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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

Farm Service Agency

7 CFR Part 785

Farm Service Agency, Rural Housing Service, Rural Utilities Service, Rural Business-Cooperative Service

7 CFR Part 1946

RIN 0560–AE02

Certified Mediation Program

AGENCY: Farm Service Agency, Department of Agriculture.

ACTION: Final rule.

SUMMARY: The Farm Service Agency (FSA) is amending its agricultural loan mediation regulations to implement the requirements of the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994 (the 1994 Act) and the United States Grain Standards Act of 2000 (the Grain Standards Act). This rule establishes and modifies requirements and procedures for certification and funding of State mediation programs. This rule also moves the mediation provisions, as amended, from the Rural Development chapter of title 7 of the Code of Federal Regulations (CFR) to the FSA chapter of the same title.

EFFECTIVE DATE: September 10, 2002.

FOR FURTHER INFORMATION CONTACT: Chester A. Bailey, Mediation Program Manager, FSA, telephone 202–720–1471.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This final rule has been determined to be not significant for purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget (OMB).

Federal Assistance Program

The title and number of the Federal assistance program, as found in the Catalog of Federal Domestic Assistance, to which this rule applies, are Certified Mediation Program—10.435.

Executive Order 12372

This activity is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Environmental Evaluation

It has been determined that this action will not have a significant impact on the quality of the human environment. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed under the National Environmental Policy Act of 1969.

Executive Order 12612

This document has been reviewed in accordance with Executive Order 12612, Federalism. The agency has determined that this action does not have significant Federalism implications.

Executive Order 12988

This final rule has been reviewed in accordance with Executive Order 12988, Civil Justice Reform. All State and local laws and regulations that are in conflict with this rule will be preempted, no retroactive effect will be given to this rule, and administrative proceedings published at 7 CFR part 11 must be exhausted before action for judicial review may be brought.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this program. The administration certifies that this program will not have a significant impact on a substantial number of small entities. By statute, this grant program applies only to States. These grants cannot be made to small entities or individuals. Small entities may participate in mediation, however, to the same extent as individuals and other entities affected by adverse decisions covered by certified mediation programs.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, tribal governments, and the private sector. Under section 202 of the UMRA, the Agency generally must prepare a written Statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures by State, local, or tribal governments, in the aggregate, or to the private sector, of $100 million or more in any 1 year. When such a Statement is needed for a rule, section 205 of the UMRA generally requires the Agency to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objective of the rule.

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

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995, FSA submitted a request to OMB for the approval of the certified mediation program information collection package (0560–0165). OMB control number 0560–0165 was approved for use through February 29, 2004.

Background

On November 9, 1999, FSA published a proposed rule (64 FR 61034) to amend its agricultural loan mediation program regulations to implement the requirements of the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994 (the 1994 Act) (Pub. L. 103–354). The 1994 Act expanded the scope of issues that may be mediated in State mediation programs certified by FSA. The proposed rule modified previously established requirements and procedures for certification and funding of State mediation programs under the Agricultural Credit Act of 1987 (the 1987 Act) (7 U.S.C. 5101 *et seq.*).

On November 9, 2000, the Grain Standards and Warehouse Improvement

Act of 2000 (the Grain Standards Act) (Pub. L. 106–472) was enacted, making a number of additional amendments to the 1987 Act. Section 306 of the Grain Standards Act reauthorizes the mediation program through fiscal year 2005, and provides that funds appropriated by Congress to the state agricultural mediation program must be used for farm credit disputes and may be used, if available, for other specified U.S. Department of Agriculture (USDA) program disputes. This section also clarifies that the term ''mediation services,'' with respect to mediation or a request for mediation, may include all activities related to the intake and scheduling of cases, the provision of background and selected information regarding the mediation process, appropriate financial advisory and counseling services performed by a person other than a State mediation program mediator, and the mediation session. The Grain Standards Act also clarifies that the persons eligible for mediation include: agricultural producers, creditors of producers (as applicable), and persons directly affected by actions of the USDA. The Grain Standards Act further provides that mediation is voluntary and that a person may not be compelled to participate in such mediation, but that the statute does not affect any law requiring mediation before foreclosure on agricultural land or property.

FSA has incorporated these statutory provisions in the final rule. Section 785.1(d) of the final rule provides that mediation is voluntary and a that a person may not be compelled to participate in a mediation, but that the statute does not affect any law requiring mediation before foreclosure on agricultural land or property. A conforming definition of mediation services has been added in § 785.2, and a new definition of ''covered persons'' in § 785.2 specifies who may request mediation and issues that may be mediated.

This rule also removes the mediation provisions from the Rural Development chapter of Title 7 of the CFR (Chapter 18) and incorporates those provisions into a new part 785 in the FSA chapter (Chapter 7) of Title 7.

Public Comment

The comment period for the proposed rule ended on January 10, 2000. FSA solicited comments on the proposed rule in general, and particularly on certain specific matters addressed or considered during development of the proposed rule, specifically: Training programs implemented by States, the requirement for quarterly reporting by certified State mediation programs, the experience of States in mediating the additional issues authorized for mediation in the 1994 Act, mediation not involving USDA agencies and programs, the proposed changes in procedures for determining grant awards and managing an administrative reserve, and the appropriateness of requiring mediation program participants to satisfy a needs test as a condition for use of grant funds to pay for financial advisory and counseling services in preparing participants for mediation.

Summary of Comments

Comments were received from the Coalition of Agricultural Mediation Programs (CAMP) representing 25 USDA-certified State mediation programs, 12 USDA-certified State mediation programs, the American Bar Association, the Nebraska Legal Aid Society, the Oklahoma Farmers Union, and two mediators. The comments addressed a number of issues relating to the proposed rule in addition to those for which we had specifically solicited comment. FSA considered the comments and incorporates many of the recommendations and suggestions in this rule. The following is a review of the general subjects of comments and of the changes made in the final rule in response.

Training Programs Implemented by States

The proposed rule required a state requesting certification to describe the State mediation program education and training requirements for mediators. One commentor stated that the request for information concerning State programs for training mediators is appropriate provided that FSA understands that each program will employ different models of mediation, and that the training curricula will vary from one program to another. The commentor also stated that it is necessary for the various USDA agencies to work with the State agricultural mediation programs to provide training so that mediators are adequately trained on issues relating to USDA programs.

The commentor observed that USDA personnel need additional training regarding the objectives of mediation and its potential benefits. The commentor recommended that as part of a cooperative training effort, USDA personnel who will be involved in the mediation process receive training on mediation. Another comment proposed that the USDA conduct routine mediation training and orientation workshops for USDA staff and other consumer populations on the use and processes associated with mediation services.

Several other comments came from certified State mediation programs pointing out that their State laws set standards for training, qualifications, ethics and continuing education requirements for approved mediation programs and mediators. Other comments encouraged FSA to work with CAMP and States with certified mediation programs to develop criteria for those training requirements if there are specific areas that FSA believes it needs to monitor considering that training requirements are generally approved under individual State laws as well. Other commentors suggested that the USDA work with certified States to develop curriculum and materials that comport with USDA standards, for example, in a joint project with special funding. In contrast, other comments suggested that because of the diversity of State laws and the specific needs of the individual State programs, mediator qualifications and training requirements generally should be left to the respective certified mediation programs.

FSA agrees that both USDA employees and mediators must be adequately trained for the mediation process to function effectively. In response to the comments, FSA has added minimum Federal standards of mediator training to this rule to ensure a threshold level of mediator qualifications in all certified State mediation programs. For clarity, ''mediator'' and ''qualified mediator'' are separately defined in § 785.2. The definition of ''qualified mediator'' establishes a minimum training requirement that will apply in any State without a law prescribing mediator qualifications. The minimum training requirements in the final rule correspond to the minimums among States that prescribe mediator qualifications by law. As one condition of USDA certification under § 501 of the 1987 Act, a State mediation program must train its mediators. FSA also intends to work with certified States on an on-going basis to schedule joint training programs from time to time as funding is available.

Quarterly Reporting by Certified State Mediation Programs

One commentor stated that reporting requirements need to stay proportional to the level of funding that is received by the States. Because of the relatively small size of the maximum grants to certified State mediation programs, annual rather than quarterly reporting is

appropriate. Comments from certified State mediation programs concurred that quarterly reporting beyond financial reporting would greatly increase the reporting burden on States and that quarterly reporting would be excessively burdensome, especially on smaller programs where administrative staff and time are limited. All comments concurred that, with the exception of financial reporting, reporting by certified State mediation programs should be on an annual basis. One commentor suggests that programs receiving grants of less than $100,000 should report under a simplified system. Another commented that as a general matter the collection of information from the certified programs is necessary and that the commentor would like to work with FSA to develop a uniform reporting system that minimizes the burden of collecting information and provides a better measure of program performance.

In light of these comments, the final rule does not modify reporting requirements in § 785.8 to require quarterly reporting on program performance except as required under the Uniform Federal Assistance Regulations, 7 CFR part 3015, and the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, 7 CFR part 3016. FSA will continue to work with certified State mediation programs to determine how best to minimize the paperwork burden on certified States and, at the same time, provide a better method of measuring annual performance of the States' mediation programs.

Funding and Administrative Reserve

The procedure for determining grant awards to certified State mediation programs in the proposed rule represented an important change from the existing regulations. Under current regulations, certified States are awarded grants based on their requests, subject to the statutory limitations. Where States' total grant requests exceeded the funds appropriated, funds are allocated to States *pro-rata.* The proposed rule set forth a series of criteria as factors that would be considered in making awards to States.

In addition, the proposed rule provided for an administrative reserve that would be funded by withholding 10 percent of the total funds so that funds from the reserve could be obligated later in the fiscal year to newly qualified States or reallocated to States to meet demand for mediation services exceeding States' initial projections, and then, subsequently, to requesting States. In addition, to provide for flexibility in allocation of the program's limited funding, the reserve mechanism is intended to provide a means for the program to award funding at the beginning of the second half of a fiscal year for a mediation program in a State that newly qualifies in the first half of a fiscal year. Under the current regulation, a newly certified State program is required to wait for an award of grant funds until the following fiscal year.

Administrative Reserve

Several State mediation programs suggested that 5 percent of the total grant funds should be held in reserve rather than 10 percent because the sum withheld would be excessive when total funds appropriated are not sufficient to meet all eligible State matching grant needs. These commentors also suggested that making the reserve a bit smaller rather than larger should encourage States to submit applications for new certification or re-certification by the August 1 deadline. The commentors further suggested that meeting excess demand for mediation in existing certified States should be a priority over making grants to States newly certified in the current fiscal year or to previously certified States missing the August 1 deadline for recertification. FSA agrees with these comments, and the final rule provides in § 785.7(d) for a reserve of 5 percent of the total grant funds appropriated for the fiscal year. The final rule also revises priorities for disbursements from the administrative reserve fund to provide in § 785.7(d)(1) that additional unbudgeted demands for mediation services in qualifying States submitting certifications or recertifications on or before August 1 in a calendar year that are received on or before March 1 of the fiscal year will be given priority over requests for certification received between August 2 and March 1. As suggested by commentors, this change will provide additional incentive for States to submit timely requests for certification and re-certification.

One commentor questioned why FSA will accept requests for certification after the annual August 1 deadline, objecting because the policy reduces funding available to States that submit timely grant requests. To clarify the purpose of the reserve, the reserve is relabeled an ''administrative reserve'' in the final rule to reflect its administrative utility more clearly. FSA policy to receive and consider requests for certification and recertification submitted after the August 1 deadline reflects its belief that FSA should accommodate the varying schedules on which States may be able to meet certification requirements, particularly those requiring legislative action by the respective State governments. In response to other comments, the final rule provides in § 785.7(d)(1)(i)—(ii) that grant requests received between August 2 and March 1 will not be considered for funding in a fiscal year until the Administrator has determined what additional funding from the administrative reserve should be allocated to qualifying States that submitted timely requests.

The final rule also provides in § 785.7(d)(1)(ii) that funding granted in response to a late-submitted request for a grant by a State requesting re-certification may be made effective as of the beginning of the fiscal year. To accommodate the differences in designations of fiscal years by the Federal Government and the States, the final rule expressly provides in § 785.7(e), pursuant to 7 CFR 3016.23, that any State receiving a grant may carry forward funds unobligated at the end of the Federal fiscal year into the next fiscal year.

In combination, these provisions in the final rule are intended to provide a measure of administrative flexibility to support USDA policy favoring increased use of mediation as a means for resolution of administrative disputes, to assist efficient allocations of limited funds in response to unanticipated demands, and to accelerate start-up of newly certified State mediation programs.

Funding Criteria

Several commentors expressed concern about the criteria that are to be used to determine funding. There were concerns that using both objective criteria and criteria providing for discretion could operate unfairly. States with mandatory mediation programs would clearly serve more clients while States without mandatory agricultural mediation programs would need to commit resources for outreach that would be unnecessary in States with mandatory agricultural mediation requirements. The existence of these competing concerns is a reason why the final rule must provide for discretion in allocating grant funds. The criteria in the final rule accordingly identify considerations that will affect determinations of grant awards but do not specify a formula. No substantive changes were made in response to these comments.

Certification Requests

One commentor stated that it appreciates the need for USDA to receive sufficient information and documentation to adequately evaluate whether a State's request for certification meets the eligibility criteria to become a certified mediation program. However, it maintains that the existing certification process provides USDA with adequate information to make this decision. The commentor requested that the certification process be kept as simple as possible so as not to discourage new or existing States from participating.

FSA agrees that the procedures for requesting certification of a State mediation program and for requesting grant assistance should be manageable for States participating in the certified State mediation program. The final rule is reorganized to reflect more clearly the differing requirements for certification of a State mediation program (§ 785.3) and submission of a request to obtain grant funds for a certified program (§ 785.4). For purposes of certification, FSA will rely on the certification required of a governor or the head of a State agency designated by the governor. The changes from the proposed rule requiring submission by States of information concerning training of mediators and the State's experience in delivery of mediation services are adopted to achieve a better allocation of grant funds relative to needs while preserving some administrative flexibility to make grants to support mediation programs in newly qualifying States.

Also, while, pursuant to 7 U.S.C. 5101(c)(3)(E)–(F), the governor of a State must certify that lenders and borrowers of agricultural loans received adequate notification of the mediation program (§ 785.3(a)(2)(v)) and that, in the case of other issues covered by the mediation program, persons directly affected by actions of the USDA received adequate notification of the mediation program (§ 785.3(a)(2)(vi)), these requirements are effectively met by USDA agencies. As required by 7 U.S.C. 6995, covered agencies must offer mediation when a certified mediation program is available as part of their informal appeals process.

Several commentors recommended that regulations be modified to identify what specific information must be included in a grant request in compliance with 7 CFR parts 3015 and 3016. FSA believes that modifying the rule as suggested would introduce either redundancy or inconsistency, so no changes have been made in response to these comments. Parts 3015 and 3016 contain uniform rules that apply to USDA grants and cooperative agreements to State and local governments, universities, non-profit and for-profit organizations. The State mediation programs qualifying to date are operated primarily by State universities or State departments of agriculture, but other State agencies can be certified as State mediation programs. As a general matter, States are familiar with the uniform requirements set forth in parts 3015 and 3016. It is the responsibility of the State to know and comply with the applicable sections of parts 3015 and 3016 when applying for and receiving USDA grants.

Use of Grant Funds To Support Mediation in Other Programs of the USDA

Several commentors stated that the allowable costs provision in the proposed rule appears to authorize mediation programs to use grant funds to mediate disputes for persons directly affected by actions of any USDA agency, but that the USDA has required that the Secretary make a specific designation for grant funds to be used to mediate disputes in other programs of the USDA. The final rule removes this inconsistency and provides in § 785.2, in the definition of ''covered persons,'' that the Secretary may designate issues for mediation where other persons are directly affected by actions of the USDA and that State mediation programs may certify that they provide mediation services to such persons (§ 785.3(a)(2)). Within the general scope of the discretion of the Secretary authorized by section 501(c)(1) of the 1987 Act, the final rule contemplates that the specific authorizations for uses of grant funds to mediate such disputes will vary with particular circumstances and should not be specified in the final rule.

The final rule also provides that a certified State mediation program may require non-USDA participants in mediations to pay a fee for mediation services (§ 785.5), but that no such fee may be required of any USDA agency that is mandated to participate in mediation. The restriction against imposition of fees on USDA agencies mandated to participate in mediations reflects that the USDA is already funding the mediation program through grants and cannot reasonably be expected to pay twice. In addition, one of the primary reasons to charge a fee for mediation is to ensure good-faith participation. By law, USDA agencies must participate in good faith in mediation. As a result, there is no reason to charge USDA agencies a fee to participate in mediation to ensure their good faith.

Experience in Mediating the Additional Issues Authorized for Mediation in the 1994 Act

Both the 1994 Act and the Grain Standards Act expanded the statutory coverage of issues that may be mediated by a State mediation program and the categories of persons that may be eligible for mediation services through a certified program. The proposed rule reflected the specific expansions of coverage under the 1994 Act and also its authorization for the Secretary to identify other issues appropriate for mediation.

The Secretary's Memorandum 4710–1, dated March 23, 2000, entitled ''USDA Alternative Dispute Resolution Policy,'' authorized expansion of the issues handled by USDA-certified State mediation programs in accordance with the 1994 Act to include rural housing loans; rural business loans; crop insurance; and other issues the Secretary may subsequently consider appropriate. The final rule also reflects further expansions of coverage of issues and of persons eligible for mediation services under the Grain Standards Act to include mediations of disputes between producers and their creditors involving agricultural loans, regardless of whether the loans are made or guaranteed by the USDA or are made by a third party (§§ 785.2 (''Covered persons'') and 785.3(b)(2)). Significantly, the final rule does not refer to ''agricultural loan mediation,'' but instead refers to mediation services delivered by certified State mediation programs. Pursuant to the Secretary's alternative dispute resolution policy, the final rule also supports greater utilization of the certified State mediation programs to resolve both credit and non-credit issues in rural communities.

In light of this policy, the USDA solicited specific comments regarding program experience to date in mediating the broader range of issues covered by the 1994 Act. Comments from the certified State programs were generally supportive that the coverage of issues for mediation under their programs could be expanded. With respect to mediation of non-credit issues, one mediator commented that the opportunities for resolution of such issues in mediation has been constrained by rigidity in the program regulations governing many such disputes. For mediation to be effective, participants must have confidence that there are options that can be explored with the assistance of a mediator. The

commentor observed that many of the regulations implicated in mediations of non-credit issues were published prior to 1994 and the regulations may need modification to create more opportunity for mediated resolutions of disputes.

Other commentors suggest that the differing opportunities for developing options are a consideration that States are taking into account in management of their mediation intake processes. These States are determining at an early stage whether an issue in dispute may be amenable to mediation, so that their clients may be soundly advised whether mediation is a good option for resolution of the dispute.

FSA agrees that mediation programs should take appropriate steps to determine at an early stage whether the issues in a dispute are subject to statutory or regulatory requirements that must apply uniformly that diminish or eliminate opportunities for effective mediation of a dispute. FSA likewise agrees that in situations where there is a sense that nothing can be accomplished, the mediation program as a whole is adversely affected. In a number of situations, however, mediations involving disputes under uniformly applicable regulatory standards may focus on strategies for resolution of a dispute with options, *e.g.*, in wetlands disputes, options for mitigation or restoration of wetlands, or in claims disputes, options for repayment of debts.

Mediation Not Involving USDA Agencies and Programs

One commentor noted that agriculture disputes not involving USDA or agricultural credit may be mediated by certified programs, but that USDA funds may not cover such costs. FSA agrees that with regard to the costs of non-USDA non-agricultural credit mediation, grant funds are not allowed to assist producers who have disputes with other producers. The Grain Standards Act clarified that persons eligible for mediation services include agricultural producers, creditors of producers (as appropriate), and persons directly affected by actions of the USDA. It is intended that grant funds will be used by certified States to assist producers resolve agriculture-related disputes with the USDA that, if not timely resolved, would discourage lenders from financing their operations. FSA has clarified this issue in the final rule in § 785.4(c)(1) by providing that grant funds can be used to pay eligible costs that are reasonable and necessary to carry out the State's certified mediation program in providing mediation services to covered persons, *i.e.*, agriculture producers and their creditors, and other persons directly affected by actions of the USDA.

Use of a Financial Needs Test as a Condition for Use of Grant Funds To Pay for Financial Advisory and Counseling Services in Preparing Clients for Mediation

The proposed rule provided that costs of providing financial advisory and counseling services to mediation clients would be allowed if: the services were incidental to a mediation case, a financial need was demonstrated under guidelines established by the program and reported to FSA, the work product was made available to all parties to a mediation, the services were provided under the control of a mediator, and were determined in advance to be reasonable, necessary, and consistent with the goal of mediation in the particular case. Comments were solicited particularly regarding this financial needs test.

One commentor stated that the requirement that preparatory financial advisory and counseling services should be provided under the control of the mediator should be deleted, or at least modified to provide for control by staff of the mediation program rather than by the mediator. The commentor believed that mediators would be exposed to *ex parte* communications from assisted parties prior to mediation, which would appear to compromise their neutrality and interfere with their ability to get a balanced understanding of the facts implicated in a mediation. These concerns are also reflected in other comments on the proposed rule. The commentor suggested, and FSA agrees, that costs of financial advisory services provided by a person other than a mediator are allowable when approved under guidelines established by the certified State mediation program and are reported to FSA.

Several commentors stated that the requirement in the proposed rule that the results of financial analysis be made available to all parties as a condition for allowing the cost should be deleted. One commentor observed that, as a practical matter, participants are going to provide all relevant information to an analyst only if participants are reasonably certain to retain some control over the information that they provide. This suggested change is reflected in § 785.4 of the final rule, however, which provides that such services may be provided under guidelines established by the certified State mediation program. To ensure accountability in delivery of such services under guidelines established by certified State mediation programs, the final rule also provides, in § 785.9(a), that records of delivery of financial advisory and counseling services are pertinent records for review that must be maintained by the program and that the USDA or other Federal Departments must be granted access to these records for purposes of evaluation, audit, and monitoring of the certified State mediation program.

As a general matter, commentors supported providing financial and counseling services by certified mediation programs, but did not support the requirement of a financial needs test. The commentors stated that requiring a financial needs test would be a burden on both mediation programs and producers seeking assistance. In cases where a mediation client might be desperately in need of assistance simply to sort out financial documents prior to a mediation, requiring the mediation client to complete a financial needs assessment could impede the client from actually requesting financial advice because the process to qualify for assistance would appear too complicated.

Other commentors pointed out that in an overwhelming majority of the credit cases handled, producers will have financial need; otherwise, they would not be seeking mediation in the first place. Given these general circumstances, the commentors suggested that administering the financial needs test would delay and interfere with time better spent assisting mediation clients with preparations for productive mediation sessions. FSA agrees and has revised § 785.4 accordingly.

Comments on Other Matters

Notice of Mediation Services

One comment was received suggesting that the proposed rule should clarify how potential mediation clients receiving adverse decisions in USDA programs are to be notified of mediation services. The final rule clarifies in § 785.1(b) that, where a certified State mediation program is available, USDA agency notices of decisions will offer as part of the agency's informal appeal process the opportunity to mediate the decision under the certified State mediation program, in accordance with the agency regulations applicable to its informal appeals process. The USDA adverse decision notice will satisfy the grantee's notice requirement.

Because section 274 of the 1994 Act requires that notices of decisions by covered agencies must offer the opportunity to mediate in States with

certified State mediation program as part of their informal appeals processes, State mediation programs need only ensure that appropriate procedures are in place to schedule mediations and to notify parties when a mediation closes. In addition, State mediation programs shall also ensure that procedures in place publicize the availability of mediation so as to ensure that persons involved in agricultural loans, regardless of whether the loans are made or guaranteed by the Secretary or made by a third party, also receive adequate notification of the mediation program.

Guidance for Agency Participation in Mediations

One commentor suggested that FSA should clarify the manner in which USDA agencies are to participate in mediations, specifically, that FSA should ''clearly delineate both the format and the level of participation the Department and its sub-agencies will follow.'' The commentor observed that the proposed rule does not adequately establish how the assistance to mediation programs provided for in the rule is to culminate in delivery of mediation services.

FSA agrees that its guidance regarding the duties of agency participants in mediations should be clarified. For example, FSA is currently streamlining its farm loan program regulations and expects to resolve the apparent inconsistencies and update many obsolete provisions in current regulations during this process. As to a need for more general guidance regarding the duties of agency participants in mediation programs, FSA agrees that guidance regarding the contours and constraints on agency participation in mediation processes should be addressed in the rules governing informal agency appeals processes, *e.g.*, 7 CFR parts 614 and 780. While agreeing in principle with this comment, FSA believes that agencies must adopt rules tailored to their respective programs and is more generally concerned that any such regulations provide sufficient flexibility to permit States latitude to experiment with different mediation strategies within the guidelines that agencies may establish. Section 785.1(b) has been revised accordingly.

Access to Records and Confidentiality

The proposed rule expressly provided that pertinent records of certified State mediation programs must be made available to the Government in accordance with 7 CFR 3015.24. It further provided that parties in a mediation should sign an acknowledgment that the Government would have access to mediation records to conduct an audit or evaluation of mediation services funded in whole or part by the USDA.

One commentor stated that ''records'' should be defined and that the rule should expressly identify what records will be considered pertinent that must be made available for an audit. Section 785.9 of the final rule identifies specific ''pertinent records'' of mediations to be maintained and made available for purposes of audit, evaluation, or monitoring. ''Pertinent records'' include the following: (i) Names and addresses of applicants for mediation services; (ii) dates mediations are opened and closed; (iii) issues mediated; (iv) records of financial advisory and counseling services furnished to parties in mediation; (v) dates of sessions with mediators; (vi) names of mediators; (vii) other mediation services furnished to participants by the program; (viii) sums charged for each mediation service; and (ix) outcomes of mediation services including formal settlement results and supporting documentation. These are the minimum records needed for FSA and the Office of Inspector General to monitor the use of Federal grants for certified mediation programs and ensure the integrity of the grant program. Most of these items would not be protected as ''dispute resolution communications'' under sections 571 and 574 of the Administrative Dispute Resolution Act of 1996 (ADR Act) (5 U.S.C. 571 *et seq.*) because the basic information would be included in any written agreement to mediate or any final mediation resolution agreement. Section 574 prohibitions also do not apply to information necessary to document such mediation resolutions according to paragraph (g) of that section. To the extent that ''pertinent records'' are normally protected by the ADR Act, the parties will acknowledge and consent to their release for the limited purposes of 7 CFR 785.9. FSA has adopted a reasonable maintenance requirement of 5 years for these acknowledgments.

The final rule also clarifies in § 785.9 that, notwithstanding 7 CFR 3015.24, pertinent records must be disclosed to the USDA, the Comptroller General of the United States, the Administrator, and their representatives only as necessary to monitor, audit or evaluate mediation services funded in whole or in part by the USDA. This access provision is not intended to be used to seek information to use against the participant in an unrelated administrative decision. FSA recognizes that not all communications made to a mediator in confidence or all mediator work product, including records of mental impressions, will be maintained indefinitely. The final rule is intended to clarify that mediators' notes, other highly sensitive documents prepared for mediation, and other records of mediators' impressions will not be the ''pertinent records'' that mediators will be expected to produce to substantiate services delivered during a mediation. The purpose of the access requirement is to ensure that there is adequate documentation for the Government to review to verify that only authorized mediation services have in fact been furnished by a certified State mediation program in connection with a mediation.

Two State mediation programs commented that the requirement for execution of an acknowledgment of Government access to records by parties in a mediation was ''an extreme example of overkill'' that would encourage disputing parties simply to go through motions and not help mediation programs in their effort to solve problems. FSA believes that clarification of the limited purposes for which Government access may be required should minimize this potential obstacle. Credible mediators should be able to explain that as recipients of Federal grant funds their mediation programs have a responsibility to be accountable to the Government. No changes were made in response to these comments.

Several commentors suggested that the definition of confidentiality be changed to make divulging of mediation records subject to section 574 of the ADR Act. Some suggested that the rule expressly provide that to the extent that 7 CFR 3015.24 conflicts with statutory provisions for confidentiality in the ADR Act or section 501 of the Agricultural Credit Act of 1987, as amended, 7 U.S.C. 5101(c)(3), the statutory provisions would take precedence. FSA agrees that the definition of ''confidential mediation'' should be consistent with the ADR Act to the extent possible in carrying out the Federally funded certified mediation programs in accordance with authorizing legislation and regulations. FSA, therefore, has revised the proposed definition of the term to mean a mediation in which the mediator will not disclose to any person oral or written communications provided in confidence to the mediator except as allowed by section 574 of the ADR Act or the record access provisions in 7 CFR 785.9.

Annual Reporting and Program Evaluation

Several commentors suggested that the USDA should continue to use an annual reporting system for monitoring the effectiveness and productivity of all State mediation services, inclusive of all affiliated services incidental to caseload. These commentors encouraged the USDA to clearly delineate the categories, methodologies, measurement criteria, forms, and other equations for those purposes. The final rule is responsive to these suggestions and includes in section 785.8 more specific guidance regarding matters to be contained in the annual report than was set forth in the proposed rule. The emphasis of the revisions is to afford certified State mediation programs better means to report uniformly on the costs and benefits of their services and on areas where delivery of mediation services to covered persons can be improved. Because the final rule furnishes additional detail regarding the organization and coverage expected in the annual report, FSA believes that the revisions will simplify reporting for certified State mediation programs and will reduce the burden on the grantee.

Several commentors observed that FSA and other USDA agencies are in a better position than the mediation programs to track which cases go from mediation to appeals. They stated that it is the responsibility of the USDA to articulate a standard for data comparisons and recommended that data on administrative appeal costs should be furnished to certified States by the USDA. The final rule adopts this suggestion in section 785.8(a)(2) and provides that the mediation program will project costs of avoided administrative appeals based on data furnished by FSA.

One commentor observed that the proposed rule was unclear regarding who should receive annual reports from mediation programs, the Administrator of FSA, or the FSA State Executive Directors. The final rule clarifies that annual reports must be submitted to the Administrator.

Other significant changes are as follows:

Section 785.5 Fees for Mediation Services

This new section expressly provides that non-USDA parties who elect to participate in mediation may be required to pay a fee for mediation services, but that a State certified mediation program may not require a USDA agency to pay a fee to participate in a mediation. Because of the grant funding made available by the USDA for certified State mediation programs, the restriction against imposition of fees on USDA agencies protects against double charging of the Government. Further, charging fees ensures good faith participation by the parties. By law USDA agencies must participate in mediation in good faith. Charging a fee to USDA agencies under such circumstances is, therefore, not warranted.

Section 785.11 Reconsideration by the Administrator

This new section provides for reconsideration by the Administrator of any determination that a State is not a qualifying State or of penalties imposed pursuant to section 785.10. The decision of the Administrator following reconsideration is the final administrative decision of FSA.

List of Subjects in 7 CFR Parts 785 and 1946

Agriculture, Federal-State relations, Grant programs—Intergovernmental relations, Mediation.

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

1. Part 785 is added to read as follows:

PART 785—CERTIFIED STATE MEDIATION PROGRAM

Sec.

785.1 General.
785.2 Definitions.
785.3 Annual certification of State mediation programs.
785.4 Grants to certified State mediation programs.
785.5 Deadlines and address.
785.6 Fees for mediation services.
785.7 Distribution of Federal grant funds.
785.8 Reports by qualifying States receiving mediation grant funds.
785.9 Access to program records.
785.10 Penalties for noncompliance.
785.11 Reconsideration by the Administrator.
785.12 Nondiscrimination.
785.13 OMB control number.

Authority: 5 U.S.C. 301; 7 U.S.C. 1989; and 7 U.S.C. 5101–5104.

§ 785.1 General.

(a) States meeting conditions specified in this part may have their mediation programs certified by the Farm Service Agency (FSA) and receive Federal grant funds for the operation and administration of agricultural mediation programs.

(b) USDA agencies participate in mediations pursuant to agency rules governing their informal appeals processes. Where mediation of an agency decision by a certified State mediation program is available to participants in an agency program as part of the agency's informal appeal process, the agency will offer a participant receiving notice of an agency decision the opportunity to mediate the decision under the State's certified mediation program, in accordance with the agency's informal appeals regulations.

(c) USDA agencies making mediation available as part of the agency informal appeals process may execute memoranda of understanding with a certified mediation program concerning procedures and policies for mediations during agency informal appeals that are not inconsistent with this part or other applicable regulations. Each such memorandum of understanding will be deemed part of the grant agreement governing the operation and administration of a State certified mediation program receiving Federal grant funds under this part.

(d) A mediator in a program certified under this part has no authority to make decisions that are binding on parties to a dispute.

(e) No person may be compelled to participate in mediation provided through a mediation program certified under this part. This provision shall not affect a State law requiring mediation before foreclosure on agricultural land or property.

§ 785.2 Definitions.

Administrator means the Administrator, FSA, or authorized designee.

Certified State mediation program means a program providing mediation services that has been certified in accordance with section 785.3.

Confidential mediation means a mediation process in which the mediator will not disclose to any person oral or written communications provided to the mediator in confidence, except as allowed by 5 U.S.C. 574 or section 785.9.

Covered persons means producers, their creditors (as applicable), and other persons directly affected by actions of the USDA involving one or more of the following issues:

(1) Wetlands determinations;

(2) Compliance with farm programs, including conservation programs;

(3) Agricultural loans (regardless of whether the loans are made or guaranteed by the USDA or are made by a third party);

(4) Rural water loan programs;

(5) Grazing on National Forest System lands;

(6) Pesticides; or

(7) Such other issues as the Secretary may consider appropriate.

Fiscal year means the period of time beginning October 1 of one year and ending September 30 of the next year and designated by the year in which it ends.

FSA means the Farm Service Agency of the U.S. Department of Agriculture, or a successor agency.

Mediation services means all activities relating to the intake and scheduling of mediations; the provision of background and selected information regarding the mediation process; financial advisory and counseling services (as reasonable and necessary to prepare parties for mediation) performed by a person other than a State mediation program mediator; and mediation sessions in which a mediator assists disputing parties in voluntarily reaching mutually agreeable settlement of issues within the laws, regulations, and the agency's generally applicable program policies and procedures, but has no authoritative decision making power.

Mediator means a neutral individual who functions specifically to aid the parties in a dispute during a mediation process.

Qualified mediator means a mediator who meets the training requirements established by State law in the State in which mediation services will be provided or, where a State has no law prescribing mediator qualifications, an individual who has attended a minimum of 40 hours of core mediator knowledge and skills training and, to remain in a qualified mediator status, completes a minimum of 20 hours of additional training or education during each 2-year period. Such training or education must be approved by the USDA, by an accredited college or university, or by one of the following organizations: State Bar of a qualifying State, a State mediation association, a State approved mediation program, or a society of professionals in dispute resolution.

Qualifying State means a State with a State mediation program currently certified by FSA.

§ 785.3 Annual certification of State mediation programs.

To obtain FSA certification of the State's mediation program, the State must meet the requirements of this section.

(a) New request for certification. A new request for certification of a State mediation program must include descriptive and supporting information regarding the mediation program and a certification that the mediation program meets certain requirements as prescribed in this subsection. If a State is also qualifying its mediation program to request a grant of Federal funds under the certified State mediation program, the State must submit with its request for certification additional information in accordance with § 785.4.

(1) *Description of mediation program.* The State must submit a narrative describing the following with supporting documentation:

(i) A summary of the program;

(ii) An identification of issues available for mediation under the program;

(iii) Management of the program;

(iv) Mediation services offered by the program;

(v) Program staffing and staffing levels;

(vi) Uses of contract mediation services in the program describing both services provided by contractors and costs of such services;

(vii) State statutes and regulations in effect that are applicable to the State's mediation program; and

(viii) A description of the State program's education and training requirements for mediators including:

(A) Training in mediation skills and in USDA programs;

(B) Identification and compliance with any State law requirements; and

(C) Other steps by the State's program to recruit and deploy qualified mediators.

(ix) Any other information requested by FSA;

(2) *Certification.* The Governor, or head of a State agency designated by the Governor, must certify in writing to the Administrator that the State's mediation program meets the following program requirements:

(i) That the State's mediation program provides mediation services to covered persons with the aim of reaching mutually agreeable decisions between the parties under the program;

(ii) That the State's mediation program is authorized or administered by an agency of the State government or by the Governor of the State;

(iii) That the State's mediation program provides for training of mediators in mediation skills and in all issues covered by the State's mediation program;

(iv) That the State's mediation program shall provide confidential mediation as defined in § 785.2;

(v) That the State's mediation program ensures, in the case of agricultural loans, that all lenders and borrowers of agricultural loans receive adequate notification of the mediation program;

(vi) That the State's mediation program ensures, in the case of other issues covered by the mediation program, that persons directly affected by actions of the USDA receive adequate notification of the mediation program; and

(vii) That the State's mediation program prohibits discrimination in its programs on the basis of race, color, national origin, sex, religion, age, disability, political beliefs, and marital or familial status.

