the residents. In addition, the Tribe has agreements with lessees and homebuyers for these units that would continue to apply once the units are demolished and replaced. These agreements are predicated upon subsidy from the Department. Continuation of subsidy is necessary for the Tribe to uphold these agreements.

Contact: Deborah Lalancette, Director, Grants Management, Denver Program ONAP, Department of Housing and Urban Development, 1999 Broadway, Suite 3390, Denver, CO 80202; telephone: (303) 675–1600, extension 3325.

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This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at *http://www.nara.gov/fedreg/plawcurr.html*.

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