(b) *Request for re-certification by qualifying State.* If a State is a qualifying State at the time its request is made, the written request need only describe the changes made in the program since the previous year's request, together with such documents and information as are necessary concerning such changes, and a written certification that the remaining elements of the program will continue as described in the previous request.

§ 785.4 Grants to certified State mediation programs.

(a) *Eligibility.* To be eligible to receive a grant, a State mediation program must:

(1) Be certified as described in § 785.3; and

(2) Submit an application for a grant with its certification or re-certification request as set forth in this section.

(b) *Application for grant.* A State requesting a grant will submit the following to the Administrator:

(1) Application for Federal Assistance, Standard Form 424 (available in any FSA office and on the Internet, *http://www.whitehouse.gov/omb/grants/*);

(2) A budget with supporting details providing estimates of the cost of operation and administration of the program. Proposed direct expenditures will be grouped in the categories of allowable direct costs under the program as set forth in paragraph (c)(1) of this section;

(3) Other information pertinent to the funding criteria specified in § 785.7(b); and

(4) Any additional supporting information requested by FSA in connection with its review of the grant request.

(c) *Grant purposes.* Grants made under this part will be used only to pay the allowable costs of operation and administration of the components of a qualifying State's mediation program that have been certified as set forth in § 785.3(b)(2). Costs of services other than mediation services to covered persons within the State are not considered part of the cost of operation and administration of the mediation program for the purpose of determining the amount of a grant award.

(1) *Allowable costs.* Subject to applicable cost principles as set forth or referenced in § 3016.22 of this title,

allowable costs for operations and administration are limited to those that are reasonable and necessary to carry out the State's certified mediation program in providing mediation services for covered persons within the State. Specific categories of costs allowable under the certified State mediation program include, and are limited to:

(i) Staff salaries and fringe benefits;

(ii) Reasonable fees and costs of mediators;

(iii) Office rent and expenses, such as utilities and equipment rental;

(iv) Office supplies;

(v) Administrative costs, such as workers' compensation, liability insurance, employer's share of Social Security, and travel that is necessary to provide mediation services;

(vi) Education and training of participants and mediators involved in mediation;

(vii) Security systems necessary to assure confidentiality of mediation sessions and records of mediation sessions;

(viii) Costs associated with publicity and promotion of the program; and

(ix) Financial advisory and counseling services for parties requesting mediation (as reasonable and necessary to prepare parties for mediation) that are performed by a person other than a state mediation program mediator and as approved under guidelines established by the state mediation program and reported to FSA.

(2) *Prohibited expenditures.* Expenditures of grant funds are not allowed for:

(i) Purchase of capital assets, real estate, or vehicles and repair, or maintenance of privately-owned property;

(ii) Political activities;

(iii) Routine administrative activities not allowable under OMB Cost Principles found in part 3015, subpart T, of this title and OMB Circular No. A–87; and

(iv) Services provided by a State mediation program that are not consistent with the features of the mediation program certified by the State, including advocacy services on behalf of a mediation participant, such as representation of a mediation client before an administrative appeals entity of the USDA or other Federal Government department or Federal or State Court proceeding.

§ 785.5 Fees for mediation services.

A requirement that non-USDA parties who elect to participate in mediation pay a fee for mediation services will not preclude certification of a certified State mediation program or its eligibility for a grant; however, if participation in mediation is mandatory for a USDA agency, a certified State mediation program may not require the USDA agency to pay a fee to participate in a mediation.

§ 785.6 Deadlines and address.

(a) *Deadlines.* (1) To be a qualifying State as of the beginning of a fiscal year and to be eligible for grant funding as of the beginning of the fiscal year, the Governor of a State or head of a State agency designated by the Governor of a State must submit a request for certification and application for grant on or before August 1 of the calendar year in which the fiscal year begins.

(2) *Requests received after August 1.* FSA will accept requests for re-certifications and for new certifications of State mediation programs after August 1 in each calendar year; however, such requests will not be considered for grant funding under § 785.7(c) until after March 1.

(3) *Requests for additional grant funds during a fiscal year.* Any request by a State mediation program that is eligible for grant funding as of the beginning of the fiscal year for additional grant funds during that fiscal year for additional, unbudgeted demands for mediation services must be submitted on or before March 1 of the fiscal year.

(b) *Address.* The request for certification or re-certification and any grant request must be mailed or delivered to: Administrator, Farm Service Agency, U.S. Department of Agriculture, Stop 0501, 1400 Independence Avenue, SW., Washington, DC 20250–0501.

§ 785.7 Distribution of Federal grant funds.

(a) *Maximum grant award.* A grant award shall not exceed 70 percent of the budgeted allowable costs of operation and administration of the certified State mediation program. In no case will the sum granted to a State exceed $500,000 per fiscal year.

(b) *Funding criteria.* FSA will consider the following in determining the grant award to a qualifying State:

(1) Demand for and use of mediation services (historical and projected);

(2) Scope of mediation services;

(3) Service record of the State program, as evidenced by:

(i) Number of inquiries;

(ii) Number of requests for and use of mediation services, historical and projected, as applicable;

(iii) Number of mediations resulting in signed mediation agreements;

(iv) Timeliness of mediation services; and

(v) Activities promoting awareness and use of mediation;

(4) Historic use of program funds (budgeted versus actual); and

(5) Material changes in the State program.

(c) *Disbursements of grant funds.* (1) Grant funds will be paid in advance, in installments throughout the Federal fiscal year as requested by a certified State mediation program and approved by FSA. The initial payment to a program in a qualifying State eligible for grant funding as of the beginning of a fiscal year shall represent at least one-fourth of the State's annual grant award. The initial payment will be made as soon as practicable after certification, or re-certification, after grant funds are appropriated and available.

(2) Payment of grant funds will be by electronic funds transfer to the designated account of each certified State mediation program, as approved by FSA.

(d) *Administrative reserve fund.* After funds are appropriated, FSA will set aside 5 percent of the annual appropriation for use as an administrative reserve.

(1) Subject to paragraph (a) of this section and the availability of funds, the Administrator will allocate and disburse sums from the administrative reserve in the following priority order:

(i) Disbursements to cover additional, unbudgeted demands for mediation services in qualifying States eligible for grant funding as of the beginning of the fiscal year;

(ii) Grants to qualifying States whose requests for new certification or re-certification were received between August 2 and March 1. A previously qualifying State that submits a request for re-certification received after August 1 may receive a grant award effective as of the beginning of the fiscal year. A newly qualifying State that submits a request for certification received after August 1 may receive a grant award effective March 31 of the fiscal year.

(iii) Any balance remaining in the administrative reserve will be allocated pro rata to certified State mediation programs based on their initial fiscal year grant awards.

(2) All funds from the administrative reserve will be made available on or before March 31 of the fiscal year.

(e) *Period of availability of funds.* (1) Certified State mediation programs receiving grant funds are encouraged to obligate award funds within the Federal fiscal year of the award. A State may, however, carry forward any funds disbursed to its certified State mediation program that remain unobligated at the end of the fiscal year of award for use

in the next fiscal year for costs resulting from obligations in the subsequent funding period. Any carryover balances plus any additional obligated fiscal year grant will not exceed the lesser of 70 percent of the State's budgeted allowable costs of operation and administration of the certified State mediation program for the subsequent fiscal year, or $500,000.

(2) Grant funds not spent in accordance with this part will be subject to de-obligation and must be returned to the USDA.

§ 785.8 Reports by qualifying States receiving mediation grant funds.

(a) *Annual report by certified State mediation program.* No later than 30 days following the end of a fiscal year during which a qualifying State received a grant award under this part, the State must submit to the Administrator an annual report on its certified State mediation program. The annual report must include the following:

(1) A review of mediation services provided by the certified State mediation program during the preceding Federal fiscal year providing information concerning the following matters:

(i) A narrative review of the goals and accomplishments of the certified State mediation program in providing intake and scheduling of cases; the provision of background and selected information regarding the mediation process; financial advisory and counseling services, training, notification, public education, increasing resolution rates, and obtaining program funding from sources other than the grant under this part.

(ii) A quantitative summary for the preceding fiscal year, and for prior fiscal years, as appropriate, for comparisons of program activities and outcomes of the cases opened and closed during the reporting period; mediation services provided to clients grouped by program and subdivided by issue, USDA agency, types of covered persons and other participants; and the resolution rate for each category of issue reported for cases closed during the year;

(2) An assessment of the performance and effectiveness of the State's certified mediation program considering:

(i) Estimated average costs of mediation services per client with estimates furnished in terms of the allowable costs set forth in § 785.4(b)(1).

(ii) Estimated savings to the State as a result of having the State mediation program certified including:

(A) Projected costs of avoided USDA administrative appeals based on projections of the average costs of such appeals furnished to the State by FSA, with the assistance of the USDA National Appeals Division and other agencies as appropriate;

(B) In agricultural credit mediations that do not result from a USDA adverse program decision, projected cost savings to the various parties as a result of resolution of their dispute in mediation. Projected cost savings will be based on such reliable statistical data as may be obtained from State statistical sources including the certified State's bar association, State Department of Agriculture, State court system or Better Business Bureau, or other reliable State or Federal sources;

(iii) Recommendations for improving the delivery of mediation services to covered persons, including:

(A) Increasing responsiveness to needs for mediation services.

(B) Promoting increases in dispute resolution rates.

(C) Improving assessments of training needs.

(D) Improving delivery of training.

(E) Reducing costs per mediation.

(3) Such other matters relating to the program as the State may elect to include, or as the Administrator may require.

(b) *Audit report.* In addition to the auditing requirements of part 3015, subpart I and § 3016.26 of this title, any qualifying State receiving a grant under this part must submit an audit report to the Administrator in compliance with OMB Circular A–133.

§ 785.9 Access to program records.

Notwithstanding § 3015.24 of this title, the State must maintain and provide the Government access to pertinent records regarding services delivered by the certified State mediation program for purposes of evaluation, audit and monitoring of the certified State mediation program as follows:

(a) For purposes of this section, pertinent records consist of: the names and addresses of applicants for mediation services; dates mediations opened and closed; issues mediated; dates of sessions with mediators; names of mediators; mediation services furnished to participants by the program; the sums charged to parties for each mediation service; records of delivery of services to prepare parties for mediation (including financial advisory and counseling services); and the outcome of the mediation services including formal settlement results and supporting documentation.

(b) State mediators will notify all participants in writing at the beginning of the mediation session that the USDA, including the USDA Inspector General, the Comptroller General of the United States, the Administrator, and any of their representatives will have access to pertinent records as necessary to monitor and to conduct audits, investigations, or evaluations of mediation services funded in whole or in part by the USDA.

(c) All participants in a mediation must sign and date an acknowledgment of receipt of such notice from the mediator. The certified State mediation program shall maintain originals of such acknowledgments in its mediation files for at least 5 years.

§ 785.10 Penalty for non-compliance.

(a) The Administrator is authorized to withdraw certification of a State mediation program, terminate or suspend the grant to such program, require a return of unspent grant funds, a reimbursement of grant funds on account of expenditures that are not allowed, and may impose any other penalties or sanctions authorized by law if the Administrator determines that:

(1) The State's mediation program, at any time, does not meet the requirements for certification;

(2) The mediation program is not being operated in a manner consistent with the features of the program certified by the State, with applicable regulations, or the grant agreement;

(3) Costs that are not allowed under § 785.4(b) are being paid out of grant funds;

(4) The mediation program fails to grant access to mediation records for purposes specified in § 785.8; or

(5) Reports submitted by the State pursuant to § 785.7 are false, contain misrepresentations or material omissions, or are otherwise misleading.

(b) In the event that FSA gives notice to the State of its intent to enforce any withdrawal of certification or other penalty for non-compliance, USDA agencies will cease to participate in any mediation conducted by the State's mediation program immediately upon delivery of such notice to the State.

§ 785.11 Reconsideration by the Administrator.

(a) A State mediation program may request that the Administrator reconsider any determination that a State is not a qualifying State under § 785.3 and any penalty decision made under § 785.10. The decision of the Administrator upon reconsideration shall be the final administrative decision of FSA.

(b) Nothing in this part shall preclude action to suspend or debar a State mediation program or administering

entity under part 3017 of this title following a withdrawal of certification of the State mediation program.

§ 785.12 Nondiscrimination.

The provisions of parts 15, 15b and 1901, subpart E, of this title and part 90 of title 45 apply to activities financed by grants made under this part.

§ 785.13 OMB Control Number.

The information collection requirements in this regulation have been approved by the Office of Management and Budget and assigned OMB control number 0560–0165.

PART 1946—[Removed and Reserved]

2. Part 1946 is removed and reserved.

Signed in Washington, DC, on September 3, 2002.

J.B. Penn,

Under Secretary for Farm and Foreign Agricultural Services.

[FR Doc. 02–22800 Filed 9–9–02; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 905

[Docket No. FV02–905–5 IFR]

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Limiting the Volume of Small Red Seedless Grapefruit

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule limits the volume of small red seedless grapefruit entering the fresh market under the marketing order covering oranges, grapefruit, tangerines, and tangelos grown in Florida (order). The Citrus Administrative Committee (Committee) administers the order locally and recommended this action. This rule limits the volume of sizes 48 and 56 red seedless grapefruit shipped during the first 22 weeks of the 2002–03 season by establishing weekly percentages for each of the 22 weeks, beginning September 16, 2002. This action supplies enough small red seedless grapefruit, without saturating all markets with these small sizes. This rule should help stabilize the market and improve grower returns.

DATES: Effective September 11, 2002; comments received by October 10, 2002 will be considered prior to issuance of a final rule.

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

FOR FURTHER INFORMATION CONTACT: William G. Pimental, Southeast Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 799 Overlook Drive, Suite A, Winter Haven, Florida 33884–1671; telephone: (863) 324–3375, Fax: (863) 325–8793; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938.

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

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

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

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

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the 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 limits the volume of small red seedless grapefruit entering the fresh market under the order. This rule limits the volume of sizes 48 and 56 fresh red seedless grapefruit shipped during the first 22 weeks of the 2002–03 season by establishing a weekly percentage for each of the 22 weeks, beginning September 16, 2002. This rule supplies enough small red seedless grapefruit, without saturating all markets with these small sizes. This action should help stabilize the market and improve grower returns.

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

Section 905.153 of the regulations provides procedures for limiting the volume of small red seedless grapefruit entering the fresh market. The procedures specify that the Committee may recommend that only a certain percentage of sizes 48 and 56 red seedless grapefruit be made available for shipment into fresh market channels for any week or weeks during the regulatory period. The regulation period is 22 weeks long and begins the third Monday in September. Under such a limitation, the quantity of sizes 48 and 56 red seedless grapefruit that may be shipped by a handler during a regulated week is calculated using the recommended percentage. By taking the recommended weekly percentage times the average weekly volume of red seedless

grapefruit handled by such handler in the previous five seasons, handlers can calculate the total volume of sizes 48 and 56 they may ship in a regulated week.

This rule limits the volume of sizes 48 (3 9/16 inches minimum diameter) and 56 (3 5/16 inches minimum diameter) red seedless grapefruit entering the fresh market by instituting weekly percentages for the first 22 weeks of the 2002–03 season. This rule establishes weekly percentages at 45 percent for weeks 1 and 2 (September 16 through September 29), 35 percent for weeks 3 through 19 (September 30, 2002 through January 26, 2003), and 40 percent for weeks 20, 21, and 22 (January 27 through February 16). The Committee recommended this action by a vote of 14 in favor and 2 against at a meeting on May 22, 2002.

The Committee believes the over shipment of smaller-sized red seedless grapefruit has a detrimental effect on the market. While there is a market for small-sized red seedless grapefruit, the availability of large quantities oversupplies the fresh market with these sizes and negatively impacts the market for all sizes. These smaller sizes, 48 and 56, normally return the lowest prices when compared to the other larger sizes. However, when there is too much volume of the smaller sizes available, the overabundance of small sized fruit pulls the prices down for all sizes.

For the past four seasons, the volume of small sizes available throughout the season has been considerably larger than in past seasons. The smaller sizes have represented a larger portion of the crop at the beginning of the season and this trend has continued throughout the season. The fruit has not been sizing well. This means a greater number of small sizes are available later in the season. The percentage of total available volume represented by small sizes has been higher for nearly every month of the season when compared to the same months in previous seasons. This has exacerbated the problems stemming from the oversupply of small sizes and increased the number of weeks of a season impacted.

For the last three seasons, 1999–2000, 2000–01, and 2001–02, the percentage of the remaining crop represented by small sizes in February has averaged around 53 percent. This compares to an average of 31 percent for the same month for the seasons 1995–96 through 1997–98. In fact, the last three seasons have averaged a greater percentage of smaller sizes across each month, October through February, than over the three seasons 1995–96 through 1997–98. For the last seven seasons there has been a movement toward an increased volume of small sizes as a percentage of the overall crop. This is most dramatically evidenced by the 72 percent increase in small sizes as a percentage of the overall crop from February 1996 to February 2001.

The volume of small-sized red seedless grapefruit available in December, January, and February for the 1999–2000, 2000–01, and 2001–02 seasons were comparable or exceeded the volume available in October, November, and December for the 1995–96, 1996–97, and 1997–98 seasons. The following chart shows the volume of sizes 48 and smaller red seedless grapefruit available for these months as a percentage of the total crop.

SIZES 48 AND SMALLER AS A PERCENTAGE OF TOTAL CROP

	95–96	96–97	97–98		99–00	00–01	01–02
October	43%	62%	73%	December	58%	56%	64%
November	34%	56%	61%	January	49%	54%	60%
December	30%	51%	52%	February	50%	53%	56%

The chart shows the percentage of the crop represented by small sizes increasing fairly substantially beginning as early as the 1996–97 season. It was following the 1995–96 season that the Committee began its initial discussions regarding the need to control the volume of small-sized red seedless grapefruit entering the fresh market. Percentage of size regulation was first used to control the volume of small sizes during the first 11 weeks of the 1997–98 season.

The Committee recognized that small sizes were a problem at those volume levels for the months of October through December for the 1995–96, 1996–97, and 1997–98 seasons. Having comparable or greater volumes of small sizes available during the early and midseason also represents a problem for the industry.

For the 2002–03 season, the Committee believes there will continue to be a surplus of red seedless grapefruit. The Committee believes for the 2002–03 season fruit size will continue to follow the trend toward smaller sizes as seen in the past few years and will have an abundant number of small-sized fruit. To address the volume of small-sized red seedless grapefruit available and to prevent the over shipment of small sizes, the Committee voted to utilize the provisions of section 905.153 and establish percentage of size regulation for each of the 22 weeks of the regulatory period for the 2002–03 season.

In making its recommendation, the Committee considered the success of previous percentage of size regulations and their experience from past seasons. The Committee believes the over shipment of smaller-sized red seedless grapefruit contributes to poor returns for growers and lower prices. The Committee has successfully used the provisions of § 905.153 to address these problems, recommending percentage of size regulation during the first 11 weeks of the 1997–98, 1998–99, 1999–2000, and 2000–01 seasons, and for the first 22 weeks of the 2001–02 season. Under percentage of size regulation, prices increased and movement stabilized when compared to seasons without regulation.

For the three seasons prior to the use of percentage size regulation, 1994–95, 1995–96, and 1996–97, returns for red seedless grapefruit had been declining, often not returning the cost of production. On-tree prices for red seedless grapefruit had fallen steadily from $6.87 per box (1⅗ bushel) during the 1991–92 season, to $3.38 per box during the 1993–94 season, to $1.91 per box during the 1996–97 season.

An economic study done by the University of Florida—Institute of Food and Agricultural Sciences (UF–IFAS) in May 1997, found that on-tree prices had fallen from a high near $7.00 per carton in 1991–92 to around $1.50 per carton for the 1996–97 season. The study projected that if the industry elected to make no changes, the on-tree price would remain around $1.50 per carton. The study also indicated that increasing minimum size restrictions could help raise returns.

The Committee believes percentage of size regulation has been effective in stabilizing prices, both f.o.b. and on-

tree. In the three seasons prior to the first percentage of size regulation in 1997–98, prices of red seedless grapefruit fell from a weighted average f.o.b. price of $7.80 per carton in October to a weighted average f.o.b. price of $5.50 per carton in December. In the five seasons utilizing percentage of size regulation, red seedless grapefruit maintained higher prices throughout the season with a weighted average f.o.b. price of $8.03 per carton in October, to an average f.o.b. price of $7.01 per carton in December, and remained at around $6.70 in April. Average prices for the season have also been higher during seasons with percentage of size regulation. The average season price for red seedless grapefruit was $7.00 for the last five years compared to $5.83 for the three prior years.

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

During the past five seasons, red seedless grapefruit production has averaged around 409 boxes per acre. Based on the cost of production above, and the number for the average boxes per acre, growers need to earn a total on-tree value (fruit going both to the fresh market and to processing) of approximately $2.25 per box in order to break even. For the three seasons prior to the use of percentage of size regulation, the total on-tree value averaged $1.78 per box. Comparatively, for the seasons with regulation, 1997–98 through 2000–01, the on-tree value averaged $2.36 per box.

On-tree prices for fresh red seedless grapefruit have also been higher during seasons with percentage of size regulation than for the three seasons prior to regulation. The average on-tree price for fresh red seedless grapefruit was $4.30 for the seasons 1997–98 through 2000–01 with percentage of size regulation compared to $3.08 for the three years prior to regulation. Small growers have struggled the last eight seasons to receive returns near the cost of production. For many, these higher returns mean the difference between profit and loss.

Another benefit of percentage of size regulation has been in maintaining higher prices for the larger-sized fruit. At the start of the season, larger-sized fruit command a premium price. In some cases, the f.o.b. price is $4 to $10 more a carton than for the smaller sizes. The last three seasons, the f.o.b. price for a size 27 has averaged around $13.50 per carton in October. This compares to an average f.o.b. price of around $5.80 per carton for a size 56 during the same period. In the three years before the issuance of a percentage size regulation, the f.o.b. price for large sizes dropped to within $1 or $2 of the f.o.b. price for small sizes by the middle of the season due to the oversupply of small sizes.

Percentage of size regulation has helped sustain the price differential, maintaining higher prices for the larger-sized fruit. During the three years before regulation, the average differential between the carton price for a size 27 and a size 56 was $3.47 at the end of October. However, by mid-December the price for the larger size had dropped to within $1.68 of the price for the smaller-size fruit. In the five years with percentage of size regulation, the average differential between the carton price for a size 27 and a size 56 was $5.44 at the end of October, was $3.87 in mid-December, and remained at $3.49 the first week in April.

The margins between the prices for the various sizes of red grapefruit have remained fairly constant throughout the seasons covered under percentage of size regulation. According to the Economic Analysis and Program Planning Branch (EAPP), USDA, if the domestic market becomes glutted with too many small sized grapefruit (48 and 56), these margins would be negatively impacted and total grower returns would be reduced.

The goal of this percentage of size rule is to reduce the volume of the least valuable fruit in the market and strengthen grower prices and revenues. Without this rule, the fresh grapefruit market will become glutted with small sized fruit, which will have a negative impact on prices for larger sized fruit and grower returns. Absent this rule, the price margins between sizes (23, 27, 32, 36, 40, 48, and 56) will diminish and ultimately result in lower grower returns. This rule is intended to fully supply all markets for small sizes with fresh red seedless grapefruit size 48 and 56, while avoiding oversupplying these markets to the detriment of grower revenues.

Shipments during the 22 weeks covered by this regulation account for nearly 60 percent of the total volume of red seedless grapefruit shipped to the fresh market. Considering this volume and the very limited returns from grapefruit for processing, it is important that returns from the fresh market be maximized during this period. Even a small increase in price when coupled with the volume shipped represents a significant increase in the overall return to growers.

The Committee believes percentage of size regulation has also helped stabilize the volume of small sizes entering the fresh market. During deliberations in past seasons, the Committee considered how shipments of small sizes had effected the market. Based on available statistical information, Committee members concluded that once shipments of sizes 48 and 56 reached levels above 250,000 cartons per week, prices declined on those and most other sizes of red seedless grapefruit. The Committee believed if shipments of small sizes are maintained at around or below 250,000 cartons a week, prices will stabilize and demand for larger, more profitable sizes will increase.

The last five seasons during the weeks regulated by a percentage of size regulation, the weekly shipments of sizes 48 and 56 red seedless grapefruit remained near or below 250,000 cartons for 90 percent of the regulated weeks. There has also been a 43 percent reduction in the volume of small sizes entering the fresh market during the weeks regulated from the 1995–96 season to the 2000–01 season.

An economic study done by Florida Citrus Mutual (Lakeland, Florida) in April 1998, also found that weekly percentage regulation was effective. The study stated that part of the strength in early season pricing appeared to be due to the use of the weekly percentage rule to limit the volume of sizes 48 and 56. It said prices were generally higher across the size spectrum with sizes 48 and 56 having the largest gains, and larger-sized grapefruit registering modest improvements. The rule shifted the size distribution toward the higher-priced, larger-sized grapefruit, which helped raise weekly average f.o.b. prices. It further stated that sizes 48 and 56 grapefruit accounted for around 27 percent of domestic shipments during the same 11 weeks during the 1996–97 season. Comparatively, sizes 48 and 56 accounted for only 17 percent of domestic shipments during the same period in 1997–98, as small sizes were used to supply export customers with preferences for small-sized grapefruit.

In addition to the success of previous regulations, there are other surrounding circumstances that warrant the consideration of the establishment of percentage of size regulation. The production area was up until June, suffering through a period of insufficient rainfall. It is unclear how this will affect the sizing of the crop. However, it is possible that it may produce a larger volume of small-sized red seedless grapefruit, further intensifying the problem with small sizes.

Problems with the European and Asian markets could also impact the volume of small sizes available. In past seasons, these markets have shown a strong demand for the smaller-sized red seedless grapefruit. However, the reduction in shipments to these areas experienced during the last few years is expected to continue during the upcoming season. This could result in a greater amount of small sizes for remaining markets to absorb.

The condition of the market for processed grapefruit is also a consideration. Approximately 52 percent of red seedless grapefruit on average is used for processing, with the majority being squeezed for juice. However, this outlet offers limited returns and currently is not profitable. Statistics from the Florida Department of Citrus (FDOC) show there is currently a 43-week inventory of processed red seedless grapefruit juice from last season. By the start of the season, it is projected that over 32 weeks worth of juice will remain in inventory. This is expected to have an additional negative impact on returns.

For the 2000–2001 season, on-tree returns were negative for processed red seedless grapefruit. During the last five years, only 1999–2000 produced on-tree returns for processed red seedless grapefruit that exceeded one dollar per box. When on-tree returns for processed grapefruit drop below a dollar, there is pressure to shift a larger volume of the overall crop to the fresh market to benefit from the higher prices normally paid for fresh fruit. Over the period from 1977 through 2000, the differential between fresh prices and processed prices has averaged $3.55 per box. Consequently, growers prefer to ship grapefruit to the fresh market.

A fair percentage of red seedless grapefruit shipped for processing tend toward the smaller sizes. When returns for processed red grapefruit are low, an additional volume of small sizes could be shifted toward the fresh market, further aggravating problems with excessive volumes of small sizes. Due to current inventories, on-tree prices for processed red seedless grapefruit for the 2002–03 season will most likely mirror prices from past seasons and remain below a dollar. This could force an additional volume of small sizes toward the fresh market.

Further, red seedless grapefruit production continues to exceed demand. This has contributed to the low returns and led to economic abandonment of grapefruit. According to information from the National Agricultural Statistics Service, the seasons of 1995–96, 1996–97, 1997–98, and 2000–01 had an average economic abandonment of two million boxes or more of red seedless grapefruit. Data for the 2001–02 season will not be published until September. However, it is likely that some economic abandonment did occur last season. Economic abandonment and prices falling below the cost production support the use of percentage of size regulation to control the volume of small sizes. The percentage of size regulation has an impact and is intended to make the most economically viable fruit available to the fresh market without oversupplying small-sized fruit. These considerations further support the need to control the volume of small sizes during the season to prevent the volume of small sizes from overwhelming all markets.

The Committee believes the problems associated with an uncontrolled volume of small sizes entering the market will recur without regulation and that establishing weekly percentages during the last five seasons has proven successful. Consequently, the Committee recommended weekly percentages be established for all 22 weeks of the regulatory period, beginning at 45 percent for the first two weeks, 35 percent for weeks 3 through 19, and 40 percent for weeks 20, 21, and 22.

The Committee considered the percentages set last year as a basis for discussing this year's percentages. Committee members believed relaxing last season's percentages from the most restrictive level allowed of 25 percent had worked well, providing some restriction while affording volume for those markets that prefer small sizes. Also, while the Committee has in past seasons initially voted to set weekly percentages at 25 percent, the Committee has never maintained the percentages at the 25 percent level, but has always relaxed the percentages closer to the start of the season.

Drawing on this experience, the Committee decided to make its initial recommendations for each of the 22 weeks at levels higher than 25 percent. The recommended percentages closely approximate the final percentages recommended last season. The percentages are the same as last season for weeks 1, 2, 3, 19, 21, and 22, represent a 5 percent increase for weeks 4 through 10 and weeks 15 through 18 and for week 20, and represent a 5 percent decrease for weeks 11 through 14. All are within 5 percent of those recommended last season.

More information helpful in determining the appropriate weekly percentages will be available after August. At the time of the May meeting, grapefruit had just begun to size, giving little indication as to the distribution of sizes. Only the most preliminary of crop estimates was available, with the official estimate not to be issued until October. Further, the first reports on how the crop is sizing will not be available until after September. Consequently, the Committee believes it is best to set regulation at these levels, and then relax the percentages later in the season if conditions warrant.

The Committee recognized that they could meet again during the regulation period, as needed, and use the most current information to consider adjustments in the weekly percentage rates. This will help the Committee make the most informed decisions as to whether the established percentages are appropriate. Any changes to the weekly percentages set by this rule will require additional rulemaking and the approval of USDA.

During deliberations in past seasons, Committee members concluded that once shipments of sizes 48 and 56 reached levels above 250,000 cartons a week, prices declined on those and most other sizes of red seedless grapefruit. The Committee believed if shipments of small sizes are maintained at around or below 250,000 cartons a week, prices should stabilize and demand for larger, more profitable sizes should increase.

The Committee considered the 250,000-carton level when recommending the weekly percentages. The first two weeks are set high at 45 percent because it is likely there will only be a limited volume shipped. In the last four seasons, shipments of sizes 48 and 56 have never exceeded 250,000 cartons during the first two weeks. Setting weekly percentages at 35 percent for the majority of weeks provides a total available allotment of around 269,150 cartons (35 percent of the total industry base of approximately 769,000 cartons) per week. While this is slightly more than 250,000 cartons, it is unlikely all available allotment will be used each week, and this allows individual handlers some additional flexibility.

The increase to 40 percent for the last three weeks is to provide a little more allotment at the end of the regulated period to provide some transition to the period of no regulation and to help prevent the dumping of small sizes following the end of regulation. The Committee believes these percentages will provide some flexibility while holding weekly shipments of sizes 48 and 56 close to the 250,000-carton mark.

The Committee believes the volume of small red seedless grapefruit available will have a detrimental effect on the market if it is not controlled. Members believe the problems successfully addressed by percentage of size regulation the last five seasons will return without regulation. Consequently, the Committee believes weekly percentage of size regulation should be established for each of the 22 weeks of the regulatory period. Therefore, this rule establishes weekly percentages at 45 percent for the first two weeks, 35 percent for weeks 3 through 19, and at 40 percent for weeks 20 through 22. The Committee plans to meet as needed during the 22-week period to ensure that the weekly percentages are at the appropriate levels.

While the recommendation to establish percentage of size regulation was accepted by a majority of Committee members, some raised concerns about export markets and the loan and transfer system. These concerns provided the basis for the two Committee members who opposed the Committee's recommendation.

One area of concern was the impact this regulation may have on exports. One member stated that market share was being lost in Europe to Turkey and Israel. The purpose of this regulation is not to eliminate the marketing of sizes 48 and 56, but rather to prevent the over shipment of such sizes from saturating all markets.

In making its recommendations, the Committee recognized that markets exist for small sizes. That is why they recommended limiting the volume of small sizes instead of eliminating them. The Committee considered the markets available for small sizes and set a weekly percentage sufficient to address these markets. The weekly percentages are set to allow handlers enough volume of small sizes to meet the markets that prefer them, such as the export market, while preventing an oversupply that effects other markets. Also, there are provisions to handle potential allotment shortfalls an individual handler might have. These include loans and transfers, or using the allowances for over shipment.

In terms of exports of red seedless grapefruit, volume the last two seasons has averaged around 13,832,750 cartons according to the Florida Department of Agriculture (FDOA). Based on information available on sizes exported, the last two seasons sizes 48 and 56 have averaged 42 percent of the exports of red seedless grapefruit (FDOA). On average, 53 percent of exports occur after the end of the 22 week regulated period. Industry members have stated that the largest markets for small sizes do not usually start until late January or in February. This would skew the volume of small sizes exported toward the latter part of the season where there are no limitations on small sizes. Consequently, that would mean a greater percent of small sizes are shipped after regulation. Therefore, using the 42 percent figure to calculate the volume of small sizes shipped during the first 22 weeks is probably close or exceeds the actual percentage represented by small sizes for those weeks.

For the 22 weeks of regulation, when total weekly exports were multiplied by 42 percent to estimate the volume of small sizes exported each week, total allotment available during the 22 weeks as established by the percentages in this rule exceeds the calculated weekly volume of small sizes exported during each regulation week. In addition, the higher percentages recommended by the Committee for the last three weeks of the regulatory period will also help provide additional allotment as the major export period begins. Thus, the allotment of small sizes provided under this rule should be sufficient to service export demand for small sizes, allowing Florida to maintain those markets.

In regards to foreign competitors taking markets from Florida, available information indicates that this should not be a significant problem. The UF–IFAS study determined that foreign competition is minimal. It also inferred that even in cases of tightened standards, foreign competitors are not likely to take market share from Florida. Information from the Foreign Agricultural Service, USDA, and the Florida Department of Citrus indicate production and fresh shipments are of limited quantities in both Israel and Turkey. Current statistics show their available volume would significantly limit their ability to consistently impact Florida's market share. Total production of grapefruit in Israel is less than 18 percent of the Florida grapefruit crop while Turkey's is less than 8 percent. Turkey and Israel may have lower transportation costs due to their closer proximity to Europe.

Another concern was the loans and transfers system. One member expressed concern about the fairness of the program and the availability of allotment for loans and transfers. The purpose of loans and transfers is to promote the movement of allotment between those who have allotment but no fruit to those with fruit but no allotment. It is an individual handler's responsibility to try to locate available allotment when they need it. Last season, there were 451 loans and transfers representing 645,386 cartons. Nearly all grapefruit handlers participated in the loan and transfer process last season.

In some weeks, there was more allotment available than in others. However, the purpose of this regulation is to limit the volume of small sizes that are entering the fresh market. The allotment available is calculated using the prior period so that when the Committee considers establishing percentage of size regulation they have a good idea of the total allotment made available each week by establishing different percentages. By allowing loans and transfers, a greater share of the total allotment available each week can be utilized. This allows the actual shipments of small sizes to closely approximate the shipments the Committee believes the market can handle when it recommends weekly percentages. Without loans and transfers there would be less volume available and the regulation would be more restrictive.

After considering the concerns expressed, and the available information, the Committee determined that this rule was needed to regulate shipments of small sized red seedless grapefruit.

Under § 905.153, the quantity of sizes 48 and 56 red seedless grapefruit a handler may ship during a regulated week is calculated using the set weekly percentage. A handler's allotment of small sizes is calculated by taking the weekly percentage times the average weekly volume of red seedless grapefruit handled by such handler in the previous five seasons. The product is that handler's total allotment of sizes 48 and 56 red seedless grapefruit for the given week. This average week is the base for each handler for each of the 22 weeks of the regulatory period. Handlers can fill their allotment with size 56, size 48, or a combination of the two sizes such that the total of these shipments is within the established limits. The Committee staff performs the specified calculations and provides them to each handler.

The regulatory period begins the third Monday in September, September 16, 2002. Each regulation week begins Monday at 12 a.m. and ends at 11:59 p.m. the following Sunday.

Section 905.153(d) provides the allowances for overshipments, loans, and transfers of allotment. These tolerances allow handlers the opportunity to supply their markets while limiting the impact of small sizes.

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

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

Initial Regulatory Flexibility Analysis

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

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and 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 75 grapefruit handlers subject to regulation under the order and approximately 11,000 growers of citrus in the regulated area. Small agricultural service firms, including handlers, are defined by the Small Business Administration (SBA) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $750,000 (13 CFR 121.201).

Based on industry and Committee data, the average annual f.o.b. price for fresh Florida red seedless grapefruit during the 2001–02 season was approximately $7.12 per 4/5 bushel carton, and total fresh shipments for the 2001–02 season are estimated at 25.6 million cartons of red grapefruit. Approximately 33 percent of all handlers handled 72 percent of Florida's grapefruit shipments. Using the average f.o.b. price, at least 66 percent of the grapefruit handlers could be considered small businesses under SBA's definition. Therefore, the majority of Florida grapefruit handlers may be classified as small entities. The majority of Florida grapefruit producers may also be classified as small entities.

The over shipment of small-sized red seedless grapefruit contributes to poor returns and lower on-tree values. This rule limits the volume of sizes 48 and 56 red seedless grapefruit shipped during the first 22 weeks of the 2002–03 season by establishing weekly percentages for each of the 22 weeks, beginning September 16, 2002. This rule sets the weekly percentages at 45 percent for weeks 1 and 2, 35 percent for week 3 through week 19, and at 40 percent for weeks 20, 21, and 22. The quantity of sizes 48 and 56 red seedless grapefruit that may be shipped by a handler during a particular week is calculated using the percentages set. This action supplies enough small red seedless grapefruit, without saturating all markets with small sizes. This action will help stabilize the market and improve grower returns. This rule uses the provisions of § 905.153. Authority for this action is provided in § 905.52 of the order. The Committee recommended this action on a vote of 14 in favor and 2 opposed at a meeting on May 22, 2002.

The Committee believes there will continue to be an oversupply of red seedless grapefruit and that the volume of small sizes available will continue to be a problem in the 2002–03 season. The Committee also believes that fruit size for the 2002–03 season will continue to follow the trend toward smaller sizes as seen in the past few years and will have an abundant number of small sized fruit. Consequently, the Committee voted to utilize the provisions of § 905.153 and establish percentage size regulation for each of the 22 weeks of the regulatory period.

While the establishment of volume regulation may necessitate additional spot picking, which could entail slightly higher harvesting costs, in most cases this is already a standard industry practice. In addition, with spot picking, the persons harvesting the fruit are more selective and pick only the desired sizes and qualities. This reduces the amount of time and effort needed in sorting fruit, because undersized fruit is not harvested. This may result in a cost savings through reduced processing and packing costs. In addition, because this regulation is only in effect for part of the season, the overall effect on costs is minimal. Consequently, this rule is not expected to appreciably increase costs to producers.

If a 25 percent restriction on small sizes had been applied during the 22-week period for the three seasons prior to the 1997–98 season, an average of 3.1 percent of overall shipments during that period would have been constrained by regulation. A large percentage of this volume most likely could have been replaced by larger sizes for which there are no volume restrictions. Under regulation, larger sizes have been substituted for smaller sizes with a nominal effect on overall shipments.

In addition, handlers can transfer, borrow or loan allotment based on their needs in a given week. Handlers also have the option of over shipping their allotment by 10 percent in a week, provided the over shipment is deducted from the following week's shipments. Approximately 451 loans and transfers were utilized last season. Statistics for 2001–02 show that, in only 2 weeks of the regulated period was the total available allotment used. Therefore, with the weekly percentages for the majority of weeks set slightly higher than for last season, the overall impact of this regulation on total shipments should be minimal.

The Committee believes establishing percentage of size regulation during the 2002–03 season will have benefits similar to those realized under past regulations. Handlers and producers have received higher returns under percentage of size regulation. In the three seasons prior to the first percentage of size regulation in 1997–98, prices of red seedless grapefruit fell from a weighted average f.o.b. price of $7.80 per carton in October to a weighted average f.o.b. price of $5.50 per carton in December. In the five seasons utilizing percentage of size regulation, red seedless grapefruit maintained higher prices throughout the season with a weighted average f.o.b. price of $8.03 per carton in October, to an average f.o.b. price of $7.01 per carton in December, and remained at around $6.70 in April. Average prices for the season have also been higher during seasons with percentage of size regulation. The average season price for red seedless grapefruit was $7.00 for the

last five years compared to $5.83 for the three prior years.

On-tree earnings per box for fresh red seedless grapefruit have also improved under regulation, providing better returns to growers. The average on-tree price for fresh red seedless grapefruit was $4.30 for the seasons 1997–98 through 2000–01 with percentage of size regulation, compared to $3.08 for the three years prior to regulation. Small growers have struggled the last eight seasons to receive returns near the cost of production. For many, the higher returns mean the difference between profit and loss.

Shipments during the 22 weeks covered by this regulation account for nearly 60 percent of the total volume of red seedless grapefruit shipped to the fresh market. Considering this volume and the very limited returns from grapefruit for processing, it is imperative that returns from the fresh market be maximized during this period. Even a small increase in price when coupled with the volume shipped represents a significant increase in the overall return to growers.

Even if this action was only successful in raising returns by $.10 per carton, this increase in combination with the substantial number of shipments generally made during this 22-week period, would represent an increased return of nearly $1.4 million. Consequently, any increased returns generated by this action should more than offset any additional costs associated with this regulation.

The purpose of this rule is to help stabilize the market and improve grower returns. Percentage of size regulation is intended to reduce the volume of the least valuable fruit in the market, and shift it to those markets that prefer small sizes. This regulation helps the industry address marketing problems by keeping small sizes (sizes 48 and 56) more in balance with market demand without glutting the fresh market with these sizes.

This rule provides a supply of small-sized red seedless grapefruit sufficient to meet market demand, without saturating all markets with these small sizes. This action is not expected to decrease the overall consumption of red seedless grapefruit. With supply in excess of demand, this rule is not expected to impact consumer prices or demand. The benefits of this rule are expected to be available to all red seedless grapefruit growers and handlers regardless of their size of operation. This rule will likely help small under-capitalized growers who need additional weekly revenues to meet operating costs.

The Committee considered several alternatives to taking this action. One alternative was to establish the weekly percentages at 25 percent for all weeks and adjust the percentages later in the season as was done in previous seasons. This alternative was rejected as the Committee drew on past experiences and sought to provide handlers with specific shipping percentages earlier in the season to allow them greater flexibility in formulating marketing plans in a timely manner.

Another alternative discussed was to provide each handler with the equivalent of one extra week of allotment to use any time during the season and to eliminate loans and transfers. This would have allowed a handler to over-ship any quantity of small sizes up to his extra allotment in one week or divided up through the season. The Committee believed that if prices were at a premium, most handlers would take advantage of these higher prices and ship well over what the market channels could absorb. This alternative was also rejected.

Other alternatives considered centered around setting the weekly percentages at levels different than those recommended. After discussion, the Committee agreed on the percentages established in the rule. Members thought it was best to set regulation at these levels, and then relax the percentages later in the season if conditions warrant. The Committee recognized that they could meet again during the regulation period, as needed, and use the most current information to consider adjustments in the weekly percentage rates. Therefore, these alternative percentages were also rejected.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection requirements contained in this rule have been previously approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581–0189. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sectors.

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

The Committee's meeting was widely publicized throughout the citrus 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 22, 2002, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

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

This rule invites comments on limiting the volume of small red seedless grapefruit entering the fresh market during the first 22 weeks of the 2002–03 season. Any comments received will be considered prior to finalization of this rule.

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

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) This rule needs to be in place when the regulatory period begins September 16, 2002, and handlers need time to consider their allotment and how best to service their customers; (2) the industry has been discussing this issue for some time, and the Committee has kept the industry well informed; (3) this action has been widely discussed at various industry and association meetings, and interested persons have had time to determine and express their positions; (4) this action is similar to those recommended in previous seasons; and (5) this rule provides a 30-day comment period and any comments received will be considered prior to finalization of this rule. A comment period of 30 days is appropriate to allow any needed intra-seasonal changes to be made in a timely manner.

List of Subjects in 7 CFR Part 905

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

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

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

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

Authority: 7 U.S.C. 601–674.

2. Section 905.350 is revised to read as follows:

§ 905.350 Red seedless grapefruit regulation.

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

Week	Weekly percentage
(a) 9/16/02 through 9/22/02	45
(b) 9/23/02 through 9/29/02	45
(c) 9/30/02 through 10/6/02	35
(d) 10/7/02 through 10/13/02	35
(e) 10/14/02 through 10/20/02	35
(f) 10/21/02 through 10/27/02	35
(g) 10/28/02 through 11/3/02	35
(h) 11/4/02 through 11/10/02	35
(i) 11/11/02 through 11/17/02	35
(j) 11/18/02 through 11/24/02	35
(k) 11/25/02 through 12/1/02	35
(l) 12/2/02 through 12/8/02	35
(m) 12/9/02 through 12/15/02	35
(n) 12/16/02 through 12/22/02	35
(o) 12/23/02 through 12/29/02	35
(p) 12/30/02 through 1/5/03	35
(q) 1/6/03 through 1/12/03	35
(r) 1/13/03 through 1/19/03	35
(s) 1/20/03 through 1/26/03	35
(t) 1/27/03 through 2/2/03	40
(u) 2/3/03 through 2/9/03	40
(v) 2/10/03 through 2/16/03	40

Dated: September 4, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–23027 Filed 9–6–02; 9:48 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1487

RIN 0551–AA63

Technical Assistance for Specialty Crops Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Interim rule.

SUMMARY: This rule implements the Commodity Credit Corporation's ''Technical Assistance for Specialty Crops'' program to help open, retain, and expand markets for U.S. specialty crops.

DATES: This rule is effective September 10, 2002. Comments concerning this rule should be received on or before November 12, 2002 to be assured consideration. Commodity Credit Corporation has published elsewhere in this issue a notice announcing that proposals to this program will be accepted until 5 p.m. Eastern Daylight Time, September 18, 2002.

ADDRESSES: Comments must be submitted to Director, Marketing Operations Staff, Foreign Agricultural Service, Room 4932–S, Stop 1042, U.S. Department of Agriculture, 1400 Independence Ave., SW., Washington, DC 20250–1042.

FOR FURTHER INFORMATION CONTACT: Marketing Operations Staff, Foreign Agricultural Service, Room 4932–S, Stop 1042, U.S. Department of Agriculture, 1400 Independence Ave., SW., Washington, DC 20250–1042, or telephone: (202) 720–4327.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule is issued in conformance with Executive Order 12866. It has been determined significant for the purposes of Executive Order 12866 and, therefore, has been reviewed by the Office of Management and Budget (OMB).

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this rule because the Commodity Credit Corporation is not required by any provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Executive Order 12988

This proposed rule has been reviewed in accordance with Executive Order 12988, Civil Justice Reform. This rule would have preemptive effect with respect to any State or local laws, regulations or policies which conflict with such provisions or which otherwise impede their full implementation; does not have retroactive effect; and does not require administrative proceedings before suit may be filed.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3014, subpart V, published at 48 FR 29115 (June 24, 1983).

The Unfunded Mandates Reform Act of 1995

This rule contains no Federal mandates under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Paperwork Reduction Act of 1995

In accordance with section 3507(j) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Commodity Credit Corporation (CCC) requests approval of a new information collection in support of the Technical Assistance for Specialty Crops program.

Title: Technical Assistance for Specialty Crops Program.

OMB Control Number: Not yet assigned.

Type of Request: Approval of an information collection.

Abstract: This information is needed to administer CCC's Technical Assistance for Specialty Crops program. The information will be gathered from applicants desiring to receive grants under the program to determine the viability of requests for funds.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 32 hours per year per respondent.

Respondents: U.S. government agencies, State government agencies, non-profit trade associations, universities, agricultural cooperatives, and private companies.

Estimated Number of Respondents: 20.

Estimated Number of Responses per Respondent: 5.

Estimated Total Annual Burden on Respondents: 640 hours.

Proposed topics for comments are: (a) Whether the collection of information is necessary for the proper performance of

the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; or (d) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical or other technological collection techniques or other forms of information technology.

Comments should be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 and to: Director, Marketing Operations Staff, Foreign Agricultural Service, Room 4932–S, Stop 1042, U.S. Department of Agriculture, 1400 Independence Ave., SW., Washington, D.C. 20250–1042.

Copies of this information collection may be obtained from Kimberly Chisley, FAS Information Collection Coordinator, at (202) 720–2568.

All responses to this notice will be summarized. All comments will also become a matter of public record.

Executive Order 12612

It has been determined that this rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on States or their political subdivisions, or on the distribution of power and responsibilities among the various levels of government.

Immediate Effectiveness of This Rule

It has been determined that this rule should be issued as an interim rule, without prior comment, but subject to modification on the consideration of those comments that are timely received. The Technical Assistance for Specialty Crops program is authorized by section 3205 of the Farm Security and Rural Investment Act of 2002 (Pub. L. 107–171), which became effective on May 13, 2002. That section provides that the Secretary of Agriculture shall establish a program to address unique barriers that prohibit or threaten the export of United States specialty crops and that the Secretary shall make available $2,000,000 of CCC funds for each of fiscal years 2002 through 2007. It has been determined that to delay the implementation of the rule pending comment would be impracticable and contrary to the public interest. That finding is based on the fact that, given the limited time remaining in this fiscal year, it is not possible for organizations to develop appropriate proposals for the new $2 million program and for the Department to adequately evaluate these new proposals through a meaningful allocation process. We do not believe that a compressed schedule that would result following adoption of a final rule after an initial proposed rule would give potential new applicants enough time to gather information and prepare a proposal. In addition, the Department would be forced to shorten its competitive review processes. In other words, the Department might not be able to allocate the resources as required by section 3205 of Public Law 107–171. Accordingly, for all the foregoing reasons, it has been determined that the provisions of this rule should be made effective immediately.

Background

The CCC will periodically announce that proposals may be submitted for participation in a ''Technical Assistance for Specialty Crops'' program (TASC), which will be administered by personnel of the Foreign Agricultural Service (FAS). On May 13, 2002, the President signed the Farm Security and Rural Investment Act of 2002. Section 3205 of that Act directs the Secretary to establish an export assistance program to address unique barriers that prohibit or threaten the export of U.S. specialty crops. The statute directs the Secretary to make available $2,000,000 of CCC resources for TASC in each of fiscal years 2002 through 2007. U.S. specialty crops, for the purpose of this rule, include all cultivated plants, or the products thereof, produced in the U.S., except wheat, feed grains, oilseeds, cotton, rice, peanuts, sugar, and tobacco.

The TASC is designed to assist U.S. organizations by providing funding for projects that address sanitary, phytosanitary, and technical barriers that prohibit or threaten the export of U.S. specialty crops. TASC proposals will be accepted from any U.S. organization, including, but not limited to: U.S. government agencies, State government agencies, non-profit trade associations, universities, agricultural cooperatives, and private companies. FAS will consider providing either grant funds as direct assistance to U.S. organizations or providing technical assistance on behalf of U.S. organizations provided that the organization submits timely and sufficient proposals. CCC has published elsewhere in this issue a notice announcing that proposals to this program for fiscal year 2002 will be accepted until 5 p.m. Eastern Daylight Time, September 18, 2002. For fiscal year 2002, FAS will review all proposals against the evaluation criteria contained herein and make awards on a continuing, or rolling, basis.

Under the TASC program, CCC will enter into agreements with those non-Federal entities whose proposals have been approved. After implementation of a TASC project for which CCC has agreed to provide funding, participants may submit claims for reimbursement of the costs associated with completing the project, to the extent that CCC has agreed to pay such costs. A TASC participant will be reimbursed after CCC reviews its claim and determines that the claim is complete. TASC projects will be subject to verification by the FAS Compliance Review Staff. Upon request, a TASC participant shall provide to FAS the original documents that support the participant's project expenses. FAS may deny a claim for reimbursement if the claim is not supported by adequate documentation. TASC participants may request advances of funds up to 85 percent of the approved amount. In such cases, reimbursement claims will be used to offset the advanced funds. TASC participants must deposit and maintain advances in insured, interest-bearing accounts, unless such accounts are prohibited by law or custom of a host country.

List of Subjects in 7 CFR Part 1487

Agricultural commodities, Exports, Specialty crops.

Accordingly, title 7 of the Code of Federal Regulations is revised by adding a new part 1487 to read as follows:

PART 1487—TECHNICAL ASSISTANCE FOR SPECIALTY CROPS

Sec.
1487.1 What special definitions apply to the TASC program?
1487.2 What is the TASC Program?
1487.3 What activities are eligible?
1487.4 Are there any limits on the scope of proposals?
1487.5 What is the process for submitting proposals?
1487.6 What are the criteria for evaluating proposals?
1487.7 How are agreements formalized?
1487.8 How does my organization apply for funds?
1487.9 Can participants receive advance payments?

Authority: Sec. 3205 of Pub. L. 107–171.

PART 1487—TECHNICAL ASSISTANCE FOR SPECIALTY CROPS

§ 1487.1 What special definitions apply to the TASC program?

For purposes of this part, the following definitions apply:

CCC—Commodity Credit Corporation.

FAS—Foreign Agricultural Service, United States Department of Agriculture.

Specialty crop—all cultivated plants, or the products thereof, produced in the United States, except wheat, feed grains, oilseeds, cotton, rice, peanuts, sugar, and tobacco.

TASC—Technical Assistance for Specialty Crops.

United States—the fifty states, the District of Columbia, and Puerto Rico.

§ 1487.2 What is the TASC program?

Under the TASC program, CCC, an agency and instrumentality of the United States within the Department of Agriculture, provides funds to eligible organizations, on a grant basis, to implement activities that are intended to address a sanitary, phytosanitary, or related technical barrier that prohibit or threaten the export of U.S. specialty crops that are currently available on a commercial basis. The TASC program is intended to benefit the represented industry rather than a specific company or brand. This program is administered by FAS.

§ 1487.3 What activities are eligible?

(a) *General.* In order to be eligible for funding under the TASC program, activities must address sanitary, phytosanitary, or technical barriers to export of specialty crops. Examples of expenses that CCC may agree to cover under the TASC program include, but are not limited to: initial pre-clearance programs, export protocol and work plan support, seminars and workshops, study tours, field surveys, development of pest lists, pest and disease research, database development, reasonable logistical and administrative support, and travel and per diem expenses.

(b) *Location of activities.* Eligible projects may take place in the United States or abroad.

§ 1487.4 Are there any limits on the scope of proposals?

(a) *Funding cap.* TASC proposals which request more than $250,000 of CCC funding in a given year will not be considered.

(b) *Length of activities.* TASC proposals to fund activities that exceed three years will not be considered.

(c) *Target countries.* Proposals may target all export markets, including single countries or reasonable regional groupings of countries.

(d) *Multiple proposals.* Applicants may submit multiple proposals, but no TASC participant may have more than three approved projects underway at any given time.

§ 1487.5 What is the process for submitting proposals?

(a) *General.* To be considered for participation in the TASC, interested parties should submit proposals to: Director, Marketing Operations Staff, Foreign Agricultural Service, Room 4932–S, Stop 1042, U.S. Department of Agriculture, 1400 Independence Ave., SW., Washington, DC 20250–1042. Telephone: (202) 720–4327. Entities interested in participating in the TASC program are not required to submit proposals in any specific format, although interested parties can request a suggested format for proposals from the same address.

(b) *Contents of proposals.* TASC proposals must contain complete information about the proposed projects, including, at a minimum, the following:

(1) Organizational information, including:

(i) Organization's name, address, Chief Executive Officer (or designee), and Federal Tax Identification Number (TIN);

(ii) Type of organization;

(iii) Name, telephone number, fax number, and e-mail address of the primary contact person;

(iv) A description of the organization and its membership; and

(v) A description of the organization's experience in technical assistance projects, including activities involved and project results.

(2) Project information, including:

(i) A brief project title;

(ii) Request for funding;

(iii) A market assessment, including a brief description of the specific export barrier to be addressed by the project;

(iv) The goals of the project, and the expected benefits to the represented industry;

(v) A description of the activities planned to address the export barrier;

(vi) An itemized list of all estimated costs associated with the project for which reimbursement will be sought; and

(vii) Information indicating all financial and in-kind support to the proposed project, and the resources to be contributed by each entity that will contribute to the project's implementation. This may include the organization that submitted the proposal, private industry entities, host governments, foreign third parties, CCC, FAS, or other Federal agencies. Support may include cash, goods, and services. Although highly encouraged, financial support from the participant is not required.

(3) Export information, including:

(i) Performance measures for three years, beginning with the year that the project would begin, which will be used to measure the effectiveness of the project;

(ii) A benchmark performance measure for the year prior to the year that the project would begin; and

(iii) The viability of long-term sales to this market.

§ 1487.6 What are the criteria for evaluating proposals?

(a) *Evaluation criteria.* FAS will use the following criteria in evaluating proposals:

(1) The degree to which time is essential to addressing specific export barriers;

(2) The nature of the specific export barrier and the extent to which the proposal is likely to successfully remove, resolve, or mitigate that barrier;

(3) The impact of the proposed project on market retention, market access, and market expansion;

(4) The completeness and viability of the proposal;

(5) The ability of the organization to provide an experienced staff with the requisite technical and trade experience to execute the proposal;

(6) The extent to which the proposal is targeted to a market in which the United States is generally competitive;

(7) The potential for expanding commercial sales in the targeted market; and

(8) The cost of the project and the amount of other resources dedicated to the project, including cash and goods and services of the U.S. industry and foreign third parties.

(b) *Evaluation process.* FAS will review proposals for eligibility and will evaluate each proposal against the factors described in paragraph (a) of this section. The purpose of this review is to identify meritorious proposals, recommend an appropriate funding level for each proposal based upon these factors, and submit the proposals and funding recommendations to the Deputy Administrator, Commodity and Marketing Programs. FAS may, when appropriate to the subject matter of the proposal, request the assistance of other U.S. government experts in evaluating the merits of a proposal.

§ 1487.7 How are agreements formalized?

Following approval of a proposal, CCC will enter into an agreement with

the organization that submitted the proposal. TASC agreements will incorporate the proposal as approved by FAS, include a maximum amount that may be reimbursed, and identify terms and conditions pursuant to which CCC will reimburse certain costs of the project. TASC agreements will also outline any specific responsibilities of the participant, including, but not limited to, timely and effective implementation of technical assistance and submission of a written evaluation report within six months of completion of the project. Evaluation reports should address the performance measures presented in the proposal. TASC participants are also subject to the reporting and recordkeeping requirements described in 7 CFR part 3019, ''Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-profit Organizations''.

§ 1487.8 How does my organization apply for funds?

CCC will publish a notice periodically in the **Federal Register** informing the public of the process by which interested organizations may apply for TASC program funding. This notice will, among other things, include information on any deadlines for submitting applications and the office where the applications should be sent.

§ 1487.9 Can participants receive advance payments?

(a) *Reimbursement.* Generally, after implementation of a TASC project for which CCC has agreed to provide funding, participants may submit claims for reimbursement of the costs associated with completing the project, to the extent that CCC has agreed to pay such costs. A TASC participant will be reimbursed after CCC reviews its claim and determines that the claim is complete. TASC projects will be subject to verification by the FAS Compliance Review Staff.

(b) *Advances.* TASC participants may request advances of funds up to 85 percent of the amount approved for funding. In such cases, reimbursement claims will be used to offset the advanced funds.

(c) *Interest.* TASC participants must deposit and maintain advances in insured, interest-bearing accounts, unless such accounts are prohibited by law or custom of a host country. Interest earned on advances must be returned to CCC.

Dated: September 6, 2002.

W. Kirk Miller,

Acting Administrator, Foreign Agricultural Service, and Vice President, Commodity Credit Corporation.

[FR Doc. 02–23056 Filed 9–6–02; 1:03 pm]

BILLING CODE 3410–10–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 2001–ASW–18]

Establishment of Class D Airspace; Stillwater Municipal Airport, Stillwater, OK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This notice confirms the effective date of the direct final rule which establishes Class D Airspace at Stillwater Municipal Airport, Stillwater, OK.

EFFECTIVE DATE: The direct final rule published at 67 FR 46584 is effective 0901 UTC, October 3, 2002.

FOR FURTHER INFORMATION CONTACT: Joseph R. Yadouga, Airspace Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193–0520, telephone: 817–222–5597.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on July 16, 2002, (67 FR 46584). The FAA uses the direct final rulemaking procedure for a noncontroversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on October 3, 2002. No adverse comments were received, and, thus, this action confirms that this direct final rule will be effective on that date.

Issued in Fort Worth, TX, on August 30, 2002.

Robert N. Stevens,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 02–22940 Filed 9–9–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 2002–ASW–1]

Establishment of Class E Airspace; Scott Field Airport, Mangum, OK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This notice confirms the effective date of the direct final rule which establishes Class E Airspace at Scott Field Airport, Mangum, OK.

EFFECTIVE DATE: The direct final rule published at 67 FR 46585 is effective 0901 UTC, October 3, 2002.

FOR FURTHER INFORMATION CONTACT: Joseph R. Yadouga, Airspace Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193–0520, telephone: 817–222–5597.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on July 16, 2002, (67 FR 46585). The FAA uses the direct final rulemaking procedure for a noncontroversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on October 3, 2002. No adverse comments were received, and thus, this action confirms that this direct final rule will be effective on that date.

Issued in Fort Worth, TX, on August 30, 2002.

Robert N. Stevens,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 02–22941 Filed 9–9–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 2002–ASW–2]

Revision of Class E Airspace; Springhill Airport, Springhill, LA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This notice confirms the effective date of the direct final rule which revises Class E Airspace at Springhill Airport, Springhill, LA.

EFFECTIVE DATE: The direct final rule published at 67 FR 46586 is effective 0901 UTC, October 3, 2002.

FOR FURTHER INFORMATION CONTACT: Joseph R. Yadouga, Airspace Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193–0520, telephone: 817–222–5597.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on July 16, 2002, (67 FR 46586). The FAA uses the direct final rulemaking procedure for a noncontroversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on October 3, 2002. No adverse comments were received, and, thus, this action confirms that this direct final rule will be effective on that date.

Issued in Fort Worth, TX, on August 30, 2002.

Robert N. Stevens,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 02–22939 Filed 9–9–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8925]

RIN 1545–AX32

Partnership Mergers and Divisions; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting Amendment.

SUMMARY: This document contains corrections to final regulations (TD 8925), which were published in the **Federal Register** on Thursday, January 4, 2001 (66 FR 715), relating to the tax consequences of partnership mergers and divisions.

EFFECTIVE DATE: January 4, 2001.

FOR FURTHER INFORMATION CONTACT: Mary Beth Collins (202) 622–3080 or Daniel Carmody (202) 622–3050 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections are under section 708 of the Internal Revenue Code.

Need for Correction

As published, final regulations (TD 8925) contains errors which may prove to be misleading and are in need of clarification.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Accordingly, 26 CFR part 1 is corrected by making the following correcting amendments:

PART 1—INCOME TAXES

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

Authority: 26 U.S.C. 7805. * * *

PART 1—[Corrected]

2. Each entry listed in the ''Section/Location'' column in the following table is amended by removing the text indicated in the ''Remove'' column, and adding the text indicated in the ''Add'' column.

Section/Location	Remove	Add
§ 1.708–1(b)(4) second sentence	(b)(1)(i)	(b)(1)
§ 1.708–1(b)(4), in four locations in third sentence	(b)(1)(iv)	(b)(4)
§ 1.708–1(b)(4), Example. (iii), last sentence	§ 1.708–1(b)(1)(iv)	§ 1.708–1(b)(4)
§ 1.708–1(b)(5), in three locations in last sentence	(b)(1)(v)	(b)(5)

Cynthia E. Grigsby,

Chief, Regulations Unit, Associate Chief Counsel (Income Tax & Accounting).

[FR Doc. 02–22927 Filed 9–9–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[TD 9015]

RIN 1545–BA98

Designated IRS Officer or Employee Under Section 7602(a)(2) of the Internal Revenue Code

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains temporary regulations that modify the existing regulations promulgated under section 7602(a) of the Internal Revenue Code relating to administrative summonses. Specifically, these temporary regulations confirm that officers and employees of the Office of Chief Counsel may be included as persons designated to receive summoned books, papers, records, or other data and to take summoned testimony under oath. The text of these temporary regulations serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section in this issue of the **Federal Register**.

DATES: *Effective Dates:* These regulations are effective on September 10, 2002.

Applicability Dates: For the date of applicability, *see* § 301.7602–1T(d).

FOR FURTHER INFORMATION CONTACT: Elizabeth Rawlins at (202) 622–3630 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Explanation of Provisions

This document contains temporary regulations amending the Procedure and Administration Regulations (26 CFR part 301) under section 7602 of the Internal Revenue Code of 1986 (Code). The governing provision, section 7602(a)(2) of the Code, has not changed. The temporary regulations reflect three changes regarding the persons who may be designated to receive summoned books, papers, records, or other data or to take testimony under oath. While IRS examiners will continue to be responsible for developing and conducting examinations, these changes

will allow, among other things, officers and employees of the Chief Counsel to participate fully along with an IRS employee or officer in a summoned interview.

The temporary regulations define an officer or employee of the IRS, for purposes of identifying those persons who may receive summoned information or take testimony under oath, to include all persons who administer and enforce the internal revenue laws or any other laws administered by the IRS, and who are appointed or employed by, or subject to the directions, instructions, or orders of the Secretary of the Treasury or the Secretary's delegate. This amendment confirms that officers and employees of the Office of Chief Counsel may be designated as persons authorized to take testimony under oath and to receive summoned books, papers, records, or other data.

The temporary regulations also expressly provide that more than one person may be designated to receive summoned information or to take testimony under oath during a summoned interview. Finally, the temporary regulations eliminate the language in the existing regulations suggesting that a summons document needs to designate the specific officer or employee who is authorized to take testimony under oath and to receive and examine books, papers, records, or other data. The statute does not require that such a designation appear in the summons. Moreover, at times it is necessary for a summoned interview to be conducted by an officer or employee other than the one who may be identified in the summons document.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) and (d) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. In addition, because no prior notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply. Pursuant to section 7805(f) of the Code, this temporary regulation will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of this regulation is Elizabeth Rawlins of the Office of the Associate Chief Counsel (Procedure and Administration), Collection, Bankruptcy and Summonses Division.

List of Subjects in 26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 301 is amended as follows:

PART 301—PROCEDURE AND ADMINISTRATION

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

Authority: 26 U.S.C. 7805 * * *

2. In § 301.7602–1, paragraph (b) is revised to read as follows:

§ 301.7602–1 Examination of books and witnesses.

* * * * *

(b) *Summons.* [Reserved]. For further guidance, see § 301.7602–1T(b).

* * * * *

3. Section 301.7602–1T is added to read as follows:

§ 301.7602–1T Examination of books and witnesses.

(a) For further guidance, see § 301.7602–1(a).

(b) *Summons*—(1) *In general.* For the purposes described in § 301.7602–1(a), the Commissioner is authorized to summon the person liable for tax or required to perform the act, or any officer or employee of such person or any person having possession, custody, or care of books of accounts containing entries relating to the business of the person liable for tax or required to perform the act, or any other person deemed proper, to appear before one or more officers or employees of the Internal Revenue Service at a time and place named in the summons and to produce such books, papers, records, or other data, and to give such testimony, under oath, as may be relevant or material to such inquiry; and take such testimony of the person concerned, under oath, as may be relevant or material to such inquiry. This summons power may be used in an investigation of either civil or criminal tax-related liability. The Commissioner may designate one or more officers or employees of the Internal Revenue Service as the individuals before whom a person summoned pursuant to section 6420(e)(2), 6421(g)(2), 6427(j)(2), or 7602 shall appear. Any such officer or employee is authorized to take testimony under oath of the person summoned and to receive and examine books, papers, records, or other data produced in compliance with the summons.

(2) *Officer or employee of the Internal Revenue Service.* For purposes of this paragraph (b), officer or employee of the Internal Revenue Service means all officers and employees of the United States, who are engaged in the administration and enforcement of the internal revenue laws or any other laws administered by the Internal Revenue Service, and who are appointed or employed by, or subject to the directions, instructions, or orders of the Secretary of the Treasury or the Secretary's delegate. An officer or employee of the Internal Revenue Service, for purposes of this paragraph (b), shall include an officer or employee of the Office of Chief Counsel.

(c) For further guidance, *see* § 301.7602–1(c).

(d) *Effective date.* This section is applicable to summonses issued on or after September 10, 2002. This section expires on September 9, 2005.

David A. Mader,

Acting Deputy Commissioner of Internal Revenue.

Approved: August 27, 2002.

Pamela F. Olson,

Acting Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 02–22925 Filed 9–9–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–02–090]

RIN 2115–AA97

Safety Zone; East River, Manhattan, NY

AGENCY: Coast Guard, DOT.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule published in the **Federal Register** on September 4, 2002, concerning the establishment of a safety zone in a portion of the waters of the East River, Western Channel, between Manhattan and Roosevelt Island, NY. That document contained the wrong regulation identifier number (RIN). The correct RIN, 2115–AA97, appears in the heading of this document.

DATES: This correction becomes effective September 10, 2002. The effective date of 33 CFR 165.167, created

by the final rule we are correcting, remains 7 a.m. on September 16, 2002.

FOR FURTHER INFORMATION CONTACT: Lieutenant Luis E. Martinez, Waterways Oversight Branch, Coast Guard Activities New York, at (718) 354–4193, or James McLeod, Office of Regulations and Administrative Law, at 202–267–6233.

SUPPLEMENTARY INFORMATION:

Discussion of Correction

The heading of the Safety Zone; East River, Manhattan, NY, final rule published September 4, 2002, on page 56488 of the **Federal Register**, contained an incorrect regulation identifier number. The correct RIN is 2115–AA97. To advise the public of this error, we are publishing this notice of correction.

Correction of Publication

Accordingly, the final rule published September 4, 2002, as FR Doc. 02–22494, [docket number CGD01–02–090], is corrected as follows: On page 56488, in the heading, ''RIN 2115–AE84'' is corrected to read ''RIN 2115–AA97''.

Dated: September 4, 2002.

S.G. Venckus,

Chief, Office of Regulations and Administrative Law, United States Coast Guard.

[FR Doc. 02–22948 Filed 9–9–02; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 58 and 81

[LA–31–1–7189a; FRL–7374–1]

Ambient Air Quality Surveillance and Designation of Areas for Air Quality Planning Purposes; Louisiana; Modification of Ozone Monitoring Season and Revisions to Geographical Boundaries of Air Quality Control Regions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is taking direct final action to revise the geographical boundaries of the three Air Quality Control Regions (AQCRs) in the State of Louisiana, which are the Southern Louisiana-Southeast Texas AQCR, the Shreveport-Texarkana-Tyler AQCR, and the Monroe-El Dorado AQCR. The EPA is also taking direct final action to shorten the ozone season for the Monroe-El Dorado and Shreveport-Texarkana-Tyler AQCRs, from year-round, to March 1 through October 31. EPA is taking this action in response to a June 12, 1995, letter from the Governor of Louisiana requesting that EPA revise the AQCR boundaries and ozone seasons in order to provide for more effective and efficient air quality management in the State of Louisiana.

DATES: This rule is effective on November 12, 2002 without further notice, unless we receive adverse comment by October 10, 2002. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Written comments on this action should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section (6PD–L), at the EPA Region 6 Office listed below. Copies of documents relevant to this action are available for public inspection during normal business hours at the following locations. Anyone wanting to examine these documents should make an appointment with the appropriate office at least 24 hours in advance.

Environmental Protection Agency, Region 6, Air Planning Section (6PD–L), 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

Louisiana Department of Environmental Quality, Air Quality Division, H. B. Garlock Building, 7290 Bluebonnet Blvd., Baton Rouge, LA 70810.

FOR FURTHER INFORMATION CONTACT: Joe Kordzi of the EPA Region 6 Air Planning Section at (214) 665–7186 and at the address above.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' ''us,'' or ''our'' is used, we mean the EPA.

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VIII. Why is this a ''Final Action?''
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I. What Action Is EPA Taking?

In this rulemaking, we are approving a June 12, 1995, request from the Governor of Louisiana to:

1. Revise the geographical boundaries of the three AQCRs in the State, and;

2. Shorten the ozone season, for the Louisiana parishes located in two of these AQCRs, from year-round to March 1 through October 31.

The Governor requested these revisions to the AQCR boundaries and ozone ambient air monitoring seasons in order to maximize the staff resources dedicated to providing air quality control services to the citizens of the State.

II. What Are the AQCRs and Ozone Seasons in Louisiana?

The three AQCRs in Louisiana are as follows:

AQCR 019—Monroe (Louisiana)-El Dorado (Arkansas) Interstate (Codified at 40 CFR 81.92)

AQCR 022—Shreveport-Texarkana-Tyler Interstate (Arkansas-Louisiana-Oklahoma-Texas) (Codified at 40 CFR 81.94)

AQCR 106—Southern Louisiana-Southeast Texas Interstate (Codified at 40 CFR 81.53).

The ozone monitoring season is currently year-round for all three AQCRs.

III. How Is EPA Changing the AQCR Boundaries and Ozone Monitoring Seasons in Louisiana?

In this rulemaking, we are taking direct final action to:

1. Transfer Avoyelles, Rapides and Vernon Parishes from the Southern Louisiana-Southeast Texas AQCR to the Shreveport-Texarkana-Tyler AQCR;

2. Transfer Grant Parish from the Southern Louisiana-Southeast Texas AQCR to the Monroe-El Dorado AQCR; and

3. Shorten the ozone season, for the Monroe-El Dorado and Shreveport-Texarkana-Tyler AQCRs, from year-long (January 1 through December 31) to March 1 through October 31.

IV. What Is EPA's Authority To Revise AQCRs and Ozone Monitoring Seasons?

The EPA designates boundaries of AQCRs under section 107 of the Federal Clean Air Act (Act), and codifies them at 40 CFR part 81, subpart B (Designation of Air Quality Control Regions). A Governor may request, under section 107(e) of the Act, a realignment of the AQCRs in the State if the realignment will provide for more efficient and effective air quality management.

40 CFR 58.13(a)(3) allows EPA Regional Administrators to exempt particular periods or seasons from the requirements to collect ambient air quality data at State and Local Ambient

Monitoring Stations (SLAMS). Appendix H of 40 CFR part 50 also mentions such waivers for continuous ozone monitoring requirements where it can be demonstrated that exceedences of the ozone national ambient air quality standards (NAAQS) are extremely unlikely. Such exemptions or waivers take the form of a formal change to 40 CFR part 58, Appendix D, section 2.5, published as a final rule in the **Federal Register** by the Regional Administrator. Regional Offices must coordinate with EPA Headquarters on exemptions or waivers affecting National Ambient Monitoring Stations (NAMS). Either a State, EPA Regional Office, or EPA Headquarters may initiate the revision to a State's ozone season.

V. How Do These Revisions Affect Other States' AQCRs and Ozone Seasons?

Moving four parishes from the Southern Louisiana-Southeast Texas AQCR to the northern Louisiana AQCRs will change the overall boundaries for all three interstate AQCRs (019, 022, and 106). However, these changes do not affect to which AQCRs the counties in Texas, Oklahoma, and Arkansas are assigned. Revising the ozone monitoring season for those Louisiana parishes assigned to AQCRs 019 and 022 does not alter the official monitoring seasons for the States of Texas, Arkansas, and Oklahoma.

VI. Is Coordination With the Other States Required?

A State must obtain permission from the Governor of a neighboring State to revise an AQCR if EPA determines that the realignment will significantly affect the air pollution concentrations in the neighboring State. (See section 107(e) of the Act.) We have determined that the Louisiana AQCR realignments will not significantly impact air quality in the neighboring States because:

1. The four Louisiana parishes being moved are currently in compliance with the one-hour ozone NAAQS, and;
2. The affected parishes' inventories of anthropogenic, or man-made, precursor emissions (*i.e.*, nitrogen oxides and volatile organic compounds) are quite small.

Thus, we believe that coordination with the neighboring States is not required in order to approve this revision to the Louisiana AQCR boundaries.

As stated above in part IV of this rulemaking, either a State, EPA Regional Office, or EPA Headquarters may request a revision to a State's ozone season. Coordination among States is not required in order for Regional Administrators to grant such requests for exemption or waiver from the requirements to collect ambient ozone air quality data. We have determined that the revision to the ozone monitoring season for the northern Louisiana parishes (in AQCRs 019, 022) is appropriate because historical one- and 8-hour ozone data indicate that ozone exceedences are extremely unlikely to occur outside the months of March through October.

VII. How Do Air Quality Data Support a Revision to the Ozone Season in Two Louisiana AQCRs?

The State's request to shorten the ozone season, for AQCRs 019 and 022, included an analysis of historical (1987–1993) one-hour ozone data collected at both SLAMS and NAMS monitoring sites in Louisiana. As recommended by EPA's ''Guideline on Modification to Monitoring Seasons for Ozone (March 1990),'' we reviewed the monitoring data submitted to determine the potential for one-hour ozone exceedences throughout the year, and concluded that modification to the ozone season, from year-round to March 1 through October 31, was appropriate. We also reviewed more recent (1994–2001) one-hour ozone data to ensure that the monitors in northern Louisiana had not exceeded the 1-hour NAAQS outside the months of March through October since the State had submitted its request.

On July 18, 1997, EPA promulgated the 8-hour ozone standard (62 FR 38856)[1]. In July 1998, EPA subsequently released a new guidance document concerning ozone monitoring season selection and modification.[2] In the guidance, EPA provided a methodology for calculating new 8-hour ozone monitoring seasons. We have reviewed historical (1987–2001) 8-hour ozone data for AQCRs 019 and 022,[3] consistent with the July 1998 guidance. We determined that no exceedences occurred outside the months of March through October during this period. Thus, shortening the ozone monitoring season for Louisiana AQCRs 019 and 022, from year-round to March 1 through October 31, will not result in the potential to miss days in which the 8-hour ozone standard is exceeded.

Therefore, we are agreeing with Louisiana's conclusions that shortening the ambient ozone monitoring season for AQCRs 019 and 022, from year-round to March 1 through October 31, will provide significant cost savings for the State without reducing the effectiveness of the ozone monitoring program. Since this action affects two NAMS sites located in these AQCRs, we have coordinated our approval of the revised ozone season with EPA Headquarters.

As recommended in the new ozone season guidance, we will periodically review the historical 8-hour ozone data following this change to the ozone season to determine whether the March 1 through October 31 monitoring season is still appropriate.

VIII. Why Is This a ''Final Action?''

We are publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comment. However, in the ''Proposed Rules'' section of today's **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the revisions to the AQCR boundaries and ozone monitoring season if adverse comments are received. This rule will be effective on November 12, 2002, without further notice unless we receive adverse comment by October 10, 2002. If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

IX. What Administrative Requirements Apply for This Action?

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

[1] On May 14, 1999, the U.S. Court of Appeals for the District of Columbia Circuit ruled that the 8-hour ozone standard could not be enforced by EPA. Although the Court of Appeals determined that the 8-hour standard could not be enforced, it did not vacate the standard. Hence, the 8-hour standard remained in effect. While appealing this decision to the U.S. Supreme Court, EPA reinstated the one-hour standard in areas where it had been revoked. (65 FR 45182, July 20, 2000). On February 27, 2001, the U.S. Supreme Court upheld the 8-hour standard and instructed EPA to develop an implementation plan for the 8-hour standard that is consistent with the Supreme Court's opinion. *Whitman* v. *American Trucking Assoc., Inc.,* 531 U.S. 457, 121 S. Ct. 903 (2001).

[2] ''Guideline for Selecting and Modifying the Ozone Monitoring Season Based on an 8-Hour Ozone Standard (EPA–454/R–98–001),'' EPA Office of Air Quality Planning and Standards, dated July 9, 1998.

[3] For this review, EPA Region 6 used all available data as entered into EPA's Aerometric Information Retrieval System (AIRS).

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 November 12, 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 58

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

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: August 27, 2002.

Lawrence E. Starfield,

Acting Regional Administrator, Region 6.

40 CFR parts 58 and 81, chapter I, title 40 of the Code of Federal Regulations are amended as follows:

PART 58—[AMENDED]

1. The authority citation for part 58 continues to read as follows:

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

2. Part 58, Appendix D, section 2.5: the table entitled ''Ozone Monitoring Season By State'' is amended by revising the entry for Louisiana to read as follows:

Appendix D to Part 58—Network Design for State and Local Air Monitoring Stations (SLAMS) and National Air Monitoring Stations (NAMS) and Photochemical Assessment Monitoring Stations (PAMS)

* * * * *

OZONE MONITORING SEASON BY STATE

State	Begin month	End month
* * * * *	*	*
Louisiana AQCRs 019, 022	March	October.
Louisiana AQCR 106	January	December.
* * * * *	*	*

* * * * *

PART 81—[AMENDED]

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

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

Subpart B—Designation of Air Quality Control Regions

2. Section 81.53 is amended by revising the entry for Louisiana to read as follows:

§ 81.53 Southern Louisiana-Southeast Texas Interstate Air Quality Control Region.

* * * * *

In the State of Louisiana: Acadia Parish, Allen Parish, Ascension Parish, Assumption Parish, Beauregard Parish, Calcasieu Parish, Cameron Parish, East Baton Rouge Parish, East Feliciana Parish, Evangeline Parish, Iberia Parish, Iberville Parish, Jefferson Davis Parish, Jefferson Parish, Lafayette Parish, Lafourche Parish, Livingston Parish, Orleans Parish, Plaquemines Parish, Pointe Coupee Parish, St. Bernard Parish, St. Charles Parish, St. Helena Parish, St. James Parish, St. John the Baptist Parish, St. Landry Parish, St. Martin Parish, St. Mary Parish, St. Tammany Parish, Tangipahoa Parish, Terrebonne Parish, Vermilion Parish, Washington Parish, West Baton Rouge Parish, West Feliciana Parish.

* * * * *

3. Section 81.92 is amended by revising the entry for Louisiana to read as follows:

§ 81.92 Monroe (Louisiana)-El Dorado (Arkansas) Interstate Air Quality Control Region.

* * * * *

In the State of Louisiana: Caldwell Parish, Catahoula Parish, Concordia Parish, East Carroll Parish, Franklin Parish, Grant Parish, La Salle Parish, Madison Parish, Morehouse Parish, Ouachita Parish, Richland Parish, Tensas Parish, Union Parish, West Carroll Parish.

* * * * *

4. Section 81.94 is amended by revising the entry for Louisiana to read as follows:

§ 81.94 Shreveport-Texarkana-Tyler Interstate Air Quality Control Region.

* * * * *

In the State of Louisiana: Avoyelles Parish, Bienville Parish, Bossier Parish, Caddo Parish, Claiborne Parish, De Soto Parish, Jackson Parish, Lincoln Parish, Natchitoches Parish, Rapides Parish, Red River Parish, Sabine Parish, Vernon Parish, Webster Parish, Winn Parish.

* * * * *

Subpart C—Section 107 Attainment Status Designations

4. In § 81.319, the carbon monoxide table and the ozone table are amended by revising the list of parishes in AQCRs 019, 022, and 106 to read as follows:

§ 81.319 Louisiana.

* * * * *

LOUISIANA—CARBON MONOXIDE

Designated area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
AQCR 019 Monroe-El Dorado Interstate		Unclassifiable/Attainment.		
Caldwell Parish				
Catahoula Parish				
Concordia Parish				
East Carroll Parish				
Franklin Parish				
Grant Parish				
La Salle Parish				
Madison Parish				
Morehouse Parish				
Ouachita Parish				
Richland Parish				
Tensas Parish				
Union Parish				
West Carroll Parish				
AQCR 022 Shreveport-Texarkana-Tyler Interstate		Unclassifiable/Attainment.		
Avoyelles Parish				
Bienville Parish				
Bossier Parish				
Caddo Parish				
Claiborne Parish				
De Soto Parish				
Jackson Parish				
Lincoln Parish				
Natchitoches Parish				
Rapides Parish				
Red River Parish				
Sabine Parish				
Vernon Parish				
Webster Parish				
Winn Parish				
AQCR 106 Southern Louisiana-Southeast Texas Interstate		Unclassifiable/Attainment.		
Acadia Parish				
Allen Parish				
Ascension Parish				
Assumption Parish				
Beauregard Parish				
Calcasieu Parish				
Cameron Parish				
East Baton Rouge Parish				
East Feliciana Parish				
Evangeline Parish				
Iberia Parish				
Iberville Parish				

LOUISIANA—CARBON MONOXIDE—Continued

Designated area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Jefferson Davis Parish				
Jefferson Parish				
Lafayette Parish				
Lafourche Parish				
Livingston Parish				
Orleans Parish				
Plaquemines Parish				
Pointe Coupee Parish				
St. Bernard Parish				
St. Charles Parish				
St. Helena Parish				
St. James Parish				
St. John the Baptist Parish				
St. Landry Parish				
St. Martin Parish				
St. Mary Parish				
St. Tammany Parish				
Tangipahoa Parish				
Terrebonne Parish				
Vermilion Parish				
Washington Parish				
West Baton Route Parish				
West Feliciana Parish				

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

LOUISIANA—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
* * *	*	*	*	*
AQCR 019 Monroe-El Dorado Interstate		Unclassifiable/Attainment.		
Caldwell Parish				
Catahoula Parish				
Concordia Parish				
East Carroll Parish				
Franklin Parish				
La Salle Parish				
Madison Parish				
Morehouse Parish				
Ouachita Parish				
Richland Parish				
Tensas Parish				
Union Parish				
West Carroll Parish				
AQCR 022 Shreveport-Texarkana-Tyler Interstate		Unclassifiable/Attainment.		
Avoyelles Parish				
Bienville Parish				
Bossier Parish				
Caddo Parish				
Claiborne Parish				
De Soto Parish				
Jackson Parish				
Lincoln Parish				
Natchitoches Parish				
Rapides Parish				
Red River Parish				
Sabine Parish				
Vernon Parish				
Webster Parish				
Winn Parish				
AQCR 106 Southern Louisiana-Southeast Texas Interstate		Unclassifiable/Attainment.		
Acadia Parish				
Allen Parish				
Assumption Parish				
Cameron Parish				

LOUISIANA—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
East Feliciana Parish				
Evangeline Parish				
Iberia Parish				
Jefferson Davis Parish				
Plaquemines Parish				
St. Helena Parish				
St. John the Baptist Parish				
St. Landry Parish				
St. Martin Parish				
St. Tammany Parish				
Tangipahoa Parish				
Terrebonne Parish				
Vermilion Parish				
Washington Parish				
West Feliciana Parish				

[1] This date is October 18, 2000, unless otherwise noted.

* * * * *

[FR Doc. 02–22983 Filed 9–9–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–7373–6]

Oregon: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is granting Oregon final authorization for revisions to the Oregon hazardous waste program under the Resource Conservation and Recovery Act (RCRA), as amended. The Agency published a proposed rule on June 17, 2002 at 67 FR 41207 proposing to authorize revisions to the Oregon hazardous waste program and provided for public comment. The public comment period ended on July 17, 2002. We received comments, addressed below. After reviewing the comments, we hereby determine that Oregon's hazardous waste program revisions satisfy all requirements necessary to qualify for final authorization. EPA is authorizing the State's changes through this final action. No further opportunity for public comment will be provided.

EFFECTIVE DATE: Final authorization for the revisions to Oregon's hazardous waste management program shall be effective on September 10, 2002.

FOR FURTHER INFORMATION CONTACT: Lynn Williams, U.S. EPA Region 10, Office of Waste and Chemicals Management, 1200 Sixth Avenue, Mail Stop WCM–122, Seattle, WA, 98101; (206) 553–2121. For general information available on the authorization process, see EPA's Web site at: *http://www.epa.gov/epaoswer/hazwaste/state/rcra.*

SUPPLEMENTARY INFORMATION:

A. Why Are Revisions to State Programs Necessary?

States which have received final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to and consistent with the Federal program. States are required to have enforcement authority which is adequate to enforce compliance with the requirements of the authorized State hazardous waste program. Under RCRA section 3009, States are not allowed to impose any requirements which are less stringent than the Federal program. As the Federal program changes, States must change their programs and ask EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to EPA's regulations in Title 40 of the Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

B. What Were the Comments and Responses to EPA's Proposal?

Commenters from the State of Washington and the State of Oregon submitted a joint comment alleging that EPA: (1) should have provided a public hearing for the proposed authorization of revisions to the Oregon hazardous waste program; (2) may be sanctioning activities by the Oregon Department of Environmental Quality (ODEQ), specifically provisions under 40 CFR 266.20, for which ODEQ lacks statutory authority; and (3) may be granting authority for Oregon to implement regulations and/or statutes that are less stringent than federal rules with respect to waste-derived fertilizers. EPA's responses to these comments are provided below.

1. Public Hearing

EPA is authorizing a revision of the Oregon hazardous waste program, and is not required to hold a hearing when a revision to the authorized state hazardous waste program is proposed in the **Federal Register**. Oregon received final authorization for its hazardous waste program on January 30, 1986. Revisions to the program were authorized in 1990, 1994 and 1995. Oregon applied to the EPA for this revision to its already authorized program pursuant to 40 CFR 271.21 on June 3, 2002. The regulations governing review of program revisions at 40 CFR part 271.21 do not require a hearing for authorization of revisions. Prior to 1986, the authorization regulations did require EPA to offer a public hearing for revisions to state authorized hazardous waste programs. However, on March 4, 1986, EPA promulgated amendments to 40 CFR 271.21 that eliminated public hearing requirements for revisions. In the preamble to the final rule eliminating public hearing requirements, the Agency discussed these amendments: ''As discussed in the proposal, the new procedures do not require public hearings to be held in conjunction with EPA's authorization decisions. Since there is no legal requirement to provide for hearings on

revision decisions and little public interest has been shown to date in attending hearings on initial authorization of State programs, we think the opportunity to provide written comments is adequate.'' 51 FR 7540 at 7541 (March 4, 1986). Pursuant to the current regulations, EPA is required to provide the public with an opportunity to submit written comments on revisions to authorized state hazardous waste programs but public hearings are not required. EPA adhered to the governing regulations regarding opportunities for public comment in the proposed rule to revise the Oregon authorized hazardous waste program.

2. 40 CFR 266.20 for Hazardous Wastes ''Used in a Manner Constituting Disposal''

Commenters alleged that ODEQ lacks statutory authority to implement regulations, in particular 40 CFR 266.20, arguing that the State's definition of waste-derived fertilizers at ORS 633.311 exempts waste-derived fertilizers from the definition of solid waste and therefore from RCRA regulation. ORS 633.311(28) defines ''waste-derived product'' to mean ''any fertilizer, agricultural mineral, agricultural amendment or lime product derived in whole or in part from hazardous waste as defined in ORS 466.005(7) or in rules adopted thereunder, solid waste as defined in ORS 459.005(24) or in rules adopted thereunder, or industrial waste as defined in ORS 468B.005(2) or in rules adopted thereunder.'' The definition excludes biosolids and reclaimed water or treated effluent.

The Oregon hazardous waste program was authorized for 40 CFR 266.20, which the State incorporated by reference into its hazardous waste regulations, in the 1994 revision to the authorized program. This provision, 40 CFR 266.20, was not the subject of the revision authorization in EPA's proposed rule at 67 FR 41207 (June 17, 2002), except that EPA proposed to authorize a change to the State program analog to 40 CFR 266.20(c), OAR 340–100–0002 and 340–101–0001, regarding anti-skid, deicing use of slags from high temperature metals recovery processing of certain hazardous wastes. EPA reviewed the State's statutory authority prior to proposing the revision to the authorized hazardous waste program and did not find any lack of authority relative to the State's ability to implement the State regulation. With respect to the impact of ORS 633.311 on the State regulations for hazardous wastes ''used in a manner constituting disposal,'' commenters assume that State fertilizer registration requirements altered the State's jurisdiction over waste-derived fertilizer. This is not the case. ORS 633 adds certain fertilizer and other soil-enhancing product registration and labeling requirements to Oregon's agricultural requirements but does not alter the definition of solid or hazardous waste in ORS 466.005(7) and the implementing State regulations. The State hazardous waste regulations and the federal RCRA regulations, including 40 CFR 266.20, incorporated by reference in the State regulations pursuant to State statutory authority at ORS 466, are not displaced by State statutory provisions concerning fertilizers and other soil-enhancing products.

3. Waste-Derived Fertilizers

Commenters allege that ORS 633.311(28), Oregon's statutory definition of waste-derived fertilizer, is less stringent than federal rules because the definition exempts waste-derived fertilizer products from the definition of solid waste. Commenters point to State statutory provisions at ORS 466.067 in support of their allegation. ORS 466.067 pertains to the modification of PCB or hazardous waste permits to allow for recycling operations. The statute allows ODEQ to issue a permit modification authorizing a recycling operation at a hazardous waste or PCB treatment or disposal facility located off the site of waste generation at which ORS 466.055 (definitions for ORS 453.635 and 466.005 to 466.385) and ORS 466.060 (criteria to be met by owner and operator before issuance of permit) will not apply at these facilities provided the owner or operator obtains a determination from ODEQ that, in accordance with federal RCRA, as amended, ''the recycling operation is legitimate and will produce material that is exempt from the definition of solid waste.'' Neither ORS 466.067 nor 633.311(28) expressly exempt waste-derived fertilizer products from the definition of solid waste. The associated rules in ORS Chapter 633 set out licensing and labeling requirements for fertilizer, agricultural mineral, agricultural amendment and lime products. ORS 466.067 requires that ODEQ's determination of legitimate recycling operations which will be exempt from the definition of solid waste be made in accordance with federal RCRA. EPA's RCRA authorities regulate fertilizers made from recycled hazardous wastes and EPA's rules classifying hazardous secondary materials used in a manner constituting disposal, including use as fertilizers, allow EPA to classify such materials as solid waste. EPA's rules, specifically 40 CFR 261.3(e)(2)(i), define materials used in a manner constituting disposal, or used to produce products that are applied to the land, as solid wastes, even if the recycling involves use, reuse, or return of the material to the original process. Consequently, because ODEQ's determination that a legitimate recycling operation is exempted from the definition of solid waste is bounded by the statutory requirement to make that determination in accordance with federal RCRA, ODEQ would not have statutory authority to exempt solid waste used in a manner constituting disposal which are applied to the land from the definition of solid wastes. EPA, by the statutory definition of solid waste and by regulation based on the statutory definition, identifies such materials as solid waste and ODEQ would also have to identify such materials as solid waste. Oregon's statutory definition does not per se exempt waste-derived fertilizer products from the definition of solid waste and Oregon's statutory definition of waste-derived fertilizer is not less stringent than the federal rules.

C. What Decisions Have We Made in This Rule?

We conclude that Oregon's application to revise its authorized hazardous waste program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we are granting Oregon final authorization to operate its hazardous waste program with the changes described in the authorization application and as described in this final rule. Regulatory revisions which are less stringent than Federal program requirements and those regulatory revisions which are broader in scope than Federal program requirements are not authorized.

Oregon will be responsible for carrying out the aspects of Oregon's authorized hazardous waste program described in Oregon's revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA) and the limitations of this authorization. Oregon's authorized program does not extend to Indian country. EPA retains jurisdiction and authority to implement RCRA over Indian country and over trust lands.

New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA are implementable and enforceable by EPA and take effect in States with authorized programs before such programs are authorized for the requirements. Thus, EPA will implement and enforce those

HSWA requirements and prohibitions in Oregon, including issuing permits or portions of permits, until the State is granted authorization to do so.

D. What Will Be the Effect if Oregon Is Authorized for These Changes?

The effect of this decision is that a facility in Oregon subject to RCRA must comply with the authorized State program requirements and with the federal HSWA provisions for which the State is not authorized and RCRA requirements that are not supplanted by authorized state-issued requirements, in order to comply with RCRA. Oregon continues to have enforcement responsibilities under its State hazardous waste program for violations of its authorized program. EPA retains and continues to have independent enforcement authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

- Do inspections and require monitoring, tests, analyses, or reports;
- Enforce RCRA requirements, including State program requirements that are authorized by EPA and any applicable Federally-issued statutes and regulations, and suspend or revoke permits; and
- Take enforcement actions regardless of whether the State has taken its own actions.

This final action approving these revisions does not impose additional requirements on the regulated community because the regulations for which Oregon's program is being authorized by today's action are already effective under State law.

E. What Has Oregon Previously Been Authorized For?

Oregon initially received final authorization on January 30, 1986, effective January 31, 1986 (51 FR 3779), to implement the State's hazardous waste management program. Oregon received authorizations for revisions to its program on March 30, 1990, effective on May 29, 1990 (55 FR 11909); August 5, 1994, effective October 4, 1994 (59 FR 39967); June 16, 1995, effective August 15, 1995 (60 FR 31642); and October 10, 1995, effective December 7, 1995 (60 FR 52629).

F. What Changes Are We Authorizing With Today's Action?

EPA is granting final authorization for the revisions to Oregon's federally authorized program described in Oregon's official program revision application submitted to EPA in accordance with 40 CFR 271.21 on February 4, 2002, and deemed complete by EPA on March 7, 2002. We now make a final determination that Oregon's hazardous waste program revisions, as described in this rule, satisfy the requirements necessary to qualify for final authorization. Regulatory revisions which are less stringent than Federal program requirements and those regulatory revisions which are broader in scope than Federal program requirements are not authorized.

The Oregon Hazardous Waste Management Program, which was administered by the Oregon Department of Environmental Quality (DEQ), Waste Prevention and Management Division, reorganized effective October 1, 2001 and is now administered by the DEQ Land Quality Division. This rule authorizes this reorganization.

The following table, Table 1, identifies equivalent and more stringent State regulatory analogues to the Federal regulations for those regulatory revisions Oregon is being authorized for today. All of the referenced analogous State authorities were legally adopted and effective as of July 21, 2000.

TABLE 1.—EQUIVALENT AND MORE STRINGENT ANALOGUES TO THE FEDERAL REGULATIONS [1]

Description of Federal requirements (CL#[2])	Federal Register	Analogous State authority (OAR 340–* * *)
Availability of Information		–100–0003(2), –100–0005(1)–(5); 105–0012.
Used Oil Filter Exclusion, Technical Corrections (CL 107).	57 FR 29220, 7/1/92	–100–0002; –101–0001.
Testing and Monitoring Activities (CL 126)	58 FR 46040, 8/31/93	–100–0002; –101–0001; –104–0001; –105–0001.
Boilers & Industrial Furnaces, Administrative Stay & Interim Standards for Bevill Residues (CL 127).	58 FR 59598, 11/9/93	–100–0002.
Wastes From the Use of Chlorophenolic Formulations in Wood Surface Protection (CL 128).	59 FR 458, 1/4/94	–100–0002; –101–0001.
Revision of Conditional Exemption for Small Scale Treatability Studies (CL 129).	59 FR 8362, 2/18/94	–100–0002; –101–0001.
Recycled Used Oil Management Standards; Technical Amendments and Corrections II (CL 130).	59 FR 10550, 3/4/94	–100–0002; –111–0000(2), –111–0010.
Recordkeeping Instructions, Technical Amendment (CL 131).	59 FR 13891, 3/24/94	–100–0002; –104–0001.
Letter of Credit Revision (CL 133)	59 FR 29958, 6/10/94	–100–0002; –104–0001, 104–0151.
Corrections of Beryllium Powder (P015) Listing (CL 134).	59 FR 31551, 6/20/94	–100–0002; –101–0001, –101–0033.
Recovered Oil Exclusion (CL 135)	59 FR 38536, 7/28/94	–100–0002; –101–0001.
Removal of the Conditional Exemption for Certain Slag Residues (CL 136).	59 FR 43496, 8/24/94	–100–0002; –101–0001.
Carbamate Production Identification and Listing of Hazardous Waste (CL 140).	60 FR 7824, 2/9/95; as amended at 60 FR 19165, 4/17/95, and at 60 FR 25619, 5/12/95.	–100–0002; –101–0001, –101–0033.
Universal Waste Rule: General Provisions (CL 142A) [3].	60 FR 25492, 5/11/95	–100–0002; –102–0011(e); –113–0000, –113–0020, 113–0020(1)–(2), –113–0030, –113–0030(3)(a), –13–0040, –113–0040(2), 113–0040(2)(b), –113–0040(2)(b)(B)(v), –113–0040(3), –113–0040(3)(a)–(b), –113–0040(4), –113–0050.

TABLE 1.—EQUIVALENT AND MORE STRINGENT ANALOGUES TO THE FEDERAL REGULATIONS [1]—Continued

Description of Federal requirements (CL#[2])	Federal Register	Analogous State authority (OAR 340–* * *)
Universal Waste Rule: Specific Provisions for Batteries (CL 142B).	60 FR 25492, 5/11/95	–100–0002; –113–0000, –113–0020, –113–0030, –113–0040.
Universal Waste Rule: Specific Provisions for Pesticides (CL 142C).	60 FR 25492, 5/11/95	–100–0000; –113–0020, –113–0000, –113–0070, –113–0030, –113–0040.
Universal Waste Rule: Specific Provisions for Thermostats (CL 142D).	60 FR 25492, 5/11/95	–100–0002; –113–0020, –113–0000, –113–0030, –113–0040.
Universal Waste Rule: Petition Provisions to add a new Universal Waste (CL 142 E) [3].	60 FR 25492, 5/11/95	–100–0002; –113–0000, –113–0060.
Liquids in Landfills III (CL 145)	60 FR 35703, 7/11/95	–100–0002.
RCRA Expanded Public Participation (CL 148)	60 FR 63417, 12/11/95	–100–0002; –106–0001; –105–0001, 105–0010, 105–0014
Land Disposal Restrictions Phase III—Decharacterized Wastewaters Carbamate Wastes, and Spent Potliners (CL 151).	61 FR 15566, 4/8/96	–100–0002; –102–0011(2)(e).
Conditionally Exempt Small Quantity Generator Disposal Options under Subtitle D (CL 153).	61 FR 34252, 7/1/96	–100–0002, –101–0001.
Consolidated Organic Air Emission standards for Tanks Surface Impoundments, and Containers (CL 154).	59 FR 62896, 12/6/94; as amended 5/19/95 (60 FR 26828), 9/29/95 (60 FR 50426), 11/13/95 (60 FR 56952), 2/9/96 (61 FR 4903), 6/5/96 (61 FR 28508), 11/25/96 (61 FR 69932).	–100–0002; –104–0001; 102–0034; –101–0001.
Military Munitions Rule: Hazardous Waste Identification and Management; Explosives Emergencies; Manifest Exemption for Transport of Hazardous Waste on Right-of-Ways on Contiguous Properties (CL 156) [3].	62 FR 6622, 2/12/97	–100–0002, –100–0010; –101–0001; –102–0010; –103–0010; –104–0001, 104–1201, 104–1201(2), (3); –105–0001, –105–0041 (3),(4).
Land Disposal Restrictions Phase IV—Treatment Standards for Wood Preserving Wastes, Paperwork Production and Streamlining, Exemptions from RCRA for Certain Processed Materials; and Miscellaneous Hazardous Waste Provisions (CL 157).	62 FR 25998, 5/12/97	–100–0002; –101–0001, –101–0004.
Testing and Monitoring Activities Amendment III (CL 158).	62 FR 32452, 6/13/97	–100–0002; –104–0001.
Conformance with Carbamate Vacatur (CL 159)	62 FR 32974, 6/17/97	–100–0002; –101–0001.
Emergency Revision of Carbamate Land Disposal Restrictions (CL 161).	62 FR 45568, 8/28/97	–100–0002.
Clarification of Standards for Hazardous Waste LDR Treatment Variances (CL 162).	62 FR 64504, 12/5/97	–100–0002.
Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers; Clarification and Technical Amendment (CL 163).	62 FR 64636, 12/8/97	–100–0000; –104–0001.
Kraft Mill Stream Stripper Condensate Exclusion (CL 164).	63 FR 18504, 4/15/98	–100–0002; –101–0004.
Recycled Used Oil Management Standards; Technical Correction and Clarification (CL–166) [3].	63 FR 24963, 5/6/98	–100–0002; –111–0000 (2), –111–0032, –111–0050.
Land Disposal Restrictions Phase IV—Treatment Standards for Metal Wastes and Mineral Processing Wastes (CL 167A).	63 FR 28556, 5/26/98	–100–0002; –102 0011(2)(e).
Land Disposal Restrictions Phase IV—Hazardous Soils Treatment Standards and Exclusions (CL 167B).	63 FR 28556, 5/26/98	–100–0002.
Land Disposal Restrictions Phase IV—Corrections (CL 167 C).	63 FR 28556, 5/26/98; as amended 6/8/98 (63 FR 31266).	–100–0002.
Bevill Exclusion Revisions and Clarifications (CL 167E).	63 FR 28556, 5/26/98	–100–0002; –101–0001, –101–0004.
Exclusion of Recycled Wood Preserving Wastewaters (CL 167F).	63 FR 28556, 5/26/98	–100–0002; –101–0004.
Hazardous Waste Combustors; Revised Standards (CL 168).	63 FR 33782, 6/19/98	–100–0002, –101–0001,— 101–0004.
Petroleum Refining Process Wastes (CL 169)	63 FR 42110, 8/6/98	–100–0002; –101–0001; –102–0010; –101–0004.
Land Disposal Restrictions Phase IV—Zinc Micronutrient Fertilizers, Amendment (CL 170).	63 FR 46332, 8/31/98	–100–0002.
Emergency Revision of the Land Disposal Restrictions (LDR) Treatment Standards for Listed Hazardous Wastes from Carbamate Production (CL 171).	63 FR 47410, 9/4/98	–100–0002.

TABLE 1.—EQUIVALENT AND MORE STRINGENT ANALOGUES TO THE FEDERAL REGULATIONS [1]—Continued

Description of Federal requirements (CL#[2])	Federal Register	Analogous State authority (OAR 340–* * *)
Land Disposal Restrictions Phase IV—Extension of Compliance Date for Characteristic Slags (CL 172).	63 FR 48124, 9/9/98	–100–0002
Land Disposal Restrictions; Treatment Standards for Spent Potliners from Primary Aluminum reduction (K088); Final Ru7le (CL 173).	63 FR 5124, 9/24/98	–100–0002.
HWIR—Media (CL 175) [3]	63 FR 65874, 11/30/98	–100–0010, –100–0002;— 101–0004(3); –105–0003, – 105–0115
Universal Waste Rule—Technical Amendments (CL 176).	63 FR 71225, 12/24/98	–100–0002; –113–0000 –113–0020
Organic Air Emission Standards: Clarification and Technical Amendments (CL 177).	64 FR 3382, 1/21/99	–100–0002; –102–0034; –104–0001.
Petroleum Refining Process Wastes—Leachate Exemption (CL 178).	64 FR 6806, 2/11/99	–100–0002; –101–0001, –101–0004.
Land Disposal Restrictions Phase IV—Technical Corrections and Clarifications to Treatment Standards (CL 179).	64 FR 25408, 5/11/99	–100–0002; –101–0001;— 102–0010; –101–0004;—102–0034.
Test Procedures for Analysis of Oil and Grease and Non-Polar Material (CL 180).	64 FR 26315, 5/14/99	–100–0002.
Unversal Waste Rule: Specific Provisions for Hazardous Waste Lamps (CL 181).	64 FR 36466, 7/6/99	–100–0002; –113–0000, –113–0020, –113–0030, –113–0040, –113–0060.
Hazardous Air Pollutant Standards for Combustors (CL 182).	64 FR 52828, 9/30/99, as amended 11/19/99 (64 FR 63209).	–100–0002; –101–0001; –104–0001; –105–0001.
Land Disposal Restrictions Phase IV—Technical Corrections (CL 183).	64 FR 56469, 10/20/99	–100–0002; –101–0001; –102–0010, –102–0034.
Accumulation Time for Waste Water Treatment Sludges (CL 184).	65 FR 12378, 3/8/00	–100–0002, –102–0010.
Organobromine Production Waste Vacatur (CL 185).	65 FR 14472, 3/17/00	–100–0000; –101–0001.

[1] For further discussion on where the revised State rules differ from the Federal rules refer to Section G. below, the authorization revision application, and the administrative record for this final rule.

[2] CL # (Checklist) generally reflects changes made to the Federal regulations pursuant to a particular FEDERAL REGISTER notice. EPA publishes these checklists as aids for States to use for the development of their authorization application. See EPA's RCRA State Authorization web page at http://www.epa.gov/epaoswer/hazwaste/state/

[3] State rule contains some more stringent provisions. For identification of more stringent State provisions refer to the authorization revision application.

G. Where Are the Revised State Rules Different From the Federal Rules?

This section discusses some of the differences between the revisions EPA is authorizing in Oregon's hazardous waste program and the Federal regulations. Not all program differences are discussed in this section because, although Oregon incorporates many Federal rules by reference, the State also writes its own version of many of the federal hazardous waste rules. This section discusses certain rules where EPA makes a determination that the State program is more stringent and rules where the State program is broader in scope. The State is not authorized for less stringent rules or broader in scope rules. Less stringent State rules and broader in scope rules do not supplant federal regulations. Persons should consult the table referenced above for the specific State regulations which EPA proposes to authorize.

Certain portions of the federal program are not delegable/authorizable to the States because of the Federal government's special role in foreign policy matters and because of national concerns that arise with certain decisions. One such matter pertains to import/export functions. EPA does not delegate/authorize import/export functions. Under the RCRA regulations found in 40 CFR Part 262, Standards for Generators, EPA will continue to implement requirements for import/export functions. EPA does not delegate/authorize certain of the Federal Land Disposal Restriction requirements, 40 CFR Part 268, because of the national concerns that must be examined when decisions are made under the following federal regulations; these include: 40 CFR 268.5—Procedures for case-by-case effective date extensions; 40 CFR 268.6—''No migration'' petitions; 40 CFR 268.42(b)—applications for alternate treatment methods; and 40 CFR 268.44(a)–(g)—general treatment standard variances. Oregon's program does not include these requirements. EPA will continue to implement these requirements under EPA's HSWA authority.

Areas Where the State Program Is More Stringent

States are allowed to seek authorization for State requirements that are more stringent than federal requirements. EPA has authority to authorize and enforce those parts of a State's program EPA finds to be more stringent than the federal program. This section does not discuss each more stringent preliminary finding made by EPA, but persons can locate such sections by consulting the Table, referenced above, as well as by reviewing the authorization application.

Oregon has enacted several requirements under its hazardous waste management program for which EPA has determined the requirements are more stringent than the standards of the Federal RCRA program set forth in 40 CFR parts 260–279.

States sometimes make changes to their previously authorized programs for which they need to seek reauthorization. Oregon made such a change to its rules for availability of information. The State program requirement at OAR 340–100–0003,

which replaces the federal requirements at 40 CFR 260.2 for availability of information, is determined to be more stringent than the federal program because State regulations require additional justification for trade secret claims and establish a time frame of 15 to 30 days for clarifying claims. OAR 340–105–0012 was revised to require identical trade secret claims substantiation for permits as required by OAR 340–100–0003.

The State program regulation at OAR 340–101–0004(3) is determined to be more stringent than the federal program at 40 CFR 261.4(g), Dredged Materials, in that the State program deletes 40 CFR 261.4(g) from its incorporation of the federal regulations by reference. Consequently, the State program does not exclude dredged material from regulation as a solid waste subject to a hazardous waste determination. Because the dredged materials exclusion at 40 CFR 261.4(g) replaced existing regulations that subjected such materials to a hazardous waste determinations, State programs were allowed the option of choosing to change their regulations to include the dredged materials exclusion or not. Those that selected not to include the exclusion are more stringent than the federal program once authorized because EPA promulgated the dredged materials exclusion as a less stringent requirement.

The State program regulation at OAR 340–102–0011(3) is determined to be more stringent than the federal program regulation at 40 CFR 262.11 because generators of hazardous waste in Oregon must keep documentation of ''knowledge of process'' hazardous waste determinations for at least three years.

The State program at OAR 340–102–0034(2) is determined to be more stringent than the federal regulation at 40 CFR 262.34 as it adds additional requirements, which does not replace or supercede the requirement to have a permit in the event a generator has not met the conditions under 40 CFR 262.34 to allow the generator to operate without a permit.

The State program at OAR 340–102–0040, replacing the requirements of 40 CFR 262.40(b), is determined to be more stringent than the federal program because the State program requires small quantity generators both to report waste generated (OAR 340–102–0041) and to maintain copies of all reports on waste generated for three years.

The State program is determined to be more stringent at OAR 340–104–0001(6) than the federal program with respect to facilities receiving hazardous waste from offsite because the State program requires that facilities receive a final waste permit before managing offsite hazardous wastes. The federal program allows facilities with interim status to receive offsite hazardous waste.

The State program is determined to be more stringent than the federal program with respect to the federal HWIR media rule because the State regulations do not allow for the use of Remedial Action Plans (RAPs) as found in the federal requirements at 40 CFR part 270, subpart H. The State regulations at OAR 340–105–0003 delete from their incorporation by reference of the federal regulations those regulations allowing for RAPs. Oregon inadvertently incorporated 40 CFR 270.230(e)(1) by reference but did not seek and is not authorized for the provision.

The State program is determined to be more stringent than the federal program with respect to the federal Post Closure (PC) rule (63 FR 56710) because the State program specifically excluded the PC rule from its incorporation by reference of the federal regulations at OAR 340–100–0002.

The State program is determined to be more stringent in certain places than the federal regulations promulgated in EPA's Military Munitions Rule (62 FR 6622). With respect to the hazardous waste management system in Oregon, the State hazardous waste program added definitions for ''demilitarization'' and ''demilitarization residue'' at OAR 340–100–0010(2)(f) and (g) in Oregon's analog to 40 CFR 260.10. These definitions are specific to the processes and activities at the Umatilla Chemical Depot and are determined to be more stringent than the federal program.

With respect to chemical agent munitions and chemical agent bulk items in storage, the State program identifies such chemical agent munitions and chemical agent bulk items in storage as characteristic and/or listed hazardous waste at OAR 340–101–0030, referencing listings for blister agents and nerve agents at OAR 340–102–0011(c)(A) and (B). In the Military Munitions Rule, at 62 FR 6633, EPA said that States could be more stringent than the federal program for chemical agents and munitions.

Oregon's analog to 40 CFR 264.1201, OAR 340–104–1201, design and operating standards for munitions storage, is determined to be more stringent than the federal program because OAR 340–104–1201 adds additional requirements to munitions storage, including requirements for: storage unit operations and management plans; vapor containment mechanisms for nerve agent storage units; a requirement to not allow storage of munitions in an open area; and the State definition of ''no migration'' to mean no detectable concentration of chemical agent outside the storage unit. EPA's regulations defer the ''no migration'' criteria to Army management procedures which allow some detectable migration.

The State is determined to be more stringent than the federal program because the State program defines, for purposes of reportable quantities, chemical agents (such as, for example, nerve agents GB, VX, and blister agent HD) to be hazardous materials at OAR 340–108–0002(9)(c), and at OAR 340–108–0010(1)(e) reportable quantity is defined to mean any quantity of chemical agent.

The State is determined to be more stringent than the federal program in its incorporation by reference of the federal regulations at OAR 340–105–0041(3) because the State program deleted a cross-reference to the federal regulation at 40 CFR 270.42(h) and replaced the cross-reference with a citation to OAR 340–105–0041(4) which for the Umatilla Chemical Depot does not allow the acceptance of off-site shipments of munitions. The federal program does not restrict acceptance of such off-site shipments at the Umatilla Chemical Depot.

EPA has made the determination that certain of the State program regulations for universal waste are more stringent than the federal regulations.

The State regulations at OAR 340–113–0040(2)(b), (2)(b)(B), (3)(a) and (b), are determined to be more stringent than the federal regulations at 40 CFR 273.12 and 273.32(b)(5), because the State requires owners or operators of off-site universal waste collection sites accumulating more than 1,000 kg of universal waste and non-pesticide universal waste to meet the notification requirements for large quantity generators and to submit additional information with the notification. The more stringent requirements of OAR 340–113–0040(2) and (3) are not applicable under the State regulation at OAR 340–113–0040(1)(b) to persons who collect, store or transport universal waste batteries.

The State regulations at OAR 340–113–0040(3)(a) and (b) are determined to be more stringent than the federal regulations at 40 CFR 273.15(a) and (b) and 273.35(a) and (b), because the State regulations require owners and operators of off-site collection sites accumulating more than 1,000 kg of universal waste to limit the accumulation time to a six month period or to receive written approval

from ODEQ to extend the accumulation period.

The State regulation at OAR 340–113–0040(4) is determined to be more stringent than the federal regulation at 40 CFR 273.19 for tracking universal waste shipments because the State regulation applies to small quantity handlers accumulating more than 1,000 kg of universal waste.

The State regulation at OAR 340–113–0040(4)(b) is determined to be more stringent than the federal regulation at 40 CFR 273.39(a) because the State regulation requires an off-site collection site to record the date the off-site universal waste was received.

The State regulation at OAR 340–113–0050(2) is determined to be more stringent than the federal regulation at 40 CFR 273.60 because the State requires annual reporting of universal waste for all destination facilities.

The State regulation at OAR 340–113–0060(2)(b) is determined to be more stringent than the federal regulation at 40 CFR 273.81(c) in listing additional factors to be considered when reviewing a petition to remove a universal waste from the universal waste rule. However, the use of such factors in the implementation of the authorized hazardous waste program cannot result in the universal waste not remaining subject to the hazardous waste regulations.

The State program is determined to be more stringent than the federal requirements at 40 CFR 279.22, Used Oil Storage, because the State regulation OAR 340–111–0032 requires generators to store used oil in accordance with applicable State and local Fire Marshal regulations and to keep rainwater from coming in contact with used oil during storage. The State program is determined to be more stringent than the federal program at 40 CFR 279.45(h), 279.54(g), and 279.64(g), because the State program at OAR 340–111–0050 requires handlers to respond to spills and releases according to more specific State requirements of OAR 340 Division 108 and requires used oil handlers to take immediate action to mitigate, report and clean up threatened spills and releases of used oil as required in OAR 340 Division 108.

Areas Where the State Program Is Broader in Scope

States are not allowed to seek authorization for State requirements that are broader in scope than the federal requirements. EPA does not have authority to authorize and enforce those parts of a State's program which are broader in scope than the federal program. Because the State program at OAR 340–101–0004 deleted from its incorporation by reference of the federal regulations the provisions of 40 CFR 261.4(b)(7)(ii), a list of 20 wastes from the extraction, beneficiation and processing of ores and minerals (Bevill wastes) which under the federal program are solid wastes that are not hazardous wastes, EPA has made the determination that the State program is broader in scope than the federal program with respect to these solid wastes.

The State program incorporated by reference rules that classified mineral processing characteristic sludges and byproducts being stored prior to being reclaimed as solid wastes and subjected manufactured gas plant waste to characterization under the toxicity characteristic regulations. The Federal regulations, 40 CFR 261.2(c)(3) second parenthetical, 40 CFR 261.4(a)(17) as it referenced secondary materials rather than spent materials, and 40 CFR 261.24 as it applied to manufactured gas plant waste, were subsequently revised (67 FR 11251, March 13, 2002) because of a court vacatur of certain provisions of the regulations. Because of the vacatur, EPA cannot authorize the rules; thus EPA has made the determination that the State is broader in scope because the State program regulations at OAR 340–100–0002 incorporated the federal rules by reference as those rules existed before the vacatur.

The State incorporated by reference at OAR 340–224–0220 the federal regulation at 40 CFR 63.1210(b) which was vacated on July 24, 2001. EPA has made the determination that the State hazardous waste program is broader in scope to the extent, if at all, the State hazardous waste regulations reference or cross-reference the vacated federal rule.

The State regulations define ''pesticide residue'' at OAR 340–100–0010. The State interprets ''pesticide residue'' to include state-only pesticides which are state-only hazardous wastes and outside the scope of the federal regulations. A generator of state-only pesticide residues may designate such residues as ''waste pesticide'' and manage the residues in a manner consistent with the universal waste management standards of OAR Division 113, under a state water pollution control facility permit, at a Subpart C facility as allowed by OAR 340–109–0010(4)(a) or in a Subpart D facility provided land disposal restrictions were met. Portions of the State definition for universal waste, OAR 340–113–0020(4) are determined to be broader in scope than the federal regulations at 40 CFR 260.10 and 273.9 by the addition of ''waste pesticides,'' which as defined by the State at OAR 340–109–0001(2)(a), are those not subject to regulation as hazardous waste under the federal regulations at 40 CFR parts 260 to 270. Portions of the State definition of ''universal waste,'' OAR 340–113–0020(4), are also determined to be broader in scope where the definition includes ''pesticide residues'' that are not part of the federal program.

The State regulation at OAR 340–113–0010(1)(a), in addition to wastes covered by 40 CFR 273.3, adds waste pesticides and pesticide residues to the applicability section of the universal waste rules. This addition is determined to be broader in scope where such waste pesticides or pesticide residues would not be part of the federal program.

H. Who Handles Permits After This Authorization Takes Effect?

Oregon will issue permits for all the provisions for which it is authorized and will administer the permits it issues. All permits, or portions of permits, issued by EPA Region 10 prior to final authorization of this revision will continue to be administered by EPA Region 10 until the issuance or re-issuance after modification of a State RCRA permit and until EPA takes action on its permit or portion of permit. HSWA provisions for which the State is not authorized will continue in effect under the EPA-issued permit or portion of permit. EPA will continue to issue permits, or portions of permits, for HSWA requirements for which the State program in Oregon is not yet authorized.

I. How Does Today's Action Affect Indian Country (18 U.S.C. 1151) in Oregon?

EPA's decision to authorize the hazardous waste program does not include any land that is, or becomes after the date of this authorization, ''Indian Country,'' as defined in 18 U.S.C. 1151. This includes: (1) All lands within the exterior boundaries of Indian reservations within or abutting the State of Oregon; (2) Any land held in trust by the U.S. for an Indian tribe; and (3) Any other land, whether on or off an Indian reservation that qualifies as Indian country. Therefore, this action has no effect on Indian country. EPA retains jurisdiction over ''Indian Country'' as defined in 18 U.S.C. 1151 and will continue to implement and administer the RCRA program in Indian country.

J. What Is Codification and Is EPA Codifying Oregon's Hazardous Waste Program As Authorized in This Rule?

Codification is the process of placing the State's rules that comprise the

State's authorized hazardous waste program into the Code of Federal Regulations. We do this by referencing the authorized State rules in 40 CFR part 272. We reserve the amendment of 40 CFR part 272, subpart MM until a later date.

K. Administrative Requirements

The Office of Management and Budget has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore, a decision to authorize Oregon's hazardous waste program for these revisions is not subject to review by OMB. This action authorizes State requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by State law. Authorization will not impose any new burdens on small entities. Accordingly, I certify that these revisions 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 action authorizes pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This action also does not have Tribal implications within the meaning of Executive Order 13175 (65 FR 67249, November 6, 2000).

This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This action is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply Distribution or Use'' (66 FR 28344, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866. The final rule does not include environmental justice issues that require consideration under Executive Order 12898 (59 FR 7629, February 16, 1994).

Under RCRA 3006(b), EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings' issued under the executive order. This final 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 prior to publication 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).

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: August 30, 2002.

L. John Iani,

Regional Administrator, Region 10.

[FR Doc. 02–22985 Filed 9–9–02; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 63

[FCC 02–154]

2000 Biennial Regulatory Review: International Telecommunications Service, Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: The Commission adopted a Report and Order amending several of the Commission's rules regarding the provision of international telecommunications services. Because an error was made in the publication of the final rule, this document contains a correction to the final rule document which was published in the **Federal Register** on July 9, 2002 (67 FR 45387).

DATES: Effective September 10, 2002.

FOR FURTHER INFORMATION CONTACT: Peggy Reitzel, Telecommunications Division, International Bureau, (202) 418–1499.

SUPPLEMENTARY INFORMATION: On July 9, 2002, the **Federal Register** published a summary of the final rule in the above captioned proceeding. Instruction 11 of the rules amended § 63.21 by removing paragraph (h) and redesignating paragraphs (i) and (j) and paragraphs (h) and (i). In resdesignating paragraph (j) as paragraph (i), the instructions neglected to revise the reference to paragraph (i).

In rule FR DOC 02–16738 published on July 9, 2002 (67 FR 45391), in the second column, instruction 11 is corrected to read as follows:

11. Section 63.21 is amended by removing paragraph (h), redesignating paragraphs (i) and (j) as paragraphs (h) and (i), and by revising newly redesignated paragraph (i) to read as follows:

§ 63.21 Conditions applicable to all international Section 214 authorizations.

* * * * *

(i) An authorized carrier, or a subsidiary operating pursuant to paragraph (h) of this section, that changes its name (including the name under which it is doing business) shall notify the Commission by letter filed with the Secretary in duplicate within

30 days of the name change. Such letter shall reference the FCC file numbers under which the carrier's authorization was granted.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 02–22785 Filed 9–9–02; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 020430101–2101–01; I.D. 082802A]

Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action No. 8—Closure of the Commercial Fishery From Humbug Mountain, OR, to the Oregon-California Border

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

ACTION: Closure; request for comments.

SUMMARY: NMFS announces that the commercial fishery for all salmon except coho in the area from Humbug Mountain, OR to the Oregon-California Border was closed at midnight on July 26, 2002. The Northwest Regional Administrator, NMFS (Regional Administrator), determined that the quota of 1,500 chinook salmon had been reached. This action was necessary to conform to the 2002 management goals.

DATES: Closure in the area from Humbug Mountain to the Oregon-California border, effective 2359 hours local time (l.t.), July 26, 2002, until 0001 hours l.t., August 1, 2002. Comments will be accepted through September 25, 2002.

ADDRESSES: Comments on these actions must be mailed or faxed to D. Robert Lohn, Regional Administrator, Northwest Region, NMFS, NOAA, 7600 Sand Point Way N.E., Bldg. 1, Seattle, WA 98115–0070, facsimile 206–526–6376; or

Rod McInnis, Acting Regional Administrator, Southwest Region, NMFS, NOAA, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802–4132, facsimile 562–980–4018.

Comments will not be accepted if submitted via e-mail or the Internet. Information relevant to this document is available for public review during business hours at the Office of the Regional Administrator, Northwest Region, NMFS.

FOR FURTHER INFORMATION CONTACT: Christopher Wright, 206–526–6140.

SUPPLEMENTARY INFORMATION: The Regional Administrator closed the commercial fishery in the area from Humbug Mountain, OR to the Oregon-California Border effective at midnight on Friday, July 26, 2002. Information provided on July 26, 2002, estimated that the quota of 1,500 chinook salmon had been reached. Automatic season closures based on quotas are authorized by regulations at 50 CFR 660.409(a)(1).

In the 2002 annual management measures for ocean salmon fisheries (67 FR 30616, May 7, 2002), NMFS announced that the commercial fishery for all salmon except coho in the area from Humbug Mountain, OR to the Oregon-California Border would open July 1, 2002, through the earlier of July 30, 2002, or a 1,500–chinook quota. The fishery would then reopen on August 1, 2002, through the earlier of August 29, 2002, or a 3,000–chinook quota; and September 1, 2002, through the earlier of September 30, 2002, or a 2,000–chinook quota.

On July 26, 2002, the Regional Administrator consulted with representatives of the Pacific Fishery Management Council and Oregon Department of Fish and Wildlife (ODFW) by conference call. Information related to catch to date, the chinook catch rate, and effort data indicated that it was likely that the quota had been reached. As a result, the State of Oregon recommended, and the Regional Administrator concurred, that the commercial fishery in the area from Humbug Mountain, OR to the Oregon-California Border close effective at midnight on Friday, July 26, 2002. All other regulations that apply to this fishery remain in effect as announced in the 2002 annual management measures and subsequent inseason actions.

The Regional Administrator determined that the best available information indicated that the catch and effort data, and projections, supported the above inseason action recommended by the ODFW. The states manage the fisheries in state waters adjacent to the areas of the U.S. exclusive economic zone in accordance with this Federal action. As provided by the inseason notice procedures of 50 CFR 660.411, actual notice to fishers of the above described action was given prior to the effective date by telephone hotline number 206–526–6667 and 800–662–9825, and by U.S. Coast Guard Notice to Mariners broadcasts on Channel 16 VHF-FM and 2182 kHz.

This action does not apply to other fisheries that may be operating in other areas.

Classification

The Assistant Administrator for Fisheries, NOAA (AA), finds that good cause exists for this notification to be issued without affording prior notice and opportunity for public comment under 5 U.S.C. 553(b)(B), or delaying the effectiveness of this rule for 30 days under 5 U.S.C. 553(d)(3), because such notification and delay would be impracticable and contrary to the public interest. As previously noted, actual notice of this action was provided to fishers through telephone hotline and radio notification. This action complies with the requirements of the annual management measures for ocean salmon fisheries (67 FR 30616, May 7, 2002) and the West Coast Salmon Plan. Prior notice and opportunity for public comment is impracticable because NMFS and the state agencies have insufficient time to allow for prior notice and the opportunity for public comment between the time the fishery catch and effort data are collected to determine the extent of the fisheries, and the time the fishery closure must be implemented to avoid exceeding the quota. Moreover, such prior notice and the opportunity for public comment is contrary to the public interest because not closing the fishery upon attainment of the quota would allow the quota to be exceeded, resulting in fewer spawning fish and reduced yield of the stocks. The 30–day delay in effectiveness required under U.S.C. 553(d)(3) is also hereby waived due to the immediate need to stop a fishery upon attainment of a quota.

This action is authorized by 50 CFR 660.409 and 660.411 and is exempt from review under Executive Order 12866.

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

Dated: September 4, 2002

Virginia M. Fay

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

[FR Doc. 02–22922 Filed 9–9–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 000622191–2104–02; I.D. 041700D]

RIN 0648–A035

Fisheries Off West Coast States and in the Western Pacific; Pelagic Fisheries; Measures To Reduce the Incidental Catch of Seabirds in the Hawaii Pelagic Longline Fishery

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

ACTION: Announcement of effectiveness of a collection-of-information requirement.

SUMMARY: NMFS announces the effectiveness of a collection-of-information requirement for participants in the Hawaii-based longline limited access fishery, whereby in the event an endangered short-tailed albatross is accidentally hooked or entangled during fishing operations, NMFS or the U.S. Coast Guard (USCG) or U.S. Fish and Wildlife Service (USFWS) must be notified immediately. Recovery information on short-tailed albatross, which is retrieved from the ocean by a Hawaii-based longline vessel, must be recorded on a data form provided by NMFS. If the retrieved short-tailed albatross is dead or dies on board the vessel, information tags must be attached to the carcass and specimen bag.

DATES: Paragraphs 660.35(b)(4)(i), 660.35(b)(6), and 660.35(b)(8) of the final rule published May 14, 2002 (67 FR 34408), are effective October 10, 2002.

FOR FURTHER INFORMATION CONTACT: Alvin Z. Katekaru, Pacific Islands Area Office, NMFS, 808–973–2937.

SUPPLEMENTARY INFORMATION: On May 14, 2002 (67 FR 34408), NMFS published a final rule that promulgated a regulatory amendment, under the Fishery Management Plan for the Pelagic Fisheries of the Western Pacific Region, permanently codifying seabird take mitigation measures in the Hawaii-based longline fishery. Section 660.35 (Pelagic longline seabird mitigation measures) of that final rule contains a collection-of-information requirement for any vessel registered for use under a Hawaii longline limited access permit. Immediate notification must be provided to NMFS, the USCG, or the USFWS of any hooking or entanglement of an endangered short-tailed albatross during longline fishing operations. If the albatross is retrieved dead or dies on board the vessel, an identification tag must be attached directly to the carcass listing the species, location, and date of mortality, and band number if the bird has a leg band. A duplicate identification tag must be attached to the specimen bag or container holding the carcass. If the retrieved short-tailed albatross is alive, the condition of the bird must be recorded on a recovery data form provided by NMFS. The information may be used by a veterinarian in providing advice to the vessel operator and crew on the care and recovery of an injured short-tailed albatross.

In the final rule, NMFS requested comments on the reporting burden estimate or any other aspect of the collection-of-information requirements that are in this final rule. No comments were received on the collection-of-information requirements.

Because the notification and reporting activities constitute a collection-of-information subject to the Paperwork Reduction Act, it could not be enforced prior to approval by the Office of Management and Budget (OMB). Delayed enforcement of §§660.35(b)(4)(i), 660.35(b)(6), and 660.35(b)(8) was announced in the May 14, 2002, final rule pending OMB approval of short-tailed albatross interaction notification and reporting procedures. OMB has approved the collection-of-information requirement under OMB control number 0648–0456. Sections 660.35(b)(4)(i), 660.35(b)(6), and 660.35(b)(8) are effective September 30, 2002, and will be enforced from that date on.

List of Subjects in 50 CFR Part 660

Reporting and recordkeeping requirements.

Dated: September 4, 2002.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service

[FR Doc. 02–22924 Filed 9–9–02; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 67, No. 175
Tuesday, September 10, 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 ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 490

[Docket No. EE–RM–02–200]

Alternative Fuel Transportation Program; Fischer-Tropsch Diesel Fuels

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of public workshop, document availability, and opportunity for comment.

SUMMARY: The Department of Energy (DOE) announces a public workshop to discuss whether Fischer-Tropsch diesel (FTD) fuels meet the energy security and environmental criteria of the Energy Policy Act of 1992 (EPAct) and to resolve a number of technical and EPAct implementation issues relating to this fuel. DOE has prepared an analysis, ''Discussion of Issues Pertinent to Rulemaking to Designate FTD Fuels as Alternative Fuel Under Section 301(2) of the Energy Policy Act of 1992,'' that summarizes the various issues related to evaluation of FTD fuels against the EPAct criteria. DOE encourages interested parties to respond to these questions and submit related analysis and data as requested in the document in the form of written comments, which will be discussed at the workshop. The discussion paper finds that there is a basis for designating certain FTD fuels as alternative fuels, but identifies a number of outstanding questions and data gaps.

DATES: To be considered at the workshop, comments must be received by October 10, 2002. The public workshop will be held in Washington, DC, beginning at 9:30 a.m. on October 16, 2002.

Requests to speak at the workshop and a copy of your statement must be received no later than 4 p.m., October 1, 2002. We request that you also provide an e-mail of your statement by October 8, 2002.

All comments on the discussion paper and workshop must be received by November 15, 2002.

ADDRESSES: The workshop will begin at 9:30 a.m., on October 16, 2002, in Room 1E–245 at the U.S. Department of Energy, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585–0121. Submit written comments, oral statements, and requests to speak at the workshop to Linda Bluestein, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Office of FreedomCAR and Vehicle Technologies, Docket No. EE–RM–02–200, EE–2G, 1000 Independence Avenue, SW, Washington, DC 20585–0121. You may send e-mail to: *linda.bluestein@ee.doe.gov.*

Copies of the discussion paper and related DOE laboratory analyses, petitions, and any public comments can be found at the at the website address *http://www.ott.doe.gov/epact/fuel_pet.shtml.* You may also access these documents using a computer in DOE's Freedom of Information (FOI) Reading Room, U.S. Department of Energy, Forrestal Building, Room 1E–190, 1000 Independence Avenue, SW, Washington, DC 20585–0121, (202) 586–3142, between the hours of 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. To request a copy of the discussion paper or to arrange on-site access to paper copies or other information in the docket at the Office of FreedomCAR and Vehicle Technologies, contact Linda Bluestein at the phone number or e-mail address below.

FOR FURTHER INFORMATION CONTACT: Linda Bluestein on (202) 586–9171, or *linda.bluestein@ee.doe.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

a. Determination Criteria for Alternative Fuel Designation

Title III, section 301(2) of EPAct includes the definition of ''alternative fuel.'' That definition states: ''Alternative fuel'' means methanol, denatured ethanol, and other alcohols; mixtures containing 85 percent or more (or such other percentage, but not less than 70 percent, as determined by the Secretary, by rule, to provide for requirements related to cold start, safety, or vehicle functions) by volume of methanol, denatured ethanol, and other alcohols with gasoline or other fuels; natural gas, including liquid fuels domestically produced from natural gas; liquefied petroleum gas; hydrogen; coal-derived liquid fuels; fuels (other than alcohol) derived from biological materials; electricity (including electricity from solar energy); and *any other fuel the Secretary determines, by rule, is substantially not petroleum, and would yield substantial energy security benefits and substantial environmental benefits.*'' [Emphasis added.] The emphasized portion of that definition states the minimum procedural and substantive requirements for adding a new fuel to the list of fuels enumerated or implicitly covered by the provisions of section 301(2). As part of the Consolidated Appropriations Act (Pub. L. 106–554), section 301(2) of the Energy Policy Act of 1992 (Pub. L. 102–486); 42 U.S.C. 13211(2) was amended by inserting, ''including liquid fuels domestically produced from natural gas'' after ''natural gas.''

DOE has conducted technical analyses to help make a determination as to whether certain non-domestically produced FTD fuels meet the requirements as an ''alternative fuel'' under EPAct, and to resolve a number of technical issues relating to DOE's understanding of how these fuels might satisfy EPAct requirements. This notice of DOE's discussion paper and upcoming workshop constitutes the next step in the technical review which will lead to making that determination by way of a notice of proposed rulemaking.

b. Petitions To Designate Fischer-Tropsch Diesel

The action DOE is undertaking is partly in response to three petitions DOE has received for a rulemaking to consider adding FTD fuels to the definition of ''alternative fuels'' under the Alternative Fuel Transportation Program (Program) regulations (10 CFR part 490). These petitions have been submitted by Mossgas (PTY) Limited, Syntroleum Corporation, and Rentech, Inc. Fischer-Tropsch diesel fuel is diesel fuel made from natural gas or other carbon-bearing feedstocks using the Fischer-Tropsch process. The three petitioners are proposing that their FTD

fuels be added to the definition of ''alternative fuel'' because the fuel conforms to the requirement of being substantially not petroleum and yielding substantial energy security and environmental benefits. [**Note:** By rule, effective June 16, 1999, DOE added three specific blends of methyltetrahydrofuran, ethanol, and hydrocarbons known as ''P-series'' fuels to the definition of alternative fuel, 64 FR 26822, May 17, 1999.]

II. Technical Review

DOE has had national laboratory contractors conduct a technical review of pertinent issues regarding FTD fuel, including review of the three petitions. This technical review involved independent verification and findings related to the claims made in these petitions about FTD fuel in the following areas: (1) Whether the fuel is substantially not petroleum; (2) whether the fuel would yield substantial energy security benefits; and (3) whether the fuel would yield substantial environmental benefits. In addition to the FTD discussion paper, technical support documents by DOE laboratories and contractors are available in the docket for review and comment.

III. Generic Designation

DOE is interested inpromulgating a non-company specific, or generic, designation for FTD fuels. Therefore, information and data from the individual petitions are being viewed in aggregate, along with other industry data, engineering analyses, and other analysis. After completion of its technical review, if it is determined FTD fuels meet the EPAct section 301(2) criteria, DOE by rule would add any non-domestically produced FTD fuels to the list of ''alternative fuels'' under the Program. Should non-domestic FTD fuels fail to meet the criteria, they would not be considered as ''alternative fuels'' under the Program.

IV. Explanation of FTD Fuels

FTD fuels are made from carbon-bearing feedstocks (such as natural gas or coal) using the Fischer-Tropsch process. The resulting diesel fuel is essentially sulfur-free and can be used in any diesel vehicle without modification.

The Fischer-Tropsch process for producing diesel fuel can be separated into three main parts: the production of synthesis gas from the main feedstock; the catalytic reaction which converts the synthesis gas into hydrocarbon components; and the refining of these hydrocarbon components into diesel fuel. Production of synthesis gas is accomplished by reforming the feedstock through partial oxidation reforming, autothermal reforming, or steam reforming. Autothermal reforming can be done with the use of ambient air, enriched air, or pure oxygen.

The catalytic reaction converting synthesis gas into liquid hydrocarbons is performed by reacting the synthesis gas in the presence of an iron or cobalt catalyst. The end products of the catalytic reaction are long-chain hydrocarbons, which can then be refined using conventional refinery techniques into FTD fuels.

The main chemical processes of the Fischer-Tropsch method are exothermic and produce waste heat. This waste heat can be radiated to the surrounding environment or can be used to produce steam, either for resale to local electricity generation plants or for the direct generation of electricity at the Fischer-Tropsch plant.

All three of the petitioning companies use (or plan to use) natural gas as the main feedstock for the production of Fischer-Tropsch diesel. Rentech is also examining the possibility of using coal as an alternate feedstock, and states that petroleum refinery bottoms can also be used. The Syntroleum autothermal reformer uses ambient air to produce synthesis gas, while the Mossgas process uses a combination of steam reforming and oxygen-fired secondary reforming to produce synthesis gas. Rentech calls for either partial oxidation reforming or autothermal reforming, depending on the feedstock used (coal would require the use of partial oxidation reforming), and use of pure oxygen. Both Rentech and Mossgas use iron catalysts in producing the heavy hydrocarbons from synthesis gas, while Syntroleum is using a proprietary cobalt-based catalyst. For the purposes of determining whether to designate FTD fuels, DOE is looking specifically at natural gas as the feedstock to be used in production of the fuels.

Issues related to production, energy use, and greenhouse gas emissions from processing FTD fuels are included in the discussion paper at the website address listed above. DOE believes that FTD fuels have potential to offer substantial environmental benefits if greenhouse gas emissions are not increased substantially and some other environmental issues are addressed.

V. Issues Related to FTD Fuels

DOE seeks comment on the following issues that may be relevant to any future DOE decision to propose the designation of non-domestically produced Fischer-Tropsch diesel fuel made from natural gas as an alternative fuel under the Alternative Fuel Transportation Program. (These questions are posed in the context of the FTD discussion paper. It is recommended that interested parties intending to submit comments or participate in the workshop read the FTD discussion paper at the website address *http://www.ott.doe.gov/epact/fuel_pet.shtml* to better understand the questions below:)

1. How should DOE define natural gas-based diesel fuels, and particularly FTD fuels, if designation is ultimately limited to that process?

2. DOE requests comments on analysis provided by the Argonne National Laboratory (ANL) and the National Renewable Energy Laboratory (NREL), which will be used for making a determination regarding designation of FTD fuels. DOE also requests that interested parties submit any additional emissions data not cited in the NREL report.

3. Should DOE set process energy use limits in its EPAct designation process to ensure that qualifying FTD fuels provide substantial energy security benefits? If so, which levels are appropriate?

4. How should DOE balance its determinations about designating fuels if the fuels provide substantial benefits in some areas with regard to section 301(2) criteria, while being a slight detriment to others (*e.g.*, positive attributes regarding criteria pollutants versus a slight increase in greenhouse gas emissions)? Is such an approach desirable?

5. DOE requests comments on findings in NREL's report about NO_X emissions benefits of 6–20 percent (compared to post-2006 diesel fuels) related to control of fuel aromatic content and cetane number. Should these benefits be considered ''substantial'' with regard to section 301(2) criteria?

6. DOE is seeking additional data on actual test and control fuels for FTD when used in later-model diesel engines to gauge how fuel composition affects emissions from these engines.

7. What parameters should be set for aromatics, cetane, sulfur, and other standards to assure emissions reductions based on NREL's findings or other sources of information? Also, will FTD fuels in the lower end of the aromatics range result in materials compatibility problems and should polyaromatic content be included in addition to, or in lieu of, a limit on total aromatics? Should paraffin content be used to assure emissions reductions, and if so, do both normal- and iso-paraffin content need to be specified?

8. There are various ways DOE might designate fuels with relation to greenhouse gas (GHG) emissions. The discussion paper located at the website address listed above suggests three such ways to view this question. DOE requests comments on which option would be most appropriate, and what levels of GHG emissions should be set if a particular option is chosen.

9. DOE seeks any information and data collected about toxicity issues and ecotoxicity/biodegradability issues related to FTD.

10. DOE requests comments on limiting oxygenated compounds in FTD fuels or suggestions on alternative approaches. Possibilities are outlined in the discussion paper.

11. Are any of FTD fuels' characteristics sufficiently unique to justify inclusion of specific additives to assure that inherent environmental benefits are not degraded or negated due to negative impacts on engine components or emission control systems?

12. Are there other issues that DOE should consider related to Fischer-Tropsch diesel fuel production and use relative to its possible designation as an alternative fuel?

VI. Public Comment

A. Written Comment Procedures

The Department invites interested persons to participate in DOE's technical review of FTD fuels by submitting data, comments, or information with respect to the proposed issues set forth in the FTD discussion paper and subsequent workshop to Linda Bluestein, at the address indicated at the beginning of this notice. We will consider all submissions received by the date specified at the beginning of this notice.

Pursuant to the provisions of 10 CFR 1004.11, anyone submitting information or data that he or she believes to be confidential and exempt by law from public disclosure should submit one complete copy of the document, as well as two copies, if possible, from which the information has been deleted. The DOE will make its determination as to the confidentiality of the information and treat it accordingly.

B. Public Workshop

1. Attendance at Workshop

You will find the time and place of the public workshop listed at the beginning of this notice. If you would like to attend the public workshop, please notify Linda Bluestein at (202) 586–9171. Please note that foreign nationals visiting DOE Headquarters are subject to advance security screening procedures. If you are a foreign national and wish to participate in the workshop, please inform DOE of this fact as soon as possible by contacting Linda Bluestein at (202) 586–9171 so that the necessary procedures can be completed.

2. Procedures for Submitting Requests to Speak

The Department invites any person who has an interest in FTD fuels, or who is a representative of a group or class of persons that has an interest in these issues, to make a request for an opportunity to make an oral presentation. The person making the request should state why he or she, either individually or as a representative of a group or class of persons, is an appropriate spokesperson. Please also briefly describe the nature of the interest in the rulemaking and provide a telephone number and e-mail address for contact. You may hand-deliver speaking requests to the address indicated at the beginning of this notice between the hours of 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. You may also send requests by mail or e-mail to *linda.bluestein@ee.doe.gov*.

The Department requests that each person wishing to speak submit an advance copy of his or her statement no later than 4 p.m., October 1, 2002. DOE requests that a copy of your statement also be e-mailed by October 8, 2002. The Department, at its discretion, may permit any person wishing to speak who cannot meet this requirement to participate if that person has made alternative arrangements with the Office of FreedomCAR and Vehicle Technologies in advance. The letter making a request to give an oral presentation must ask for such alternative arrangements. DOE's panel will read statements in advance of the hearing. Speakers should limit their oral presentations to 10 minutes and should specifically address DOE's technical questions (in this notice and the discussion paper) and other issues included in the rulemaking discussion paper.

3. Conduct of Workshop

The workshop will be conducted in an informal, conference style. The Department may use a professional facilitator to facilitate discussion, and a court reporter will be present to record the transcript of the meeting. We will present at the workshop information about DOE's review process, technical analyses to date, and summaries of comments received before the workshop. DOE will also allow time for presentations by workshop participants, and encourage all interested parties to share their views on issues affecting DOE's potential determination to designate the candidate fuel. Attendees will have an opportunity to ask questions. Following the workshop, interested parties will have an opportunity to comment on the proceedings at the workshop and the FTD discussion paper. All comments must be received by November 15, 2002.

The Department will make the entire record of this notice available on the website at *http://www.ott.doe.gov/epact/fuel_pet.shtml*. The transcript will be available for inspection at DOE's Headquarters in Washington, DC. Inspection of the transcript may be arranged by contacting Linda Bluestein at (202) 586–9171.

Issued in Washington, DC, on September 4, 2002.

David K. Garman,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 02–22908 Filed 9–9–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–SW–44–AD]

RIN 2120–AA64

Airworthiness Directives; Robinson Helicopter Company Model R22 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes adopting a new airworthiness directive (AD) for Robinson Helicopter Company (RHC) Model R22 helicopters. The AD would require inspecting the pitch control assembly for roughness or binding of the pitch control bearings (bearings) by hand-rotating the pitch control bearing housing (housing). If the housing does not rotate freely, the proposed AD would require replacing the unairworthy pitch control assembly with an airworthy unit. This proposal is prompted by reports of failure of the tail rotor assembly due to improperly lubricated bearings on the RHC Model R22 and R44 helicopters. The actions specified by the proposed AD are intended to detect corrosion of the bearings and prevent bearing failure, breakup of the tail rotor assembly, tail

rotor contact with the tailboom, and subsequent loss of control of the helicopter.

DATES: Comments must be received on or before November 12, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2001–SW–44–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. You may also send comments electronically to the Rules Docket at the following address: *9-asw-adcomments@faa.gov.* Comments may be inspected at the Office of the Regional Counsel between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Fred Guerin, Aviation Safety Engineer, FAA, Los Angeles Aircraft Certification Office, Airframe Branch, 3960 Paramount Blvd., Lakewood, California 90712, telephone (562) 627–5232, fax (562) 627–5210.

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 should 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 will be considered before taking action on the proposed rule. The proposals contained in this document may be changed in light of the comments received.

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 mailed comments submitted in response to this proposal must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 2001–SW–44–AD.'' The postcard will be date stamped and returned to the commenter.

Discussion

This document proposes adopting an AD for RHC Model R22 helicopters. The AD would require inspecting the pitch control assembly to determine roughness or binding of the bearings by hand-rotating the housing. If the housing does not rotate freely, the proposed AD would require replacing each unairworthy pitch control assembly with an airworthy unit. This proposal is prompted by reports of failure of the tail rotor assembly due to improperly lubricated bearings. This condition, if not corrected, could result in bearing failure, breakup of the tail rotor assembly, tail rotor contact with the tailboom, and subsequent loss of control of the helicopter.

The FAA has reviewed RHC Service Bulletin SB–90A, Revision A, dated June 10, 2002, which describes procedures for inspecting the pitch control assembly to determine roughness or binding of the bearings by hand-rotating the housing. If the housing does not rotate freely, the service bulletin specifies replacing each unairworthy pitch control assembly, part number (P/N) A031–1, with an airworthy unit in accordance with the maintenance manual.

This unsafe condition is likely to exist or develop on other RHC Model R22 helicopters of the same type design. Therefore, the proposed AD would require, within a certain time and at specified intervals, inspecting the pitch control assembly for roughness or binding of the bearings by hand-rotating the housing. If the housing does not rotate freely, the proposed AD would require, before further flight, replacing each unairworthy pitch control assembly with an airworthy unit. The actions would be required to be accomplished in accordance with the service bulletin described previously.

The FAA estimates this proposed AD would affect 1300 helicopters of U.S. registry. The FAA estimates that it would take approximately 2.3 work hours per helicopter to inspect and replace each pitch control assembly at an average labor rate of $60 per work hour. Required parts would cost approximately $800 per helicopter. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $1,219,400, assuming the pitch control assembly is replaced on the entire fleet.

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 a new airworthiness directive to read as follows:

Robinson Helicopter Company: Docket No. 2001–SW–44–AD.

Applicability: Model R22 helicopters, up to and including serial number 3328, except serial numbers 3167, 3326, and 3327, with pitch control assembly, part number (P/N) A031–1, Revision J or prior, installed, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To detect corrosion of the bearings and prevent bearing failure, breakup of the tail rotor assembly, tail rotor contact with the tailboom, and subsequent loss of control of the helicopter, accomplish the following:

(a) Within 20 hours time-in-service (TIS) and thereafter at intervals not to exceed 300 hours TIS or 12 months, whichever occurs first, inspect the pitch control assembly for roughness or binding of the pitch control bearings by hand-rotating the pitch control bearing housing (housing) in accordance with Robinson Helicopter Company Service Bulletin SB–90A, Revision A, dated June 10, 2002. If the housing does not rotate freely, before further flight, replace the unairworthy pitch control assembly with an airworthy unit.

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

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

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

Issued in Fort Worth, Texas, on August 28, 2002.

Eric D. Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 02–22897 Filed 9–9–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–SW–45–AD]

RIN 2120–AA64

Airworthiness Directives; Robinson Helicopter Company Model R44 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes adopting a new airworthiness directive (AD) for Robinson Helicopter Company (RHC) Model R44 helicopters. The AD would require inspecting the pitch control assembly for roughness or binding of the pitch control bearings (bearings) by hand-rotating the pitch control bearing housing (housing). If the housing does not rotate freely, the proposed AD would require replacing the unairworthy pitch control assembly with an airworthy unit. This proposal is prompted by reports of failure of the tail rotor assembly due to improperly lubricated bearings on the RHC Model R22 and R44 helicopters. The actions specified by the proposed AD are intended to detect corrosion of the bearings and prevent bearing failure, breakup of the tail rotor assembly, tail rotor contact with the tailboom, and subsequent loss of control of the helicopter.

DATES: Comments must be received on or before November 12, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2001–SW–45–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. You may also send comments electronically to the Rules Docket at the following address: *9-asw-adcomments@faa.gov.* Comments may be inspected at the Office of the Regional Counsel between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Fred Guerin, Aviation Safety Engineer, FAA, Los Angeles Aircraft Certification Office, Airframe Branch, 3960 Paramount Blvd., Lakewood, California 90712, telephone (562) 627–5232, fax (562) 627–5210.

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 should 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 will be considered before taking action on the proposed rule. The proposals contained in this document may be changed in light of the comments received.

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 mailed comments submitted in response to this proposal must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 2001–SW–45–AD.'' The postcard will be date stamped and returned to the commenter.

Discussion

This document proposes adopting an AD for RHC Model R44 helicopters. The AD would require inspecting the pitch control assembly for roughness or binding of the bearings by hand-rotating the housing. If the housing does not rotate freely, this AD would require replacing each unairworthy pitch control assembly with an airworthy unit. This proposal is prompted by reports of failure of the tail rotor assembly due to improperly lubricated bearings. This condition, if not corrected, could result in bearing failure, breakup of the tail rotor assembly, tail rotor contact with the tailboom, and subsequent loss of control of the helicopter.

The FAA has reviewed RHC Service Bulletin SB–43A, Revision A, dated June 10, 2002, which describes procedures for inspecting the pitch control assembly for roughness or binding of the bearings by hand-rotating the housing. If the housing does not rotate freely, this service bulletin specifies replacing each unairworthy pitch control assembly, part number (P/N) C031–1, with an airworthy unit in accordance with the maintenance manual.

This unsafe condition is likely to exist or develop on other RHC Model R44 helicopters of the same type design. Therefore, the proposed AD would require, within a certain time and at specified intervals, inspecting the pitch control assembly for roughness or binding of the bearings by hand rotating the housing. If the housing does not rotate freely, this AD would require, before further flight, replacing any unairworthy pitch control assembly with an airworthy unit. The actions would be required to be accomplished in accordance with the service bulletin described previously.

The FAA estimates that this proposed AD would affect 440 helicopters of U.S. registry. The FAA estimates that it would take approximately 2.3 work hours per helicopter to inspect and replace a pitch control assembly at an average labor rate of $60 per work hour. Required parts would cost

approximately $1145 per helicopter. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $564,520, assuming the pitch control assembly is replaced in the entire fleet.

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 a new airworthiness directive to read as follows:

Robinson Helicopter Company: Docket No. 2001–SW–45–AD.

Applicability: Model R44 helicopters, up to and including serial number 1208, except serial numbers 1143, 1165, 1183, 1189, 1192, 1196, 1197, 1198, 1200, 1203, and 1204, with pitch control assembly, part number (P/N) C031–1, Revision G or prior, installed, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To detect corrosion of the bearings and prevent bearing failure, breakup of the tail rotor assembly, tail rotor contact with the tailboom, and subsequent loss of control of the helicopter, accomplish the following:

(a) Within 20 hours time-in-service (TIS) and thereafter at intervals not to exceed 300 hours TIS or 12 months, whichever occurs first, inspect the pitch control assembly for roughness or binding of the pitch control bearings by hand rotating the pitch control bearing housing (housing) in accordance with Robinson Helicopter Company Service Bulletin SB–43A, Revision A, dated June 10, 2002. If the housing does not rotate freely, before further flight, replace the unairworthy pitch control assembly with an airworthy unit.

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

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

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

Issued in Fort Worth, Texas, on August 28, 2002.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 02–22898 Filed 9–9–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 135

[Docket No. 28937; Notice No. 97–10]

RIN 2120–AG42

Revised Standards for Cargo or Baggage Compartments in Transport Category Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); withdrawal and disposition of comments.

SUMMARY: The FAA is withdrawing a portion of Notice of Proposed Rulemaking No. 97–10 which proposed to upgrade fire safety standards for cargo or baggage compartments in certain transport category aircraft and remove Class D compartments as an alternative for future type certification. The FAA published a final rule that adopted the NPRM's proposed amendments to parts 25 and 121, but requested further comments on the issues relating to part 135. We are withdrawing the part 135 proposal based on the existing safety record and the cost/benefit analysis revised in the light of comments received.

FOR FURTHER INFORMATION CONTACT: Gary Davis, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone 202–497–4857.

SUPPLEMENTARY INFORMATION:

Background

Between 1946 and 1958, the FAA created five categories of baggage or cargo compartments, assigned letters A through E. In recent years there have been a number of fires in the baggage or cargo compartments of transport category airplanes, especially in Class D compartments. Both Class C and Class D compartments are airtight compartments with protective liners. Unlike Class C compartments, Class D compartments do not have fire detection or suppression capabilities. On some occasions, fires in these compartments have caused accidents and loss of life. In May 1996, a fire that originated in a Class D compartment of a McDonnell Douglas DC–9 operated by Valujet Airlines caused the aircraft to crash. As a result, 110 passengers and crewmembers lost their lives.

Class D compartments have a higher risk of an unknown fire developing and burning out of control because they

have no detection or suppression capability and are inaccessible in flight. Class D compartments are larger than the other categories of baggage or cargo compartment. The quantity of oxygen available within the compartment due to its size allows a fire to spread to the point of breaking the protective liner and allowing outside air to enter the compartment.

To address Class D compartment issues, the FAA established successively more restrictive standards for Class C and D compartments (51 FR 18236, May 16, 1986 and 54 FR 7384, February 17, 1989). The increase in fires in Class D compartments caused the FAA to further amend portions of 14 CFR parts 25 and 121 by requiring Class D compartments to meet the fire detection and suppression standards for Class C compartments (63 FR 8032, February 17, 1998).

Notice of Proposed Rulemaking No. 97–10 (63 FR 32412, June 13, 1997) proposed amendments to parts 25, 121, and 135 of title 14 of the Code of Federal Regulations that would have eliminated Class D compartments or converted them to Class C compartments by requiring detection and suppression capability. The final rule adopted only those amendments affecting parts 25 and 121. In response to Notice No. 97–10, several commenters recommended that the FAA exclude airplanes operated under part 135 from the proposed rulemaking because of the anticipated high cost of implementation. Based on comments received to the notice, the FAA deferred the proposed amendment to part 135 pending receipt of additional information. The 1998 final rule requested responses to 13 questions related to the impact of the rulemaking on part 135 operators. The comment period closed on June 17, 1998.

Discussion of Comments

The FAA received eight comments on the final rule. Generally, most of these comments are critical of the FAA's action. Some commenters suggest changes to the final rule. Others mention safety issues, such as the size of the compartments and the amount of ventilation in cargo or baggage compartments. Additional issues addressed include inadequacy of the regulatory flexibility analysis and the length of the compliance period.

Compartment Size

The primary aim of the final rule was to prevent future fires in the baggage or cargo compartments of airplanes. The FAA noted that the size of compartments, particularly Class D compartments, was a vital factor in the spreading of fires throughout airplanes. Although the FAA originally placed limits on the size of Class D compartments, the subsequent widespread transportation of flammable aerosols in cargo compartments led to this final rule eliminating Class D compartments and converting current Class D compartments to Class C compartments by requiring detection and suppression capability.

Two commenters, including the National Air Transportation Association (NATA), discuss various aspects of compartment size. One commenter suggests that Class D compartments should be kept, but only with certain modifications. One suggests placing a more stringent limit on the size of Class D compartments compared to the limits formerly imposed by the FAA. Specifically, a maximum size of 200 cubic feet is suggested, while the former limit placed by the FAA was 1,000 cubic feet. NATA asserts that previous actions made by the FAA demonstrate that fires in cargo or baggage compartments correlate with the compartment's size. They state that transport airplane manufacturers generally limit the size of Class D compartments to only 200 cubic feet, and executive airplanes normally have a size of twenty to forty cubic feet. They assert that on-demand passenger carriers maintain closer control of the contents of baggage in Class D compartments.

FAA Response: The FAA does not fully concur with NATA's assertion that on-demand passenger carriers maintain closer control of the contents of baggage placed in their Class D compartments, since that would entail inspecting each passenger's baggage before flight. It does, however, acknowledge that on-demand operators tend to have better control of the contents of their baggage compartments than scheduled operators due to their closer working relationship with their customers. The FAA concurs that it would be unlikely that on-demand operators would transport other types of cargo other than baggage, and that it is less likely that Class D compartments in on-demand operators' airplanes would contain other types of cargo that could cause a fire to start. As stated by NATA, the FAA has no record of an uncontrolled fire occurring in a Class D compartment in an airplane designed for business use.

Necessity for Rule

NATA states that a precedent exists to exclude part 135 airplanes. They cite a 1991 amendment, Amendment 135–31, which allowed Class D compartments only if they were less than 200 cubic feet. They note that most airplanes with compartments of over 200 cubic feet would be complying under part 121. Thus, the final rule becomes repetitive and unnecessary, according to NATA.

FAA Response: The FAA agrees that many airplanes would already be complying under part 121. Some larger airplanes with 30 or fewer passenger seats may still be used for on-demand service under part 135. The primary effect would be on ''business jets'' or ''commuter category'' airplanes used in on-demand passenger carrying and all-cargo operations. As stated previously, the FAA recognizes that the Class D compartments in these airplanes are much smaller and the risk of additional flammable material being carried in these compartments is not as great.

Regulatory Flexibility Analysis

NATA states that the FAA's regulatory flexibility analysis indicates the final rule is expected to impact only a few operators in a negligible manner. NATA contends that FAA's analysis is incomplete and insufficient. The FAA estimates that there will be only 35 unscheduled operators that will be adversely affected by this measure; however, NATA believes that there will be more than 1,500 operators adversely affected by the final rule.

FAA Response: The adoption of the Commuter Rule (Commuter Operations and General Certification and Operations Requirements, 60 FR 65832, December 20, 1995) greatly reduced the scope of operations that may be conducted under the provisions of part 135. The proposed amendments to part 135 would affect few, if any, airplanes used in scheduled service. As stated above, the primary effect would be on ''business jets'' and commuter category airplanes being used in on-demand passenger carrying and all-cargo operations. NATA's figure is large because they include as examples Learjets, Cessna Citations, and Beechcraft (with a nose or tail baggage area outside the pressure vessel) in their comment.

Our original analysis considered factors related to all three regulatory parts of the proposal—parts 25, 121, and 135. In subsequent analysis on only part 135 factors, we determined that the cost of installation of detection and suppression equipment is not insignificant. There is no record of incident to support the need for the part 135 proposal. Based on the existing safety record and the cost/benefit analysis revised in the light of these comments, the FAA has concluded the cost of requiring part 135 operators to comply with new cargo compartment

standards would not result in an increase in safety that would justify the cost. Therefore, the proposed amendment to part 135 would be of substantial cost, and based on the history, would be of marginal benefit.

Compartment Location

One commenter proposes that Class D compartments should be allowed in specific areas of the airplane. He believes that they should be permitted to be located outside of the cabin pressure vessel. Such a measure, along with the installation of a fire detection system, would help avoid the spreading of fires, according to the commenter. Such compartments would be relatively small, have carefully controlled ventilation, and be located outside the cabin pressure vessel.

FAA Response: In regards to future certification of transport category airplanes with Class D compartments, the FAA does not agree that such compartments would provide an acceptable level of safety. Such compartments would still be inaccessible in flight, and lacking in fire suppression capability; and therefore, with only detection capability, Class D compartments would not be as safe as other compartments.

Conclusion

Based on the existing safety record and the cost/benefit analysis revised in the light of these comments, the FAA has concluded the cost of requiring part 135 operators to comply with new cargo compartment standards would not result in an increase in safety that would justify the cost. The FAA has determined that no further rulemaking action is appropriate, and is not adopting the amendment to part 135 proposed in Notice No. 97–10. Therefore, the FAA withdraws the amendment to part 135 proposed in Notice No. 97–10 published June 13, 1997 at 62 FR 32412. The amendments to 14 CFR parts 25 and 121 remain in effect as adopted in the final rule.

Issued in Washington, DC on August 30, 2002.

Luis C. Cusimano,

Acting Director, Flight Standards Service.

[FR Doc. 02–22943 Filed 9–9–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[REG–134026–02]

RIN 1545–BA89

Designated IRS Officer or Employee Under Section 7602(a)(2) of the Internal Revenue Code

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross reference to temporary regulations.

SUMMARY: In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations that modify the existing regulations promulgated under section 7602(a) of the Internal Revenue Code relating to administrative summonses. The temporary regulations confirm that officers and employees of the Office of Chief Counsel may be included as persons designated to receive summoned books, papers, records, or other data and to take summoned testimony under oath. The text of the temporary regulations also serves as the text of these proposed regulations.

DATES: Written comments and requests for a public hearing must be received by December 9, 2002.

ADDRESSES: Send submissions to: CC:ITA:RU (REG–134026–02), Room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Alternatively, submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to: CC:ITA:RU (REG–134026–02), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC. Comments may also be submitted electronically to the IRS Internet site at *www.irs.gov/regs.*

FOR FURTHER INFORMATION CONTACT: Elizabeth Rawlins at 202–622–3630 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Explanation of Provisions

The temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend the Procedure and Administration Regulations (26 CFR part 301) under section 7602 of the Internal Revenue Code of 1986 (Code). The text of the temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains these proposed regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. In addition, because this notice of proposed rulemaking does not impose a collection of information obligation on small entities, it is not subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6). Pursuant to section 7805(f) of the Code, the temporary regulation will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (preferably a signed original and eight (8) copies) that are submitted timely to the IRS or electronically generated comments that are submitted timely to the IRS. The IRS generally requests any comments on the clarity of the proposed rule and how it may be made easier to understand. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by a person who timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

Drafting Information

The principal author of this regulation is Elizabeth Rawlins of the Office of the Associate Chief Counsel (Procedure and Administration), Collection, Bankruptcy and Summonses Division.

List of Subjects in 26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 301 is amended as follows:

PART 301—PROCEDURE AND ADMINISTRATION

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

Authority: 26 U.S.C. 7805 * * *

2. Section 301.7602–1 is revised to read as follows:

§ 301.7602–1 Examination of books and witnesses.

[The text of this proposed section is the same as the text of § 301.7602–1T published elsewhere in this issue of the **Federal Register**.]

David A. Mader,

Acting Deputy Commissioner of Internal Revenue.

[FR Doc. 02–22926 Filed 9–9–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01–02–100]

RIN 2115–AE47

Drawbridge Operation Regulations; Connecticut River, CT

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to temporarily change the drawbridge operating regulations governing the operation of the Route 82 Bridge, at mile 16.8, across the Connecticut River at East Haddam, Connecticut. This temporary rule will allow the bridge to operate on a fixed opening schedule for recreational vessels and a notice schedule for commercial vessels, from 6 a.m. on October 15, 2002 through 6 p.m. on April 30, 2004. This action is necessary to facilitate major rehabilitation of the bridge.

DATES: Comments must reach the Coast Guard on or before October 10, 2002.

ADDRESSES: You may mail comments to Commander (obr), First Coast Guard District Bridge Branch, at 408 Atlantic Avenue, Boston, MA 02110–3350, or deliver them to the same address between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (617) 223–8364. The First Coast Guard District Bridge Branch, maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the First Coast Guard District, Bridge Branch, 7 a.m. to 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Joseph Schmied, Project Officer, First Coast Guard District, (212) 668–7165.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard has determined that good cause exists under the Administrative Procedure Act (5 U.S.C. 553) for a shortened comment period of thirty days instead of a sixty-day comment period and for making this rule effective in less than thirty days after publication in the **Federal Register**.

The Coast Guard believes that any delay encountered in this regulation's effective date would be unnecessary and contrary to the public interest because the repairs scheduled to be performed under this temporary rule were originally scheduled to be performed in 2001, but were cancelled due to a funding shortage. Subsequent to that, the bridge has continued to deteriorate, making it necessary to perform these repairs to the bridge with all due speed to ensure the safe, reliable, and continued operation of the bridge.

The Coast Guard and the bridge owner coordinated this temporary operating schedule with the mariners that normally transit this bridge. No objections were received. A similar operating schedule was established several years ago to facilitate bridge repairs at the Route 82 Bridge with satisfactory results.

The Coast Guard believes the shortened comment period is reasonable as a result of all the above stated reasons.

Request for Comments

We encourage you to participate in this rulemaking by submitting comments or related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD01–02–100), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know if they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to the First Coast Guard District, Bridge Branch, at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The Route 82 Bridge has a vertical clearance of 22 feet at mean high water, and 25 feet at mean low water in the closed position. The existing drawbridge operating regulations are listed at 33 CFR 117.205(c), and require the bridge to open on signal at all times; except that, from May 15 to October 31, 9 a.m. to 9 p.m., the bridge shall open for recreational vessels on the hour and half hour only and for commercial vessels on signal.

The Route 82 Bridge was scheduled for major repairs in the summer of 2001, but due to a funding short fall the work was delayed. Subsequent to that, the bridge has continued to deteriorate. Funding has now been made available and the necessary repairs should be performed with due speed to ensure safe, reliable, and continued operation of the bridge.

The bridge owner, Connecticut Department of Transportation, has requested a temporary rule to allow the bridge to open for recreational and commercial vessels at specific times; however, commercial vessels may obtain unscheduled openings at any time provided they give a twenty-four hour notice with a two-hour confirmation to the bridge tender.

The bridge owner has also requested one seven day bridge closure, two eight-hour closures and one twenty-four hour bridge closure required to facilitate the bridge repairs. The exact dates for the above closures are not known at this time and will be determined as construction progresses. The Coast Guard plans to publish additional rulemaking once the exact times and dates of the above closures are known.

Discussion of Proposed Rule

The proposed operating schedule that would be in effect at the Route 82 Bridge from 6 a.m. on October 15, 2002 through 6 p.m. on April 30, 2004, is as follows:

From November 1 through July 6, the draw would open on signal at 5:30 a.m., 1:30 p.m., and 8 p.m., daily.

From July 7 through October 31, the draw would open on signal Monday through Thursday at 6:30 a.m., 1:30 p.m., and 8 p.m., with one additional opening on Friday at 11:30 p.m.; three additional openings on Saturday at 9:30 a.m., 4 p.m., and 11:30 p.m.; and two

additional openings on Sunday at 9:30 a.m. and 4 p.m.

The draw shall open on signal at any time for commercial vessels provided a twenty-four hour notice with a two-hour confirmation is given.

The Coast Guard and the bridge owner have successfully coordinated the above temporary operating schedule with the mariners. The Coast Guard believes this temporary rule is reasonable as a result of the above information.

Regulatory Evaluation

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

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation, under paragraph 10e of the regulatory policies and procedures of DOT, is unnecessary. This conclusion is based on the fact that vessels that require the bridge to open will not be prevented from transiting the bridge but will simply be required to plan their transits according to the temporary operating schedule. Vessels that can pass under the bridge without a bridge opening may do so at all times.

Small Entities

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

The Coast Guard certifies under section 5 U.S.C. 605(b), that this proposed rule would not have a significant economic impact on a substantial number of small entities. This conclusion is based upon the fact that vessels that require bridge openings will not be prevented from transiting the bridge but will simply be required to plan their transits according to the temporary operating schedule. Vessels that can pass under the bridge without a bridge opening may do so at all times.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (*see* **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

To help the Coast Guard establish regular and meaningful consultation and collaboration with Indian and Alaskan Native tribes, we published a notice in the **Federal Register** (66 FR 36361, July 11, 2001) requesting comments on how to best carry out the Order. We invite your comments on how this proposed rule might impact tribal governments, even if that impact may not constitute a ''tribal implication'' under the Order.

Energy Effects

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

Environment

We considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph (32)(e), of Commandant Instruction M16475.1d, this proposed rule is categorically excluded from further environmental documentation because promulgation of drawbridge regulations have been found not to have a significant effect on the environment. A written ''Categorical Exclusion Determination'' is not required for this rule.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

2. From October 15, 2002, through April 30, 2004, § 117.205 is temporarily amended by suspending paragraph (c) and adding a new paragraph (d) to read as follows:

§ 117.205 Connecticut River.

* * * * *

(d) The draw of the Route 82 Bridge, mile 16.8, shall operate as follows:

(1) From November 1 through July 6, the draw shall open on signal at 5:30 a.m., 1:30 p.m., and 8 p.m., daily.

(2) From July 7 through October 31 Monday through Thursday, the draw shall open on signal at 6:30 a.m., 1:30 p.m., and 8 p.m., with one additional opening on Friday at 11:30 p.m., three additional openings on Saturday at 9:30 a.m., 4 p.m., and 11:30 p.m., and two additional openings on Sunday at 9:30 a.m., and 4 p.m.

(3) The draw shall open on signal for commercial vessels at all times provided a twenty-four hour advance notice with a two-hour confirmation is given.

Dated: August 29, 2002.

J.L. Grenier,

Captain, Coast Guard, Acting Commander, First Coast Guard District.

[FR Doc. 02–22947 Filed 9–9–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

Change in Public Meeting Dates of the Negotiated Rulemaking Advisory Committee for Off-Road Driving Regulations at Fire Island National Seashore

AGENCY: National Park Service, Interior.

ACTION: Notice of change in meeting dates.

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770, 5 U.S.C. App1, Section 10), of meetings of the Negotiated Rulemaking Advisory Committee for Off-Road Driving Regulations at Fire Island National Seashore (36 CFR 7.20).

DATES: The Committee meeting scheduled for September 13–14, 2002, published in the **Federal Register** on May 6, 2002 (67 FR 30338), is cancelled and rescheduled for November 2002. Place, date, time and agenda will be announced in the **Federal Register** no less than 15 days prior to the meeting.

FOR FURTHER INFORMATION CONTACT: Barry Sullivan, Acting Superintendent, Fire Island National Seashore, 120 Laurel Street, Patchogue, NY 11772. Telephone (631) 289–4810, extension 221.

SUPPLEMENTARY INFORMATION: Due to unintentional mis-routing of this notice during a National Park Service move, the notice could not be published at least 15 days prior to the meeting dates. The National Park Service regrets this error, but is compelled to cancel the meetings since attempting to reconvene the meetings would cause undue hardship and scheduling conflicts for committee members. Since the cancellation has received prior widespread publicity in area news media and among the parties most affected, the National Park Service believes that the public interest will not be adversely affected by the less-than-15-days advance notice in the **Federal Register**.

The Committee was established pursuant to the Negotiated Rulemaking Act of 1990 (5 U.S.C. 561–570). The purpose of the Committee is to advise the National Park Service with regard to proposed rulemaking governing off-road vehicle use at Fire Island National Seashore. Notice of intent to establish this committee was published in 65 FR 70674, November 27, 2000.

Dated: September 5, 2002.

P. Daniel Smith,

Special Assistant to the Director, National Park Service.

[FR Doc. 02–23008 Filed 9–9–02; 8:45 am]

BILLING CODE 4310–70–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[UT–001–0047; FRL–7373–5]

Approval and Promulgation of Air Quality Implementation Plans; State of Utah; Utah County PM_{10} State Implementation Plan Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On July 3, 2002, the Governor of Utah submitted a State Implementation Plan (SIP) revision for the Utah County nonattainment area for particulates of 10 microns in size or smaller (PM_{10}). The Utah Department of Air Quality's (UDAQ) submittal, among other things, revises the existing attainment demonstration in the approved PM_{10} SIP based on a short-term emissions inventory, establishes 24-hour emission limits for the major stationary sources in the Utah County PM_{10} nonattainment area and establishes motor vehicle emission budgets based on EPA's most recent mobile source emissions model, Mobile6. In this action, EPA is proposing approval and soliciting public comment on the SIP revision. This action is being taken under sections 107, 110, and 189 of the Clean Air Act (Act).

DATES: Written comments must be received on or before October 10, 2002.

ADDRESSES: Written comments may be mailed to Richard R. Long, Director, Air and Radiation Program, Mailcode 8P-AR, Environmental Protection Agency (EPA), Region VIII, 999 18th Street, Suite 300, Denver, Colorado, 80202–2466. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air and Radiation Program, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado, 80202–2466. Copies of the State documents relevant to this action are available for public inspection at the Utah Department of Environmental Quality, Division of Air Quality, 150 North 1950 West, Salt Lake City, Utah 84114–4820.

FOR FURTHER INFORMATION CONTACT: Libby Faulk, EPA, Region VIII, (303) 312–6083.

SUPPLEMENTARY INFORMATION: Throughout this document, wherever ''we'', ''us'', or ''our'' are used, we mean the Environmental Protection Agency (EPA).

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I. EPA's Proposed Action

A. What Action Is EPA Proposing To Take?

We are proposing to approve the Governor of Utah's submittal of July 3, 2002, that requests our approval of the Utah County PM_{10} SIP revision that Utah adopted on June 5, 2002 and July 3, 2002.[1] With the SIP revision, Utah has revised Section IX (Section 9 under our current approved version of the Utah SIP), ''Control Measures for Area and Point Sources,'' Part A, ''Fine Particulate Matter'' and Part H, ''Emission Limits.'' In addition, Utah revised its regulation R307–110–10 (R307–2–10 under our current approved version of the Utah SIP) to incorporate by reference its July 3, 2002 revision of the Utah County portion of the Utah SIP, Section IX, Part A. In addition, Utah revised its regulation R307–110–117 (R307–2–17 under our current approved version of the Utah SIP) to incorporate by reference its June 5, 2002 revision of the Utah County portion of the Utah SIP, Section IX, Part H. We are soliciting public comment on all aspects of this proposed SIP rulemaking action. Any comments received by the deadline stated in the **DATES** section of this document will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the **ADDRESSES** section of this document.

II. Summary of SIP Revision

A. Did Utah Follow the Proper Procedures for Adopting This Action?

Section 110(k) of the CAA addresses our actions on submissions of revisions to a SIP. The Act also requires States to observe certain procedural requirements in developing implementation plans and plan revisions for submission. Section 110(a)(2) of the Act provides that each implementation plan submitted by a State must be adopted after reasonable notice and public hearing. Section 110(l) of the Act similarly provides that each revision to an implementation plan submitted by a State under the Act must be adopted by such State after reasonable notice and public hearing.

We also must determine whether a submittal is complete and therefore warrants further review and action [see section 110(k)(1) and 57 FR 13565, April 16, 1992]. Our completeness criteria for SIP submittals are set out at 40 CFR part 51, appendix V. We attempt to make completeness determinations within 60 days of receiving a submission. However, a submittal is deemed complete by operation of law under section 110(k)(1)(B) if a completeness determination is not made within six months after receipt of the submission.

On March 13, 2002 the Utah Air Quality Board agreed to propose the Utah County PM_{10} SIP revision for public comment. Copies of the proposed changes were made available to the public and the Air Quality Board held public hearings on April 23, 2002 and April 24, 2002 to consider public comment on the above SIP revision. Utah addressed comments received before the final adoption of the revision. The Utah County SIP revision was subsequently adopted by the Utah Air Quality Board on June 5 and July 3, 2002. The revision was formally submitted to us for approval with a Governor's letter dated July 3, 2002. Utah's SIP revision will be state-effective on September 1, 2002. We reviewed these SIP materials for conformance with the completeness criteria in 40 CFR part 51, appendix V and determined that Utah's submittal was administratively and technically complete for purposes of parallel processing. Pursuant to section 110(k)(1)(B), we informed Utah of our completeness determination with a August 15, 2002 letter from Robert E. Roberts, Regional Administrator to Governor Michael Levitt.

B. What Changes to the SIP Is EPA Proposing To Approve?

1. Transportation Conformity Requirements

This SIP revision establishes motor vehicle emission budgets and includes an analysis of those budgets. Under EPA's regulations at 40 CFR part 93, the Metropolitan Planning Organization (MPO) is required to determine conformity of transportation plans and projects to the motor vehicle emission budgets as approved in the PM_{10} SIP. The MPO in Utah County is the Mountainland Association of Governments (MAG).

Utah County has been in a conformity lapse since August 2000 because transportation plans for the area could not meet the PM_{10} and NO_X motor vehicle emission budgets that were derived from the emissions inventory in the approved PM_{10} SIP.[2] Utah County could not meet the established motor vehicle emission budgets because the budgets were based on an outdated mobile source emissions model (Mobile 4)[3] and the area exceeded its growth projections.

This SIP revision establishes new motor vehicle emission budgets for PM_{10} and NO_X which are based on the latest planning assumptions, including the latest growth projections, and the latest emissions model (Mobile 6), released on January 29, 2002 (67 FR 4254). The new motor vehicle emission budgets are established for years 2003, 2010, and 2020 and take into account growth in all other source categories. Please refer to Table 1: Transportation Conformity Motor Vehicle Emission Budgets.

TABLE I.—TRANSPORTATION CONFORMITY MOTOR VEHICLE EMISSION BUDGETS

Year	Primary PM (tons/day)	NO_X (tons/day)
2003	6.57	20.35
2010	7.74	12.75
2020	10.34	5.12

The values for 2003 reflect the inventory values for motor vehicles that were used in the CMB modeling. The CMB modeling, based on these inventory values, and inventory values for other source categories, demonstrates attainment in 2003. For 2010 and 2020, inventory values for all source categories were projected forward. The 2010 and 2020 motor vehicle emissions budgets reflect the motor vehicle inventory values in 2010 and 2020, except that ''road dust'' and ''brake wear'' portions of the 2020 motor vehicle inventory for PM_{10} were expanded by 7 percent to take advantage of part of the available safety margin in that year. Per 40 CFR 93.101, the safety margin is the amount by which the total projected emissions from all sources of a given pollutant are less than the total emissions that would satisfy the applicable requirement for reasonable further progress, attainment or maintenance. The applicable standard for PM_{10} is 150 μg/m;[3] even using the expanded 2020 motor vehicle emissions budget for PM_{10} reflected in the table above, the CMB projections for 2020

[1] Although Utah adopted the SIP revision on June 5 and July 3, 2002, the revision will not be State-effective until September 1, 2002. We will not take final action on the SIP revision until after it has become effective. Because the Governor submitted the SIP revision to us for approval before its effective date, our proposal may be viewed as a limited use of our parallel processing procedures under 40 CFR part 51, appendix V.

[2] EPA approved the PM_{10} SIP on July 8, 1994 (59 FR 35036).

[3] Sections 40 CFR 93.110 and 93.111 require areas to use the latest planning assumptions and the latest emissions model for conformity determinations.

show a maximum concentration of 146.4 μg/m³, still below the 150 μg/m³ standard.

If we approve them, the emissions budgets must be used for conformity determinations per 40 CFR 93.118. Specifically, the 2003 budgets will apply for years 2003 through 2009, the 2010 budgets will apply for years 2010 through 2019, and the 2020 budgets will apply for years 2020 and beyond. In addition, after our final approval of the motor vehicle emission budgets and upon the Federal Highway Administration's approval of a positive conformity determination, the present conformity lapse in Utah County will end.

On March 2, 1999, the United States Court of Appeals for the District of Columbia Circuit issued a decision in *Environmental Defense Fund* vs. *the Environmental Protection Agency,* No. 97–1637, that we must make an affirmative determination that the submitted motor vehicle emission budgets contained in SIPs are adequate before they are used to determine the conformity of Transportation Improvement Programs or Long Range Transportation Plans. In response to the court decision, we are making most submitted SIP revisions containing a control strategy plan available for public comment and responding to these comments before announcing our adequacy determination. (We do not perform adequacy determinations for SIP revisions that only create new emission budgets for years in which an EPA-approved SIP already establishes a budget, because these new budgets cannot be used for conformity until they are approved by EPA.) We make the motor vehicle emission budgets in SIP revisions available for comment by posting notification of their availability on our Web site (currently, these notifications are posted at *www.epa.gov/oms/transp/conform/adequacy.htm).* The adequacy process is discussed in greater detail in a May 14, 1999 memorandum from Gay MacGregor entitled ''Conformity Guidance on Implementation of March 2, 1999 Conformity Court Decision,'' also available on our Web site at: http://*www.epa.gov/oms/transp/traqconf.htm.*

Because they extend beyond the time-frame of the previously approved Utah County PM_{10} SIP, we are reviewing the 2010 and 2020 motor vehicle emission budgets in this plan for adequacy using the criteria located at 40 CFR 93.118(e). The 2003 motor vehicle emission budgets would replace the previously approved 2003 budgets in the Utah County PM_{10} SIP revision and can't be used for purposes of demonstrating conformity unless and until we finally approve the Utah County PM_{10} SIP revision. The 2010 and 2020 motor vehicle emission budgets have been posted to our Web site at: *http://www.epa.gov/oms/transp/conform/adequacy.htm* and are available for public comment. If and when the 2010 and 2020 motor vehicle emission budgets are found to be adequate, the Utah Department of Transportation and the Federal Highway Administration must use these budgets in future conformity analyses, even if we do not publish a final rule approving the Utah County PM_{10} SIP revision.

2. Updated Emissions Inventory and Attainment Demonstration

The emissions inventory for the Utah County PM_{10} nonattainment area covers emissions from all sources of both primary and secondary PM_{10} inside Provo and Orem. The SIP revision uses a 1988 and 1989 base year emissions inventory, as well as a 2003 projected emissions inventory for all sources in the inventory domain. The 1988/89 base year inventory was updated for purposes of this SIP revision to create a 24-hour inventory in order to be protective of the 24-hour PM_{10} National Ambient Air Quality Standards (NAAQS). The 1994 approved version of the PM_{10} SIP includes an emissions inventory based on monthly and annual PM_{10} values. The 2003 projected emissions inventory, which also contains 24-hour values, has been updated to reflect stationary source shut-downs and other changes affecting PM_{10}, NO_X, and SO_2 emissions that have occurred since the development of the original PM_{10} SIP. The mobile source portion of both the base year and projected inventories were updated to include the use of the new Mobile6 emissions model.

Utah updated the existing attainment demonstration from the original PM_{10} SIP to again create an analysis based on 24-hour averages instead of annual values. Utah used the existing chemical mass balance (CMB) methodology for the 24-hour attainment demonstration. The CMB analysis was also updated to account for changes that have occurred since the development of the original PM_{10} SIP. One such change to the attainment demonstration is that Utah increased the wood burning control strategy effectiveness to 90%, meaning that additional reductions in woodburning emissions are calculated into the attainment demonstration. In addition, since the development of the original PM_{10} SIP, some sources in the Utah County nonattainment area have banked emissions. Although these emissions are banked, the potential exists for the purchase and use of part or all of such banked emissions. Because of this, Utah has accounted for these banked emissions in the attainment demonstration by assessing the emissions to the source from which they came.

Utah's revised attainment demonstration for Utah County projects attainment for 2002 and 2003 for SIP purposes, and for 2010 and 2020 for conformity purposes only. In this revised SIP, the CMB analysis is based on 1988 and 1989 recorded monitoring data, which is the same data used in the original SIP. Table II below shows the results of the CMB analysis on the projected attainment years using only the highest concentration site for each year. Please refer to the Utah County SIP revision and technical support document (TSD) for more detailed information. Utah used three monitoring sites to demonstrate attainment on numerous high concentration days, although a demonstration of attainment is only required for the design day. In the table below, we only present results from the established design day (this is the same design day as in the original SIP revision).

TABLE II.—UTAH COUNTY PM_{10} CMB ANALYSIS RESULTS IN μG/M³ AT HIGHEST CONCENTRATION MONITOR

Sources	2002 (Lindon)	2003 (Lindon)	2010 (North Provo)	2020 (North Provo)
Geneva Steel	51.5	51.5	38.7	38.7
Point Sources [4]	23.5	23.5	18.5	18.5
Mobile Sources	46.5	45.8	56.1	55.4
Area Sources	17.4	17.7	16.8	19.1

TABLE II.—UTAH COUNTY PM_{10} CMB ANALYSIS RESULTS IN μG/M³ AT HIGHEST CONCENTRATION MONITOR—Continued

Sources	2002 (Lindon)	2003 (Lindon)	2010 (North Provo)	2020 (North Provo)
Total Concentration	138.9	138.4	130.0	131.7

[4] All point sources in Provo and Orem, excluding Geneva Steel. Includes secondary sulfates and nitrates.

In the original SIP as well as in this SIP revision, Utah uses three monitoring sites to demonstrate attainment: Lindon, North Provo and West Orem. The West Orem monitoring site has been shut down since December 31, 1997.

3. Establishment of Enforceable Short-Term Emission Limits for Major Stationary Sources

The original Utah County PM_{10} SIP includes the entire permit (circa 1988–1991) for most of the stationary sources in Provo and Orem. We only require that the major stationary sources of PM_{10} and its precursors have specific limits in SIPs. For these majors sources, it is important to include their appropriate emission limits and the enforceable provisions for those limits, but it's usually not essential to include their entire permit. Because Utah County is designated nonattainment for the 24-hour PM_{10} NAAQS, the SIP limits must include short-term limits with an averaging time of 24 hours or less. To determine which sources should be treated as major sources for purposes of the PM_{10} SIP, threshold limits were chosen of 100 tons per year of primary PM_{10} emissions, 200 tons per year of NO_X emissions, and 250 tons per year of SO_2 emissions. UDAQ's and EPA's analysis of the sources in Provo and Orem showed that sources above these levels account for a high percentage of stationary source emissions in the area. The five sources with explicit emission limits in the Utah County PM_{10} SIP revision are, Geneva Steel, Geneva Nitrogen, Inc., Provo City Power, Springville City Corporation and Geneva Rock Product's Asphalt Plant Baghouse Stack. Table III below shows the emission limits established through this SIP revision for the major sources, except Geneva Steel.

TABLE III.—EMISSION LIMITS FOR STATIONARY SOURCES IN TONS/DAY

Sources	Primary PM_{10}	NO_X	SO_2
Geneva Nitrogen, Inc.—Montecantini Acid Plant Vent		0.389	
Geneva Nitrogen, Inc.—Weatherly Acid Plant Vent		0.233	
Geneva Nitrogen, Inc.—Prill Tower	0.24		
Geneva Rock Products Asphalt Plant Baghouse Stack	0.103	0.568	0.484
Provo City Power		2.45	
Springville City Corporation		1.68	

Table IV below provides the proposed 24-hour emission limits for the major emitting units at Geneva Steel for September through May, and Table V below provides the proposed 24-hour emission limits for the major emitting units at Geneva Steel for June through August. Table VI below provides the proposed annual emission limits for Geneva Steel's major emitting units.

TABLE IV.—EMISSION LIMITS FOR GENEVA STEEL IN TONS/DAY (SEPTEMBER–MAY)

Geneva steel source	Primary PM_{10}	NO_X	SO_2
Coke Plant [5]	0.1		0.0
Sinter Plant [6]			
Blast Furnace	1.3		
Q–BOP	0.5		
Geneva Other [7]	1.2		
Secondary Sulfate			1.0
Secondary Nitrate		7.7	

[5] All NO_X emissions from coke plant ovens have been banked. Emissions of NO_X associated with continuing operations in the vicinity of the coke plant (coke pile handling) are accounted for in the secondary nitrate limit.
[6] All emissions of PM_{10}, SO_2, and NO_X from the sinter plant have been banked.
[7] The ''Geneva Other'' category includes the power house, rolling mill and fugitive emissions.

TABLE V.—EMISSION LIMITS FOR GENEVA STEEL IN TONS/DAY (JUNE–AUGUST)

Geneva steel source	Primary PM_{10}	NO_X	SO_2
Coke Plant [8]	0.1		0.0
Sinter Plant [9]			
Blast Furnace	1.3		
Q–BOP	0.5		
Geneva Other	1.4		
Secondary Sulfate			3.4

TABLE V.—EMISSION LIMITS FOR GENEVA STEEL IN TONS/DAY (JUNE–AUGUST)—Continued

Geneva steel source	Primary PM_{10}	NO_X	SO_2
Secondary Nitrate	.....	9.6	.....

[8] All NO_X emissions from coke plant ovens have been banked. Emissions of NO_X associated with continuing operations in the vicinity of the coke plant (coke pile handling) are accounted for in the secondary nitrate limit.
[9] All emissions of PM_{10}, SO_2, and NO_X from the sinter plant have been banked.

TABLE VI.—ANNUAL EMISSION LIMITS FOR GENEVA STEEL IN TONS/YEAR

Geneva steel source	Primary PM_{10}	NO_X	SO_2
Coke Plant [8]	29.6	.....	0.0
Sinter Plant [9]	.....	.....	.....
Blast Furnace	454.4	.....	.....
Q–BOP	178.2	.....	.....
Geneva Other	448.1	.....	.....
Secondary Sulfate	.....	.....	560.2
Secondary Nitrate	.....	2971.8	.....

[8] All NO_X emissions from coke plant ovens have been banked. Emissions of NO_X associated with continuing operations in the vicinity of the coke plant (coke pile handling) are accounted for in the secondary nitrate limit.
[9] All emissions of PM_{10}, SO_2, and NO_X from the sinter plant have been banked.

It is important to note here that Geneva Steel is in the process of banking a significant amount of its emissions from the coke plant, sinter plant, Q–BOP, and sources in the ''Geneva Other'' category. This is due to the shutting down or reduction in emissions for the coke plant (some fugitive emissions remain from the coke piles), sinter plant, foundry and rolling mill scarfer facility. Emissions reductions are also due to fuel switching. Table VII below shows the banked emissions per process in tons per year of PM_{10}, NO_X, and SO_2. Where Tables IV, V and VI reflect that all process emissions have been banked, no emissions from such process will occur under the SIP revision.

TABLE VII.—BANKED EMISSIONS FOR GENEVA STEEL IN TONS/YEAR

Geneva steel source	Primary PM_{10}	NO_X	SO_2
Coke Plant	461.8	557.2	454.9
Sinter Plant	101.0	705.2	434.2
Q–BOP	27.2	.....	.....
Geneva Other	51.0	.....	.....
Total	641	1262.4	889.1

4. Director's Discretion Provisions

The EPA-approved PM_{10} SIPs for Utah County and Salt Lake County contain provisions that some would argue allow the Executive Secretary of the State of Utah to make changes effective to the SIP without first obtaining EPA approval. We believe these ''director's discretion'' provisions are contrary to the CAA and should not have been approved into the SIP.

At the very least, these provisions have led to uncertainty regarding the content of the federally enforceable SIP. In order to address these concerns, Utah has inserted the following language into the SIP: ''Notwithstanding any other provision in the Utah SIP, no change to this SIP revision shall be effective to change the federal enforceability of the emission limits or other requirements of the Utah County PM_{10} SIP without EPA approval of such change as a SIP revision.'' This language makes clear that Utah may not unilaterally change the limits and requirements of the federally enforceable SIP, and that Utah's changes to elements of the SIP will not be federally effective without EPA's approval. As explained further below, Utah has also committed to work with us in order to permanently resolve the director's discretion issues in the Salt Lake County and Utah County PM_{10} SIPs.

III. UDAQ's Commitment for Future SIP Revisions

With an April 18, 2002 letter from Richard Sprott, Director of Utah's Division of Air Quality to Richard Long, Director of the Air and Radiation Program in EPA Region 8, UDAQ committed to work with us to address remaining issues with the PM_{10} SIPs for both the Utah and Salt Lake County nonattainment areas and with the Utah SIP generally. Utah will address these ongoing issues in a SIP revision (which may be in the form of a maintenance plan) that will be submitted by March 1, 2004. Utah has committed to address the following issues with the existing SIP:

(1) State authority as it relates to the discretion granted to the Executive Secretary of the Utah Air Quality Board (EPA uses the term ''director's discretion'' for these provisions);

(2) Variance provisions as provided in Utah law, Air Quality regulations and the SIP;

(3) UAM–AERO based modeling and analysis to address pollutants of concern in the SIP or maintenance plan;

(4) Stationary source modeling for major sources and appropriate non-major sources to determine predicted impacts of emission limits established in the SIP or maintenance plan;

(5) Enforceable emission limits for sources in the SIP or maintenance plan, including enforceable 24-hour emission limits for major sources in both Salt Lake and Utah Counties and emission

limits (or surrogates for emission limits) for refinery process flaring and SRU maintenance downtime;

(6) Emissions inventory and modeling analysis for the nonattainment areas in Salt Lake and Utah Counties;

(7) New source review, emissions banking, and interpollutant trading (EPA's issues with these programs were explained in a May 10, 2001 letter from Region 8 to UDAQ);

(8) Unavoidable breakdown rules and consistency with the EPA September 20, 1999 policy regarding such breakdowns;

(9) Inclusion of annual growth rates in the SIP or maintenance plans;

(10) Justification for credits and growth rates for wood and coal burning in Utah County;

(11) Backhalf emissions measuring for PM_{10} emissions limit stack testing;

(12) General language clean up in the PM_{10} SIP to assure SIP is consistent and reads appropriately;

(13) Diesel I/M revision or program withdrawal;

(14) Emission budgets for PM_{10} and NO_X in Salt Lake portion of PM_{10} SIP;

(15) Emission inventory and modeling analysis for automobile emission inspection and maintenance program changes, if any such changes are made in the SIP or maintenance plan.

The above issues aren't addressed in this SIP revision for Utah County and therefore, these issues will continue after our potential final approval of this SIP revision.

IV. Background

On July 18, 1997, we promulgated new NAAQS for PM_{10} and $PM_{2.5}$. However, on May 18, 1999, the United States Court of Appeals for the *D.C. Circuit in American Trucking Associations, Inc. et al.,* v. *United States Environmental Protection Agency* vacated the 1997 PM_{10} standard. Because of the Court ruling, we are continuing to implement the pre-existing PM_{10} standard, and are therefore taking actions on SIP revisions for PM_{10} nonattainment areas.

The original Utah County and Salt Lake County nonattainment area PM_{10} SIPs were approved on July 8, 1994 (59 FR 35036).

IV. Administrative Requirements

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

This proposed rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as 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 proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the 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 proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: August 27, 2002.

Jack W. McGraw,

Acting Regional Administrator, Region VIII.

[FR Doc. 02–22986 Filed 9–9–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 58 and 81

[LA–31–1–7189b; FRL–7374–2]

Modification of the Ozone Monitoring Season; Louisiana; and Designation of Areas for Air Quality Planning Purposes; Louisiana; Revised Geographical Designation of Certain Air Quality Control Regions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: We, the EPA, are proposing to take direct final action to approve a request from the State of Louisiana to revise the geographical boundaries of the three Air Quality Control Regions (AQCRs) in the State of Louisiana, which are the Southern Louisiana-Southeast Texas AQCR, the Shreveport-Texarkana-Tyler AQCR, and the Monroe-El Dorado AQCR. The EPA is also taking direct final action to shorten the ozone season for the Monroe-El Dorado and Shreveport-Texarkana-Tyler AQCRs, from year-round, to March 1 through October 31.

In the ''Rules and Regulations'' section of this **Federal Register**, we are approving the State's request as a direct final rule without prior proposal because we view this as a noncontroversial revision and anticipate no adverse comment. We have explained our reasons for this approval in the preamble to the direct final rule. If we receive no relevant adverse comment, we will not take further action on this proposed rule. If we receive relevant adverse comment, we will withdraw the direct final rule and it will not take effect. We will address all public comments in a subsequent final rule based on this proposed rule. We will not institute a second comment period on this action. Any parties

interested in commenting must do so at this time.

DATES: Written comments must be received by October 10, 2002.

ADDRESSES: Written comments should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section (6PD–L), at the EPA Region 6 Office listed below. Copies of documents relevant to this action are available for public inspection during normal business hours at the following locations. Anyone wanting to examine these documents should make an appointment with the appropriate office at least 24 hours in advance.

Environmental Protection Agency, Region 6, Air Planning Section (6PD–L), 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

Louisiana Department of Environmental Quality, Air Quality Division, H. B. Garlock Building, 7290 Bluebonnet Blvd., Baton Rouge, LA 70810.

FOR FURTHER INFORMATION CONTACT: Joe Kordzi of the EPA Region 6 Air Planning Section, at (214) 665–7186 and at the Region 6 address above.

SUPPLEMENTARY INFORMATION: This document concerns a modification to the geographical boundaries of the three AQCRs located in the State of Louisiana, and a revision to the ozone monitoring season for two of these AQCRs. For further information, please see the information provided in the direct final action that is located in the ''Rules and Regulations'' section of this **Federal Register** publication.

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

Dated: August 27, 2002.

Lawrence E. Starfield,

Acting Regional Administrator, Region 6.

[FR Doc. 02–22984 Filed 9–9–02; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register

Vol. 67, No. 175

Tuesday, September 10, 2002

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Announcement of the Technical Assistance for Specialty Crops Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice.

SUMMARY: Commodity Credit Corporation has published elsewhere in this issue an interim rule establishing a new ''Technical Assistance for Specialty Crops'' program to help open, retain, and expand markets for U.S. specialty crops.

DATES: Proposals will be accepted until 5 p.m. Eastern Daylight Time, September 18, 2002. Proposals will be reviewed, and funding decisions will be made, as proposals are received.

FOR FURTHER INFORMATION CONTACT: Marketing Operations Staff, Foreign Agricultural Service, Room 4932–S Stop 1042, U.S. Department of Agriculture, 1400 Independence Ave., SW., Washington, DC 20250–1042, or telephone: (202) 720–4327.

SUPPLEMENTARY INFORMATION: To be considered for participation in the TASC, interested parties should submit, via a commercial delivery service (including FedEx, DHL, etc.), proposals to: Director, Marketing Operations Staff, Foreign Agricultural Service, U.S. Department of Agriculture, Room 4932–S, Stop 1042, 14th and Independence Avenue, SW., Washington, DC 20250–1042. All proposals must be received by 5 p.m. Eastern Daylight Time, September 18, 2002. Although entities interested in participating in the TASC are not required to submit proposals in any specific format, all proposals must contain complete information about the proposed projects as described in the interim rule, published elsewhere in this issue, that establishes the program.

Dated: September 6, 2002.

W. Kirk Miller,

Administrator, Foreign Agricultural Service, and Vice President, Commodity Credit Corporation.

[FR Doc. 02–23057 Filed 9–6–02; 1:03 pm]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Cooperative State Research, Education, and Extension Service

Request for Applications (RFA): Innovative Programs for Addressing Common Community Problems

AGENCY: Cooperative State Research, Education, and Extension Service (CSREES), USDA.

ACTION: Notice of request for applications and request for input.

SUMMARY: The Cooperative State Research, Education, and Extension Service (CSREES) announces the availability of grant funds for a new activity, Innovative Programs for Addressing Common Community Problems (IPACCP). This notice requests applications for the IPACCP for fiscal year (FY) 2002 to support a grant to a non-governmental organization (NGO) to establish and operate a national information clearinghouse on innovative means for addressing common community problems. CSREES additionally requests stakeholder input from any interested party for use in the development of the next Request for Applications (RFA) for this program.

The amount available for the support of IPACCP activities in FY 2002 is $200,000.

This notice identifies the objectives of the IPACCP project, eligibility criteria for the project and applicants, and the application forms and associated instructions needed to apply for a IPACCP grant.

DATES: Applications must be received by close of business (COB) on September 20, 2002. Applications received after this deadline will not be considered for funding. Comments regarding this RFA are requested within six months from the issuance of this notice. Comments received after that date will be considered to the extent practicable.

ADDRESSES: The address for hand-delivered applications or applications submitted using express mail (U. S. Postal Service) or overnight courier service is: Innovative Programs for Addressing Common Community Problems; c/o Proposal Services Unit; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; Room 1420, Waterfront Centre; 800 9th Street, SW.; Washington, DC 20024; Telephone: (202) 401–5048.

Applicants are strongly encouraged to submit completed applications via overnight mail or delivery service to ensure timely receipt by USDA.

Written stakeholder comments should be submitted by mail to: Policy and Program Liaison Staff; Office of Extramural Programs; USDA–CSREES; STOP 2299; 1400 Independence Avenue, SW.; Washington, DC 20250–2299; or via e-mail to: *rfp-oep@reeusda.gov*. (This e-mail address is intended only for receiving comments regarding this RFA and not requesting information or forms.) In your comments state that you are responding to the Innovative Programs for Addressing Common Community Problems RFA.

FOR FURTHER INFORMATION CONTACT: Applicants and other interested parties are encouraged to contact Elizabeth Tuckermanty, Program Director, Innovative Programs for Addressing Common Community Problems; Cooperative State Research, Education, and Extension Service, USDA, 1400 Independence Avenue, SW., STOP 2241, Washington, DC 20250–2241; telephone: (202) 205–0241; fax: (202) 401–6488; email: *etuckermanty@reeusda.gov*.

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Stakeholder Input

CSREES is requesting comments regarding this RFA from any interested party. In your comments please include the name of the program and the fiscal year solicitation for applications to which you are responding. These comments will be considered in the development of any future RFA for the program. CSREES has determined that this program is not an agricultural research, extension, or education program for the purpose of section 103(c)(2) of the Agricultural Research, Extension, and Education Reform Act of 1998, 7 U.S.C. 7613(c)(2). Therefore, CSREES is not required by the statute to solicit stakeholder input regarding this RFA. CSREES, however, always welcomes constructive comments from interested parties regarding a RFA or particular program. Comments should be submitted as provided in the **ADDRESSES** and **DATES** portions of this Notice. The e-mail address in the addresses portion is intended only for receiving comments regarding this RFA and not for requesting information or forms.

Catalog of Federal Domestic Assistance

This program is listed in the Catalog of Federal Domestic Assistance under 10.225, Innovative Programs for Addressing Common Community Problems.

Part I—General Information

A. Legislative Authority and Background

Section 25 of the Food Stamp Act of 1977 (7 U.S.C. 2034), as amended by section 4125 of the Farm Security and Rural Investment Act of 2002 (Pub. L. 107–171), authorizes the provision of a competitive grant to one non-governmental organization (NGO) to coordinate with Federal agencies, States, political subdivisions, and other non-governmental organizations (collectively referred to in this notice as ''targeted entities'') to gather information on Innovative Programs for Addressing Common Community Problems, and recommend such programs to targeted entities.

B. Purpose, Priorities, and Fund Availability

1. Purpose and Priorities

The purpose of the Innovative Programs for Addressing Common Community Problems (IPACCP) is to provide Federal funds to support coordination with targeted entities to gather information, and recommend to targeted entities: innovative programs for addressing common community problems. Common community problems refer to the underlying causes of hunger and poverty, including the loss of farms and ranches, rural poverty, welfare dependency, hunger, the need for job training, and the need for self-sufficiency by individuals and communities.

The IPACCP grantee will: operate a national information clearinghouse on innovative means, including Community Food Projects, for addressing common community problems in the areas outlined above; provide information and guidance to other targeted entities on innovative programs that offer constructive, community-based or grassroots solutions to hunger, community food insecurity, and poverty; and contribute in-kind resources toward implementation of the grant.

2. Fund Availability

The amount of funds available in FY 2002 for support of a grant award under the IPACCP is $200,000.

C. Eligibility

Only non-governmental organizations (NGOs) are eligible to receive an IPACCP grant. Eligible NGOs must be:

(1) Experienced in working with targeted entities— Federal agencies, States, political subdivisions, and other non-governmental organizations—and in organizing workshops that demonstrate programs to targeted entities;

(2) Experienced in identifying programs that effectively address community problems, including loss of farms and ranches, rural poverty, welfare dependency, hunger, the need for job training, and the need for self-sufficiency by individuals and communities, that can be implemented by other targeted entities;

(3) Experienced in, and capable of receiving information from and communicating with targeted entities throughout the United States; and

(4) Experienced in operating a national information clearinghouse that addresses one or more of the community problems described in paragraph (2) above.

D. Matching Requirements

The legislation establishing the IPACCP requires that as a condition to receiving a grant from CSREES, the NGO must ''contribute in-kind resources toward the implementation of the grant.'' To comply with this provision, CSREES has determined that applicants must provide at least 25 percent of total project resources on an in-kind basis during the term of the grant award. The Federal share of IPACCP costs can be no more than 75 percent of total project costs.

IPACCP grantees may provide matching resources through in-kind contributions from their own organization or from third-party in-kind contributions, fairly evaluated, including facilities. The non-Federal share of the resources may come from State government, local government, other non-profit entities, or private sources. Examples of qualifying matching contributions may include direct costs such as: rent for office space used exclusively for the funded project; duplication or postage costs; and staff time from an entity other than the applicant for IPACCP activities.

E. Funding Restrictions

Applicants should ensure their proposed work fully justifies the $200,000 that is available.

The award will be made based on the merit of the proposed project with budgets considered only after the merits of the project have been determined. USDA reserves the right to negotiate final budgets with the successful applicant. The grantee shall perform a substantive portion of the project. No more than one-half of an IPACCP award, as determined by budget expenditures, may be subawarded or subcontracted to other organizations. For additional knowledge or expertise that is not available within the applicant organization, funds for expert consultation may be included in the ''All Other Direct Costs'' section of the proposed budget.

F. Types of Applications

In FY 2002, applications should be submitted to the IPACCP as a New Application. This is a project application that has not been previously submitted to the Program. All New Applications will be reviewed

competitively using the selection process and evaluation criteria described in Part IV—Review Process.

Part II—Program Description

A. Project Types

In FY 2002 $200,000 is available for a single, standard grant to establish and operate a national information clearinghouse for innovative approaches to common community problems and to provide information and guidance to other targeted entities on innovative programs. Applicants may request funding for up to three years in duration with a budget of not more than $200,000.

B. Program Description

The purpose of the Innovative Programs for Addressing Common Community Problems is to gather and disseminate among local, community, state, and Federal organizations and agencies information about innovative programs that address or ameliorate common community problems in the general subject areas of food, nutrition, and agriculture, including the loss of farms and ranches, rural poverty, welfare dependency, hunger, community food insecurity, the need for job training, and the need for self-sufficiency by individuals and communities. The grantee should also receive and distribute information on Community Food Projects supported by CSREES.

In addition to operating a national information clearinghouse on innovative means to address community problems, the grantee will also provide information and guidance on innovative programs through other means, for example, workshops, printed or copied materials, and electronic means. Clearinghouse information should be readily available to and easily accessible by Federal, state, and local government agencies, local community leaders, non-governmental organizations, and the public.

Part III—Preparation of An Application

A. Program Application Materials

Program application materials (application kit) are available at the CSREES Funding Opportunities Web site (*http://www.reeusda.gov/1700/funding/ourfund.htm*). If you do not have access to the Web page or have trouble downloading material and you would like a hardcopy, you may contact the Proposal Services Unit, USDA/CSREES at (202) 401–5048. When calling the Proposal Services Unit, please indicate that you are requesting the RFA and associated application forms for the Innovative Programs for Addressing Common Community Problems. These materials also may be requested via Internet by sending a message with your name, mailing address (not e-mail) and phone number to *psb@reeusda.gov.* State that you want a copy of the RFA and the associated application forms for IPACCP and request that the materials be sent by overnight delivery.

B. Content of Applications

The application should be prepared following the guidelines and the instructions below. Each application must contain the following elements in the order indicated:

1. General

Use the following guidelines to prepare an application. Proper preparation of applications will assist reviewers in evaluating the merits of each application in a systematic, consistent fashion:

(a) Prepare the application on only one side of the page using standard size (8 ½ × 11″) white paper, one-inch margins, typed or word processed using no type smaller than 12 point font, and single or double spaced. Use an easily readable font face (*e.g.*, Geneva, Helvetica, Times Roman).

(b) Number each page of the application sequentially, starting with the Project Description, including the budget pages, required forms, and any appendices.

(c) Staple the application in the upper left-hand corner. Do not bind. An original and four copies (five total) must be submitted in one package.

(d) Include original illustrations (photographs, color prints, etc.) in all copies of the application to prevent loss of meaning through poor quality reproduction.

(e) The contents of the application should be assembled in the following order:

(1) Proposal Cover Page (Form CSREES–2002, Page A)
(2) Table of Contents
(3) Project Summary (Form CSREES–2003)
(4) Project Description
(5) References
(6) Appendices to Project Description
(7) Key Personnel
(8) Collaborative Arrangements (including Letters of Support)
(9) Budget (Form CSREES–2004)
(10) Budget Narrative
(11) Matching
(12) Current and Pending Support (Form CSREES–2005)
(13) Assurance Statement(s) (Form CSREES–2008)
(14) Compliance with the National Environmental Policy Act (NEPA) (Form CSREES–2006)
(15) Page B, Proposal Cover Page (Form CSREES–2002), Personal Data on Project Director

2. Proposal Cover Page (Form CSREES–2002)

Please note that Form CSREES–2002 is comprised of two parts—Page A which is the ''Proposal Cover Page'' and Page B which is the ''Personal Data on Project Director.''

Page A

Each copy of each grant application must contain a ''Proposal Cover Page,'' Form CSREES–2002. One copy of the application, preferably the original, must contain the pen-and-ink signature(s) of the proposing Project Directors (PD's) and the Authorized Organizational Representative (AOR), the individual who possesses the necessary authority to commit the organization's time and other relevant resources to the project. If there are more than three co-PD's for an application, please list additional co-PD's on a separate sheet of paper (with appropriate information and signatures) and attach to the Proposal Cover Page (Form CSREES–2002). Any proposed PD or co-PD whose signature does not appear on Form CSREES–2002 or attached additional sheets will not be listed on any resulting grant award. Complete both signature blocks located at the bottom of the ''Proposal Cover Page'' form.

Form CSREES–2002 serves as a source document for the CSREES grant database; it is therefore important that it be accurately completed in its entirety, especially the e-mail addresses requested in blocks 4.c. and 18.c. However, the following items are highlighted as having a high potential for errors or misinterpretations:

(a) Type of Performing Organization (Blocks 6A and 6B). For block 6A, a check should be placed in the appropriate box to identify the non-profit or non-governmental organization which is the legal applicant named in block 1. Only one box should be checked. For block 6B, please check as many boxes that apply to the affiliation of the PD listed in block 16.

(b) Title of Proposed Project (Block 7). The title of the project must be brief (140-character maximum, including spaces), yet represent the major thrust of the effort being proposed.

(c) Program to Which You Are Applying (Block 8). Enter Innovative Programs for Addressing Common Community Problems or IPACCP.

(d) Type of Request (Block 14). Check the block for ''New.''

(e) Project Director (PD) (Blocks 16–19). Blocks 16–18 are used to identify the PD and Block 19 to identify co-PD's. If needed, additional co-PD's may be listed on a separate sheet of paper and attached to Form CSREES–2002, the Proposal Cover Page, with the applicable co-PD information and signatures. Listing multiple co-PD's, beyond those required for genuine collaboration, is discouraged.

Page B

Page B should be submitted only with the original signature copy of the application and should be placed as the last page of the original copy of the application. This page contains personal data on the PD(s). CSREES requests this information in order to monitor the operation of its review and awards processes. This page will not be duplicated or used during the review process. Please note that failure to submit this information will in no way affect consideration of your application.

3. Table of Contents

For consistency and ease in locating information, each application must contain a detailed Table of Contents immediately following the proposal cover page. The Table of Contents should contain page numbers for each component of the application. Page numbering should begin with the first page of the Project Description.

4. Project Summary (Form CSREES–2003)

The application must contain a ''Project Summary,'' Form CSREES–2003. The summary should be no more than 250 words, contained within the box, placed immediately after the Table of Contents, and not be numbered. The names and affiliated organizations of all PD's and co-PD's should be listed on this form, in addition to the title of the project. The summary should be a self-contained, specific description of the activity to be undertaken and should focus on: overall project goal(s) and supporting objectives; plans to accomplish project goal(s); and relevance of the project to the goals of the program. The importance of a concise, informative Project Summary cannot be overemphasized. If there are more than four co-PD's for an application, please list additional co-PD's on a separate sheet of paper (with appropriate information) and attach to the Project Summary (Form CSREES–2003).

5. Project Description

Please Note: The Project Description shall not exceed 15 pages of written text and up to 10 pages of additional pages for figures and tables. This maximum (25 pages) has been established to ensure fair and equitable competition.

A narrative Project Description must repeat and respond to the points in (a) through (d) below:

(a) *How common community problems upon which information is to be gathered will be identified.* Succinctly describe the process by which the most common community problems contributing to food insecurity, in the opinion of the applicant, will be identified. This section should also address how information on innovative programs addressing such problems will be gathered. At a minimum, these problems should include: loss of farms and ranches; rural poverty; welfare dependency; hunger; the need for job training; and the need for self-sufficiency by individuals and communities.

Information on CSREES supported Community Food Projects (CFP) must also be gathered, and the applicant should describe how, in coordination with CSREES and the Community Food Security Coalition, CFP information will be gathered and disseminated.

(b) *How targeted entities will be identified.* The applicant should provide a systematic approach to identifying appropriate targeted entities—Federal agencies, States, political subdivisions, and other non-governmental organizations—involved in food, nutrition, and agriculture issues.

(c) *How IPACCP information will be delivered to targeted entities.* Applicants should detail potential methods for delivering information to targeted entities. Describe experience in delivering information on programs that effectively address community problems, including loss of farms and ranches, rural poverty, welfare dependency, hunger, the need for job training, and the need for self-sufficiency by individuals and communities, that can be implemented by other targeted entities;

(d) *How a national information clearinghouse will be organized and operated.* Applicants should discuss how a national clearinghouse will function in responding to inquiries about hunger and poverty issues. Applicants should address how various types of requests—telephonic, electronic, and mail—will be handled to provide expeditious responses to targeted entities.

(e) *Organizational experience.* Provide information on the applicant's experience in IPACCP-type activities. To be eligible for an award, the applicant and/or collaborators must be experienced in working with targeted entities and in organizing workshops, identifying model programs, receiving and communicating information, and operating a national clearinghouse. If other NGOs are to be involved in carrying out the proposed work plan, their role should be outlined and their experience also detailed in the application. Letters from the organizations involved acknowledging their support and contributions must be provided in an appendix to the proposal.

(f) *Timeline.* Identify the major milestones that will indicate progress toward achieving the project goals. Provide a timeline or systematic description of the approach for accomplishing major project objectives.

(g) *Evaluation.* The IPACCP grantee will work in conjunction with the Community Food Security Coalition to determine appropriate evaluation measures for IPACCP activities and then proceed to institute those measures. The Community Food security Coalition currently has an evaluation grant so coordination is important.

6. References

All references to works cited should be completed, including titles and all co-authors, and should conform to an acceptable journal format. References are not considered in the page-limitation for the Project Description.

7. Appendices to Project Description

Appendices to the Project Description are allowed if they are directly germane to the proposed project. The addition of appendices should not be used to circumvent the text and/or figures and tables page limitations.

8. Key Personnel

The following should be included as appropriate:

(a) The roles and responsibilities of each PD and/or collaborator should be clearly described; and

(b) The vitae of the PD and each co-PD, senior associate, and other professional personnel. This section should include the vitae of all key persons who are expected to work on the project, whether or not CSREES funds are sought for their support. The vitae should be limited to two (2) pages each in length, excluding publications listings. The vitae should include a presentation of academic and research credentials, as applicable, *e.g.*, earned

degrees, teaching experience, employment history, professional activities, honors and awards, and grants received. A chronological list of all publications in refereed journals during the past four (4) years, including those in press, must be provided for each project member for whom a curriculum vitae is provided. Also list only those non-refereed technical publications that have relevance to the proposed project. All authors should be listed in the same order as they appear on each paper cited, along with the title and complete reference as these usually appear in journals.

9. Collaborative Arrangements

If it will be necessary to enter into formal consulting or collaborative arrangements with others, such arrangements should be fully explained and justified. If the consultant(s) or collaborator(s) are known at the time of application, a vitae or resume should be provided. In addition, evidence (*e.g.*, letter or support) should be provided that the collaborators involved have agreed to render these services. The applicant also will be required to provide additional information on consultants and collaborators in the budget portion of the application. See instructions in the application forms for completing Form CSREES–2004, Budget.

10. Budget

(a) Budget Form (Form CSREES–2004)

Prepare the Budget, Form CSREES–2004, in accordance with instructions provided with the application forms. A budget form is required for each year of requested support. In addition, a cumulative budget is required detailing the requested total support for the overall project period. The budget form may be reproduced as needed by applicants. Funds may be requested under any of the categories listed on the form, provided that the item or service for which support is requested is allowable under the authorizing legislation, the applicable statutes, regulations, and Federal cost principles, and these program guidelines, and can be justified as necessary for the successful conduct of the proposed project. Applicants also must include a budget narrative to justify their budget requests (see section 11 below.)

(b) Indirect Costs

If available, the current rate negotiated with the cognizant Federal negotiating agency should be used. Indirect costs may not exceed the negotiated rate. If a negotiated rate is used, the percentage and base should be indicated in the space allotted under item L. on the Budget Form. If no rate has been negotiated, a reasonable dollar amount for indirect costs may be requested, which will be subject to approval by USDA. In the latter case, if a proposal is recommended for funding, an indirect cost rate proposal must be submitted prior to award to support the amount of indirect costs requested. CSREES will request an indirect cost rate proposal and provide instructions, as necessary. An applicant may elect not to charge indirect costs and, instead, use all grant funds for direct costs. If indirect costs are not charged, the phrase ''None requested'' should be written in this space.

11. Budget Narrative

All budget categories, with the exception of Indirect Costs, for which support is requested, must be individually listed (with costs) in the same order as the budget and justified on a separate sheet of paper and placed immediately behind the Budget form.

12. Matching

As stated in above, in-kind matching resources are mandatory for all IPACCP projects. All of the applicant's matching support should be shown on the original budget in the appropriate categories (salary, materials and supplies, equipment, etc.) A budget narrative for these items must also be included. Proposals should include written verification of commitments of matching support of in-kind contributions from third parties.

Written verification means that for any third party in-kind contributions, a separate pledge agreement for each contribution, signed by the authorized organizational representatives of the donor organization and the applicant organization, which must include: (1) The name, address, and telephone number of the donor; (2) the name of the applicant organization; (3) the title of the project for which the donation is made; (4) a good faith estimate of the current fair market value of the third party in-kind contribution; and (5) a statement that the donor will make the contribution during the grant period.

The sources and amounts of all matching support from outside the applicant institution should be summarized on a separate page and placed in the proposal immediately following the Budget Narrative. All pledge agreements must be placed in the proposal immediately following the summary of matching support. The value of applicant contributions to the project shall be established in accordance with applicable cost principles.

13. Current and Pending Support (Form CSREES–2005)

All applications must contain Form CSREES–2005 listing other current public or private support (including in-house support) to which personnel (i.e., individuals submitting a vitae in response to item 8.(b) of this part) identified in the application have committed portions of their time, whether or not salary support for person(s) involved is included in the budget. Please follow the instructions provided on this form. Concurrent submission of identical or similar applications to possible sponsors will not prejudice application review or evaluation by CSREES. However, an application that duplicates or overlaps substantially with an application already reviewed and funded (or to be funded) by another organization or agency will not be funded under this program. Please note that the project being proposed should be included in the pending section of the form.

14. Assurance Statement(s) (Form CSREES–2008)

A number of situations encountered in the conduct of projects require special assurances, supporting documentation, etc., before funding can be approved for the project. In addition to any other situation that may exist with regard to a particular project, applications involving any of the following elements must comply with the additional requirements as applicable.

15. Certifications

Note that by signing Form CSREES–2002 the applicant is providing the certifications required by 7 CFR part 3017, regarding Debarment and Suspension and Drug-Free Workplace, and 7 CFR part 3018, regarding Lobbying. The certification forms are included in the application package for informational purposes only. These forms should not be submitted with the application since by signing Form CSREES–2002 your organization is providing the required certifications. If the project will involve a subcontractor or consultant, the subcontractor/consultant should submit a Form AD–1048, Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions, to the grantee organization for retention in their records. This form should not be submitted to USDA.

16. Compliance with the National Environmental Policy Act (NEPA) (Form CSREES–2006)

As outlined in 7 CFR part 3407 (the Cooperative State Research, Education, and Extension Service regulations implementing NEPA), the environmental data for any proposed project is to be provided to CSREES so that CSREES may determine whether any further action is needed. In some cases, however, the preparation of environmental data may not be required. Certain categories of actions are excluded from the requirements of NEPA.

In order for CSREES to determine whether any further action is needed with respect to NEPA, pertinent information regarding the possible environmental impacts of a particular project is necessary; therefore, Form CSREES–2006, ''NEPA Exclusions Form,'' must be included in the application indicating whether the applicant is of the opinion that the project falls within a categorical exclusion and the reasons therefore. If it is the applicant's opinion that the proposed project falls within the categorical exclusions, the specific exclusion(s) must be identified.

Even though a project may fall within the categorical exclusions, CSREES may determine that an Environmental Assessment or an Environmental Impact Statement is necessary for an activity, if substantial controversy on environmental grounds exists or if other extraordinary conditions or circumstances are present which may cause such activity to have a significant environmental effect.

C. Submission of Applications

1. When To Submit (Deadline Date)

Applications must be received by COB on September 20, 2002 (5 p.m. Eastern Time). Applications received after this deadline will not be considered for funding.

2. What To Submit

An original and four copies (a total of five copies) of the application must be submitted in one package.

3. Where To Submit

Applicants are strongly encouraged to submit completed applications via overnight mail, U.S. Postal Service express mail or delivery service to ensure timely receipt by the USDA. The address for hand-delivered applications or applications submitted using express mail (U. S. Postal Service) or overnight courier service is:

Innovative Programs for Addressing Common Community Problems, c/o Proposal Services Unit, Cooperative State Research, Education, and Extension Service, U.S. Department of Agriculture, Room 1420, Waterfront Centre, 800 9th Street, SW., Washington, DC 20024. *Telephone:* (202) 401–5048.

Applications sent via the U.S. Postal Service must be sent to the following address:

Innovative Programs for Addressing Common Community Problems, c/o Proposal Services Unit, Cooperative State Research, Education, and Extension Service, U.S. Department of Agriculture, Stop 2245, 1400 Independence Avenue, SW., Washington, DC 20250–2245.

D. Acknowledgment of Applications

The receipt of all applications will be acknowledged by e-mail. Therefore, applicants are strongly encouraged to provide accurate e-mail addresses, where designated, on the Form CSREES–2002. If the applicant's e-mail address is not indicated, CSREES will acknowledge receipt of the application by letter.

If the applicant does not receive an acknowledgment within 60 days of the submission deadline, please contact the program director. Once the application has been assigned an application number, please cite that number on all future correspondence.

Part IV—Review Process

A. General

Each application will be evaluated in a two-part process. First, each application will be screened to ensure that it meets the administrative requirements as set forth in this RFA. Second, applications that meet these requirements will be technically evaluated by CSREES staff.

Since the award process must be completed by September 30, 2002, applicants should submit fully developed applications that meet all the requirements set forth in this RFA and have fully developed budgets as well. However, USDA does retain the right to conduct discussions with applicants to resolve technical and/or budget issues as it deems necessary.

At least three members of the CSREES staff will conduct the merit review based on the evaluation criteria. Evaluated applications will be ranked based on merit. Final approval for the application recommended for an award will be made by the Administrator.

B. Evaluation Factors

The evaluation of Innovative Programs for Addressing Common Community Problems applications by CSREES reviewers will be based on the following criteria, weighted relative to each other, and assigned a point value, as noted in the parentheses following each criteria discussion:

1. How common community problems upon which information will be gathered will be identified. The applicant should describe its process for identifying community problems related to hunger and poverty, along with proposed solutions for such problems, and how the applicant will determine which problems and solutions will be included in the clearinghouse database (20 points);

2. How the applicant will identify and collect information from targeted entities (20 points);

3. The appropriateness of methods to deliver IPACCP information to targeted entities. The applicant should describe the full range of activities that will deliver information to targeted entities and how it will determine which method is most appropriate for which targeted entity (20 points);

4. How the applicant will organize and operate a national information clearinghouse on IPACCP issues (20 points); and

5. Organizational experience in researching and disseminating information on IPACCP issues (20 points).

C. Conflicts of Interest and Confidentiality

During the evaluation process, extreme care will be taken to prevent any actual or perceived conflicts of interest that may impact review or evaluation. Evaluations will be confidential to USDA staff members, expert reviewers, and the project director(s), to the extent permitted by law.

Names of submitting institutions and individuals, as well as application content and peer and staff evaluations, will be kept confidential, except to those involved in the review process, to the extent permitted by law. In addition, the identities of reviewers will remain confidential throughout the entire review process. Therefore, the names of the reviewers will not be released to applicants.

Part V—Award Administration

A. General

Within the limit of funds available for such purpose, the awarding official of CSREES shall make grant to the

applicant whose application is judged most meritorious under the procedures set forth in this RFA. The date specified by the awarding official of CSREES as the effective date of the grant shall be no later than September 30 of the Federal fiscal year in which the project is approved for support and funds are appropriated for such purpose, unless otherwise permitted by law. It should be noted that the project need not be initiated on the grant effective date, but as soon thereafter as practical so that project goals may be attained within the funded project period. All funds granted by CSREES under this RFA shall be expended solely for the purpose for which the funds are granted in accordance with the approved application and budget, the regulations, the terms and conditions of the award, the applicable Federal cost principles, and the Department's assistance regulations (parts 3015 and 3019 of 7 CFR).

B. Organizational Management Information

Specific management information relating to an applicant shall be submitted on a one-time basis as part of the responsibility determination prior to the award of a grant identified under this RFA, if such information has not been provided previously under this or another CSREES program. CSREES will provide copies of forms recommended for use in fulfilling these requirements as part of the pre-award process. Although an applicant may be eligible based on its status as one of these entities, there are factors which may exclude an applicant from receiving Federal financial and non-financial assistance and benefits under this program (*e.g.*, debarment or suspension of an individual involved or a determination that an applicant is not responsible based on submitted organizational management information).

C. Award Document and Notice of Award

The grant award document will provide pertinent instructions and information, including at a minimum, the following:

(1) Legal name and address of performing organization or institution to whom the Administrator has awarded a grant under the terms of this request for applications;

(2) Title of project;

(3) Name(s) and institution(s) of PD's chosen to direct and control approved activities;

(4) Identifying grant number assigned by the Department;

(5) Project period, specifying the amount of time the Department intends to support the project without requiring re-competition for funds;

(6) Total amount of Departmental financial assistance approved by the Administrator during the project period;

(7) Legal authority(ies) under which the grant is awarded;

(8) Approved budget plan for categorizing allocable project funds to accomplish the stated purpose of the grant award; and

(9) Other information or provisions deemed necessary by CSREES to carry out its respective granting activities or to accomplish the purpose of a particular grant.

Part VI—Additional Information

A. Access To Review Information

Copies of reviews, not including the identity of reviewers, and a summary of the expert reviewers' comments will be sent to the applicant PD after the review process has been completed.

B. Use of Funds; Changes

1. Delegation of Fiscal Responsibility

Unless the terms and conditions of the grant state otherwise, the grantee may not in whole or in part delegate or transfer to another person, institution, or organization the responsibility for use or expenditure of IPACCP funds.

2. Changes in Project Plans

a. The permissible changes by the grantee, PD(s), or other key project personnel in the approved project shall be limited to changes in methodology, techniques, or other similar aspects of the project to expedite achievement of the project's approved goals. If the grantee or the PD(s) is uncertain as to whether a change complies with this provision, the question must be referred to the Authorized Departmental Officer (ADO) for a final determination. The ADO is the signatory of the award document, not the program contact.

b. Changes in approved goals or objectives shall be requested by the grantee and approved in writing by the ADO prior to effecting such changes. In no event shall requests for such changes be approved which are outside the scope of the original approved project.

c. Changes in approved project leadership or the replacement or reassignment of other key project personnel shall be requested by the grantee and approved in writing by the ADO prior to effecting such changes.

d. Transfers of actual performance of the substantive programmatic work in whole or in part and provisions for payment of funds, whether or not Federal funds are involved, shall be requested by the grantee and approved in writing by the ADO prior to effecting such transfers, unless prescribed otherwise in the terms and conditions of the grant.

e. Changes in Project Period: The project period may be extended by CSREES without additional financial support, for such additional period(s) as the ADO determines may be necessary to complete or fulfill the purposes of an approved project. Any extension of time shall be conditioned upon prior request by the grantee and approval in writing by the ADO, unless prescribed otherwise in the terms and conditions of the grant.

f. Changes in Approved Budget: Changes in an approved budget must be requested by the grantee and approved in writing by the ADO prior to instituting such changes if the revision will involve transfers or expenditures of amounts requiring prior approval as set forth in the applicable Federal cost principles, Departmental regulations, or grant award.

C. Expected Program Outputs and Reporting Requirements

Upon the award of a grant, applicants will be requested to finalize goals and objectives against which progress will be measured on an annual basis. Grantees must submit an annual report narrative and budget summary detailing activities and expenditures on the project. A format for these reports will be provided on an annual basis by CSREES.

D. Applicable Federal Statutes and Regulations

Several Federal statutes and regulations apply to grant applications considered for review and to project grants awarded under this program. These include, but are not limited to:

7 CFR part 1, Subpart A—USDA implementation of the Freedom of Information Act.

7 CFR part 3—USDA implementation of OMB Circular No. A–129 regarding debt collection.

7 CFR part 15, subpart A—USDA implementation of Title VI of the Civil Rights Act of 1964, as amended.

7 CFR part 3015—USDA Uniform Federal Assistance Regulations, implementing OMB directives (*i.e.*, OMB Circular Nos. A–21 and A–122) and incorporating provisions of 31 U.S.C. 6301–6308 (formerly the Federal Grant and Cooperative Agreement Act of 1977, Pub. L. 95–224), as well as general policy requirements applicable to recipients of Departmental financial assistance.

7 CFR part 3016—USDA Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.

7 CFR part 3017—USDA implementation of Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants).

7 CFR part 3018—USDA implementation of Restrictions on Lobbying. Imposes prohibitions and requirements for disclosure and certification related to lobbying on recipients of Federal grants, cooperative agreements, and loans.

7 CFR part 3019—USDA implementation of OMB Circular A–110, Uniform Administrative Requirements for Grants and Other Agreements With Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations.

7 CFR part 3052—USDA implementation of OMB Circular No. A–133, Audits of States, Local Governments, and Non-profit Organizations.

7 CFR part 3407—CSREES procedures to implement the National Environmental Policy Act of 1969, as amended.

29 U.S.C. 794 (section 504, Rehabilitation Act of 1973) and 7 CFR part 15b (USDA implementation of statute)—prohibiting discrimination based upon physical or mental handicap in Federally assisted programs.

35 U.S.C. 200 *et seq.*—Bayh-Dole Act, controlling allocation of rights to inventions made by employees of small business firms and domestic nonprofit organizations, including universities, in Federally assisted programs (implementing regulations are contained in 37 CFR part 401).

E. Confidential Aspects of Applications and Awards

When an application results in a grant, it becomes a part of the record of CSREES transactions, available to the public upon specific request. Information that the Secretary determines to be of a confidential, privileged, or proprietary nature will be held in confidence to the extent permitted by law. Therefore, any information that the applicant wishes to have considered as confidential, privileged, or proprietary should be clearly marked within the application. The original copy of an application that does not result in a grant will be retained by the Agency for a period of one year. Other copies will be destroyed. Such an application will be released only with the consent of the applicant or to the extent required by law. An application may be withdrawn at any time prior to the final action thereon.

F. Regulatory Information

For the reasons set forth in the final Rule-related Notice to 7 CFR part 3015, subpart V (48 FR 29114, June 24, 1983), this program is excluded from the scope of the Executive Order 12372 which requires intergovernmental consultation with State and local officials. Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the collection of information requirements contained in this Notice have been approved under OMB Document No. 0524–0039.

G. Definitions

For the purpose of this program, the following definitions are applicable:

(1) *Administrator* means the Administrator of CSREES and any other officer or employee of the Department to whom the authority involved is delegated.

(2) *Authorized departmental officer* means the Secretary or any employee of the Department who has the authority to issue or modify grant instruments on behalf of the Secretary.

(3) *Authorized organizational representative* means the president, director, or chief executive officer or other designated official of the applicant organization who has the authority to commit the resources of the organization.

(4) *Budget period* means the interval of time (usually 12 months) into which the project period is divided for budgetary and reporting purposes.

(5) *Common Community Problems* means problems or issues that are or contribute to the underlying causes of hunger and poverty, including the loss of farms and ranches, rural poverty, welfare dependency, the need for job training, and the need for self-sufficiency by individuals and communities.

(6) *Community Food Project* is a community-based project that requires a one-time infusion of Federal assistance to become self-sustaining and is designed to increase food security in a community by: (i) meeting the food needs of low-income people; (ii) increasing the self-reliance of communities in providing for their own food needs; and (iii) promoting comprehensive responses to local food, farm, and nutrition issues.

(7) *Department* or *USDA* means the United States Department of Agriculture.

(8) *Grant* means the award by the Secretary of funds to an eligible entity to assist in meeting the costs of conducting, for the benefit of the public, an identified project.

(9) *Grantee* means the organization designated in the grant award document as the responsible legal entity to which a grant is awarded.

(10) *Innovative Programs to Address Common Community Problems* means activities outlined in section 25 (h) of the Food Stamp Act of 1977, as amended.

(11) *Matching* means that portion of project costs not borne by the Federal Government, including the value of in-kind contributions.

(12) *Non-governmental organization* means in a literal sense any organization that is independent from government. NGOs are typically value-based organizations. Although the NGO sector has become increasingly professionalized over the last two decades, principles of altruism and voluntarism remain key defining characteristics.

(13) *Prior approval* means written approval evidencing prior consent by an authorized departmental officer.

(14) *Project* means the particular activity within the scope of the program supported by a grant award.

(15) *Project director* (PD) means the single individual designated by the grantee in the grant application and approved by the Secretary who is responsible for the direction and management of the project.

(16) *Project period* means the period, as stated in the award document, during which Federal sponsorship begins and ends.

(17) *Secretary* means the Secretary of Agriculture and any other officer or employee of the Department of Agriculture to whom the authority involved is delegated.

(18) *Targeted entities* means Federal agencies, States, political subdivisions, and non-governmental organizations.

(19) *Third party in-kind contributions* means non-cash contributions of property or services including real property, equipment, supplies and other expendable property, provided by non-Federal third parties and directly benefiting and specifically identifiable to the project.

Done at Washington, DC, this 4th day of September 2002.

Colien Hefferan,

Administrator, Cooperative State Research, Education, and Extension Service.

[FR Doc. 02–23026 Filed 9–9–02; 8:45 am]

BILLING CODE 3410–22–P

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Resource Advisory Committee Meeting

AGENCY: Southwest Idaho Resource Advisory Committee, Boise, ID, USDA, Forest Service.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act (Pub. L. 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106–393) the Boise and Payette National Forests' Southwest Idaho Resource Advisory Committee will meet Thursday, September 26, 2002 in Cascade, Idaho for a business meeting. The meeting is open to the public.

SUPPLEMENTARY INFORMATION: The business meeting on September 26th, begins at 10:30 AM, at the American Legion Hall, Cascade, Idaho. Agenda topics will include review and approval or project proposals, a forum with District Rangers, and an open public forum.

FOR FURTHER INFORMATION CONTACT: Randy Swick, Designated Federal Officer, at (435) 865–3701.

Dated: September 3, 2002.

Mark J. Madrid,

Forest Supervisor, Payette National Forest.

[FR Doc. 02–22894 Filed 9–9–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Chippewa Creek Watershed, Structure VIII–D, Medina County, OH

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 Rules (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 rehabilitation of Floodwater Retarding Structure VIII–D in the Chippewa Creek Watershed.

FOR FURTHER INFORMATION CONTACT: Kevin Brown; State Conservationist; Natural Resources Conservation Service; 200 North High Street, Room 522, Columbus, Ohio 43215; telephone 614–255–2500.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national effects on the human environment. As a result of these findings, Kevin Brown, 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. The action includes the rehabilitation of one floodwater-retarding dam. The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency; 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 is on file and may be reviewed by contacting Kevin Brown.

No administrative action on implementation of the preferred alternative will be taken until 30 days after the date of this publication in the **Federal Register**.

Kevin Brown,

State Conservationist.

Finding of No Significant Impact for the Chippewa Creek Watershed; Medina County, OH

Introduction

This undertaking is being planned and will be implemented under the authority of the emergency Watershed Protection Program (7 CFR 624). This program was enacted by Section 216 of Public Law 81–516, Section 403 of Public Law 95–334 (Title IV of the Agricultural Credit Act of 1978), and Section 382 of Public Law 104–127 (Title III of the 1996 Farm Bill). This action is being planned in accordance with Section 102(2)(c) of the National Environmental Policy Act of 1969, Public Law 91–190, as amended (42 U.S.C. 4321 *et. Seq.*). The policy and procedures of the Watershed Protection and flood Prevention Act, Public Law 83–566, as amended (16 U.S.C. 1000–1008) are also being utilized for the planning and implementation of this undertaking.

The rehabilitation of the Chippewa Creek Watershed Structure VIII-D is a federally assisted action. An environmental assessment was completed for the action and was conducted in consultation with local, state, and federal agencies, as well as other interested organizations and individuals. Data developed during the assessment is available for public review at the following location: USDA Natural Resources Conservation Service, 200 North High St., Rm. 522, Columbus, Ohio 43215–2478.

Preferred Alternative

The sponsors preferred alternative for the rehabilitation of Structure VIII–D would be to rehabilitate the dam and also meet state dam safety criteria for a medium hazard dam (NRCS Class B and ODNR Class II). Rehabilitation would include removing accumulated sediment and debris to restore sediment storage capacity and clearing dead trees from the sediment pool area. There would be no change to the dam itself. Improvements are also planned for the riser to improve the long term functioning of the principal spillway. Total cost of this alternative is estimated to be $175,000.00.

Effect of the Preferred Alternative

This alternative would fully meet the needs and desires of the sponsors and the public, and would addresses the orders by ODNR to complete repairs to the structure to protect health and public safety while also meeting applicable safety and performance standards. This dry dam impounds no water and currently satisfies the state dam safety criteria for a medium hazard dam. This alternative would require control on the development in the downstream breach inundation area of the structure.

Sediment storage capacity would be restored. Restoring sediment storage capacity also would restore the temporary flood storage volume available behind the dam. Additionally, removal of debris and dead trees would allow the principal spillway to function freely, as designed. Controls on development of the inundation area would assure that no future development occurs within the downstream breach inundation area that results in an increase in the hazard classification for the life of the structure. Rehabilitating the structure will extending its life for at least 50 more years.

The stream segment through the sediment pool area would be temporarily affected by construction activities. Total suspended solids could increase during construction. The water quality in the stream below the structure would stabilize and reach a new equilibrium condition after construction.

No significant changes in land use would occur with the rehabilitation project. About 10 acres would be temporarily disturbed due to construction activities to remove sediment from the pool area. All disturbed areas above the elevation of the sediment pool would be seeded to an erosion controlling grass.

There would be temporary impacts to the aquatic, wetland, or wildlife habitat within the work area. The trees planned for removal do not provide appropriate nursery or roosting habitat for Indiana bats. Therefore, there would be no impact to this species. In the long term, use of the area by wildlife and aquatic species should return to pre-construction levels. The water quality use designations would also remain the same.

An environmental assessment was completed as part of the planning process. An inventory for cultural resources was completed as part of the environmental assessment. The Ohio Historic Preservation Office has submitted written notification, in

accordance with the provisions of Section 106 of the National Historic Preservation Act, as amended, and the Act's implementing regulations, 36 CFR 800, that there is little likelihood the project will encounter significant archaeological sites or buildings. It is of their opinion that the proposed work will not affect historic properties. Concerns have been addressed from contacted tribes. If there is a significant cultural resource discovery during construction, appropriate notice will be made by NRCS to the state Historic Preservation Officer. NRCS will take action as prescribed in NRCS General Manual 420, Part 401, to protect or recover any significant cultural resource during construction.

Alternatives

The preferred alternative is the most practical alternative to meet the purpose and needs of this action. Three alternatives were considered: (1) No Action, (2) Decommission the Structure, and (3) Structure Rehabilitation.

Consultation—Public Participation

Meetings were held with the project sponsors from March, August, October of 2001, and February, April, May, June, and July in 2002. On June 3, 2002 the sponsors held a public scoping meeting. In addition, letter requests for concerns and issues were sent to federal and state agencies, and organizations. Site reviews and tours for public officials and agency representatives were also conducted. All concerns and issues were addressed in the environmental assessment.

Conclusion

The environmental assessment summarized above indicates that this Federal action will not cause significant local, regional, or national impacts on the human environment. Therefore, based on the above findings, I have determined that an environmental impact statement is not required for the rehabilitation of Chippewa Creek Watershed, Structure VIII–D.

Dated: August 20, 2002.

Kevin Brown,

State Conservationist.

[FR Doc. 02–22860 Filed 9–9–02; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

West Fork Duck Creek, Structure 6 (Wolf Run Dam), Noble County, OH

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 Rules (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 rehabilitation of Floodwater Retarding Structure No. 6 (Wolf Run Lake Dam) in the West Fork Duck Creek Watershed, Noble County, Ohio.

FOR FURTHER INFORMATION CONTACT: Kevin Brown; State Conservationist; Natural Resources Conservation Service; 200 North High Street, Room 522, Columbus, Ohio 43215; telephone 614–255–2500.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national effects on the human environment. As a result of these findings, Kevin Brown, 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. The action includes the rehabilitation of one flood protection, water supply, and recreation dam. The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency; 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 is on file and may be reviewed by contacting Kevin Brown.

No administrative action on implementation of the preferred alternative will be taken until 30 days after the date of this publication in the **Federal Register**.

Kevin Brown,

State Conservationist.

Finding of No Significant Impact for the West Fork Duck Creek Watershed; Noble County, Ohio

Introduction

This undertaking is being planned and will be implemented under the authority of the emergency Watershed Protection Program (7CFR 624). This program was enacted by Section 216 of Public Law 81–516, Section 403 of Public Law 95–334 (Title IV of the Agricultural Credit Act of 1978), and Section 382 of Public Law 104–127 (Title III of the 1996 Farm Bill). This action is being planned in accordance with Section 102(2)(c) of the National Environmental Policy Act of 1969, Public Law 91–190, as amended (42 U.S.C. 4321 *et seq.*). The policy and procedures of the Watershed Protection and flood Prevention Act, Public Law 83–566, as amended (16 U.S.C. 1000–1008) are also being utilized for the planning and implementation of this undertaking.

The rehabilitation of the W. Fork Duck Creek Watershed Structure 6 (Wolf Run Dam) is a federally assisted action. An environmental assessment was completed for the action and was conducted in consultation with local, state, and federal agencies, as well as other interested organizations and individuals. Data developed during the assessment is available for public review at the following location: USDA Natural Resources Conservation Service, 200 North High St., Rm. 522, Columbus, Ohio 43215–2478.

Preferred Alternative

The sponsors preferred alternative for the rehabilitation of Wolf Run Dam would be to upgrade the dam to meet state dam safety criteria for a high hazard dam (NRCS Class C and ODNR Class I). Rehabilitation would include widening of the auxiliary spillway to increase the storage-discharge capacity of the dam to safely pass the probable maximum precipitation event without overtopping the embankment. Accumulated sediment would be removed in one 3-acre section of the upper pool area

Effect of the Preferred Alternative

This alternative would fully meet the needs and desires of the sponsors and the public, and would greatly diminish the potential for dam failure and loss of life. The requirements to upgrade the dam to satisfy high hazard criteria would be met. This alternative would also include removal of accumulated sediment that would restore sediment storage capacity, restore fish and wildlife habitat, and improve recreational opportunities. Total cost of this alternative is estimated to be $370,000.00.

The 215 acre lake is owned and operated by the Ohio Department of Natural Resources and is located within the Wolf Run State Park. The rehabilitated structure will continue to provide flood control protection for approximately 300 people downstream in the villages of Belle Valley and Caldwell, Ohio. Numerous homes, businesses, roads, bridges, utilities, and 400 acres of cropland are located in the valley downstream. The lake also provides vital water supply for the surrounding communities and recreational opportunities for the region. It is expected that the lake water level would be temporarily lowered only in the 3-acre area planned sediment removal area above County Road 14. This would allow removal of sediment in a de-watered state. Temporary displacement of wildlife and aquatic species may occur during construction. Some loss of fish and less mobile species may occur during construction, when the water level is lowered to remove the sediment. The water level would be lowered very slowly to minimize impacts to the wildlife and aquatic species. In the long term, use of the area by wildlife and aquatic species should return to pre-construction levels. After the project is completed, the lake would be enhanced for both recreational users and fish and wildlife.

About 13 acres would be temporarily disturbed due to the construction of this

project. During the construction period the dam would be closed to the public. Other areas may be closed or restricted to accommodate construction activities. Park facilities may also be affected by temporary closure of roads.

The water quality use designations would remain the same. This action will have little or no effect on wetlands, rare, or threatened and endangered species, and prime or unique farmland. Air quality in the watershed will be essentially unaffected by the rehabilitation project. There will be brief, temporary increases in noise levels and pollution of air from dust and exhaust emissions, which are inherent in earth moving construction processes.

An environmental assessment was completed as part of the planning process. An inventory for cultural resources was completed as part of the environmental assessment. The Ohio Historic Preservation Office has submitted written notification, in accordance with the provisions of Section 106 of the National Historic Preservation Act, as amended, and the Act's implementing regulations, 36CFR 800, that there is little likelihood the project will encounter significant archaeological sites or buildings. It is of their opinion that the proposed work will not affect historic properties. Concerns have been addressed from contacted tribes. If there is a significant cultural resource discovery during construction, appropriate notice will be made by NRCS to the state Historic Preservation Officer. NRCS will take action as prescribed in NRCS General Manual 420, Part 401, to protect or recover any significant cultural resource during construction.

Alternatives

The preferred alternative is the most practical alternative to meet the purpose and needs of this action. Three alternatives were considered: (1) No Action, (2) Decommission the Structure, and (3) Structure Rehabilitation.

Consultation—Public Participation

Meetings were held with the project sponsors in April, May, and September of 2001, and February, April, and May 2002. On May 14, 2001, and May 13, 2002, the sponsors held public meetings. In addition, letter requests for concerns and issues were sent to federal and state agencies, and organizations. All concerns and issues were addressed in the environmental assessment.

Conclusion

The environmental assessment summarized above indicates that this Federal action will not cause significant local, regional, or national impacts on the human environment. Therefore, based on the above findings, I have determined that an environmental impact statement is not required for the rehabilitation of the W. Fork Duck Creek Watershed Structure 6 (Wolf Run Dam)

Dated: August 20, 2002.

Kevin Brown,
State Conservationist.

[FR Doc. 02–22859 Filed 9–9–02; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Proposed Changes to Section IV, Standards and Specifications, of the State Technical Guides of the Natural Resources Conservation Service in the State of California

AGENCY: Natural Resources Conservation Service (NRCS), Department of Agriculture.

ACTION: Notice of availability of proposed changes in Section IV of the California State Technical Guides. NRCS is seeking review and comments to proposed changes.

SUMMARY: Pursuant to Section 343 of Subtitle E of the Federal Agriculture Improvement and Reform Act of 1996 (FAIRA) that requires the Secretary of Agriculture to provide public notice and comment under Section 553 of Title 5, United States Code, with regard to any future revisions to the provisions of the Natural Resources Conservation Service (NRCS) State Technical Guides that are used to carry out Subtitles A, B, and C of Title XII of the Food Security Act of 1985 (16 U.S.C.3801 *et seq.*), the Natural Resources Conservation Service, United States Department of Agriculture, gives notice of proposed revisions to selected conservation practice standards in Section IV of the State Technical Guides in California.

These proposed revisions are subject to these provisions since one or more practices are used, or could be used, as a part of a conservation management system to comply with the Highly Erodible Land Conservation or Wetland Conservation requirements of the Food Security Act of 1985. These practice standards are also used to plan, design and implement conservation practices cost shared under USDA programs.

Revisions are being proposed for the following practice standards: Closure of Waste Impoundment (360); Conservation Crop Rotation (328); Conservation Cover (327); Contour Farming (330); Contour Stripcropping (585); Cover Crop (340); Grassed Waterway (412); Irrigation System, microirrigation (441); Alley Cropping (311); Constructed Wetland (656); Firebreak (394); Forest Site Preparation (490); Forest Stand Improvement (666); Forest Trails and Landings (655); Heavy Use Area Protection (561); Irrigation System, Tailwater Recovery (447); Pipeline (516); Prescribed Burning (338); Riparian Forest Buffer (391); Spring Development (574); Tree/Shrub Establishment (612); Tree/Shrub Pruning (660); Use Exclusion (472); Watering Facility (614); Windbreak/Shelterbelt Establishment (380); Windbreak/Shelterbelt Renovation (650); PAM Erosion Control (450); Composting Facility (317); Deep Tillage (324); Fish Passage (396); Land Reconstruction, Abandoned Mined Land (543); Land Reconstruction, Currently Mined Land (544); Stream Habitat Improvement and Management (395); Underground Outlet (620); Vegetative Barrier (601); Access Road (560); Diversion (362); Drainage Water Management (554); Fish Pond Management (399); Herbaceous Wind Barriers (603); Irrigation Land Leveling (464); Pond Sealing or Lining-Bentonite Sealant (521C); Pond Sealing or Lining-Soil Dispersant (521B); Roof Runoff Structure (558); Surface Roughening (609); Waste Utilization (633); Dam, Diversion (348); Hedgerow Planting (422); Obstruction Removal (500); Prescribed Grazing (528A); Wastewater Treatment Strip (635); Water and Sediment Control Basin (638); Nutrient Management (590); Mulching (484); Recreation Area Improvement (562); Restoration and Management of Declining Habitats (643); Brush Management (314); and Runoff Management System (570).

DATES: Comments will be received for a period of 30 days following the publication date of this notice.

FOR FURTHER INFORMATION CONTACT: Diane B. Holcomb, State Resource Conservationist, USDA, Natural Resources Conservation Service, 430 G Street, Davis, California 95616–4164. Telephone: (530) 792–5667, FAX: (530) 792–5793, or e-mail *diane.holcomb@ca.usda.gov.*

Copies of these proposed standards can be obtained on the Web at *http://www.ca.nrcs.usda.gov/rts/rts.html,* or will be made available upon written request. You may submit written comments to the address above. You may submit your electronic requests and comments to: *diane.holcomb@ca.usda.gov.*

SUPPLEMENTARY INFORMATION: In California, ''State Technical Guides'' refers to the State Office Technical Guide maintained by the NRCS State Resource Conservationist in Davis, California, to the Area Technical Guides maintained at each NRCS Area Office in Red Bluff, Salinas, Fresno and Riverside, California, and to the Field Office Technical Guides maintained at each NRCS Field Office in California.

Practice standards establish the minimum level of acceptable quality for planning, designing, installing,

operating, and maintaining conservation practices. National standards from the National Handbook of Conservation Practices form the basis for developing State supplements to the standards. All practice standards are reviewed by the State Technical Guide Committee at least once every five years from their date of issuance to determine if the standard is needed and reflects the latest acceptable technology.

Diane B. Holcomb,

State Resource Conservationist.

[FR Doc. 02–22857 Filed 9–9–02; 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 Michigan

AGENCY: Natural Resources Conservation Service (NRCS) in Michigan, U.S. Department of Agriculture.

ACTION: Notice of availability of proposed changes in Michigan NRCS FOTG, Section IV for review and comment.

SUMMARY: It is the intention of NRCS in Michigan to issue revised conservation practice standards in Section IV of the FOTG. The revised standards include:

Access Road (Ft.) 560
Brush Management (Ac.) 314
Clearing and Snagging (Ft.) 326
Commercial Fish Ponds (Ac.) 397
Conservation Cover (Ac.) 327
Conservation Crop Rotation (Ac.) 328
Contour Farming (Ac.) 330
Contour Orchard and Other Fruit Area (Ac.) 331
Contour Stripcropping (Ac.) 585
Cross Wind Stripcropping (Ac.) 589B
Cross Wind Trap Strip—Field (Ac.) 589C
Cross Wind Trap Strip—Filter (Ac.) 589C
Deep Tillage (Ac.) 324
Dike (Ft.) 356
Diversion (Ft.) 362
Drainage Water Management (Ac.) 554
Dry Hydrant (No.) 432
Field Ditch (Ft.) 607
Filter Strip—Animal Waste Management (Ac.) 780
Fish Pond Management (No.) 399
Fish Raceway or Tank (Ft.) 398
Grade Stabilization Structure (No.) 410
Irrigation Pit or Regulating Reservoir (No.) 552–A
Irrigation Pit or Regulating Reservoir (No.) 552–B
Irrigation Storage Reservoir (No.) 436
Irrigation System, Microirrigation (No. & Ac.) 441
Irrigation System, Sprinkler (No. & Ac.) 442
Irrigation Water Conveyance Pipeline—High-Pressure, Underground, Plastic (Ft.) 430–DD
Irrigation Water Conveyance Pipeline—Low-Pressure, Underground, Plastic (Ft.) 430–EE
Irrigation Water Management (Ac.) 449
Land Reconstruction, Abandoned Mined Land (Ac.) 543
Land Reconstruction, Currently Mined Land (Ac.) 544
Land Smoothing (Ac.) 466
Lined Waterway or Outlet (Ft.) 468
Mine Shaft and Adit Closing (No.) 457
Mulching (Ac.) 484
Nutrient Management (Ac.) 590
Obstruction Removal (Ac.) 500
Open Channel (Ft.) 582
Pest Management (Ac.) 595
Pond Sealing or Lining—Bentonite Treatment (No.) 521–C
Pond Sealing or Lining—Flexible Membrane (No.) 521–A
Pond Sealing or Lining—Soil Dispersant (No.) 521–B
Pumping Plant for Water Control (No.) 533
Recreation Area Improvement (Ac.) 562
Residue Management, Ridge Till (Ac.) 329C
Residue Management, Seasonal (Ac.) 344
Riparian Forest Buffer (Ac.) 391
Sediment Basin (No.) 350
Spring Development (No.) 574
Stream Channel Stabilization (Ft.) 584
Stream Crossing and Livestock Access (Ft.) 728
Stripcropping, Field (Ac.) 586
Structure for Water Control (No.) 587
Subsurface Drain (Ft.) 606
Surface Drainage, Main or Lateral (Ft.) 608
Underground Outlet (Ft.) 620
Waste Utilization (No. & Ac.) 633
Water and Sediment Control Basin (No.) 638
Windbreak/Shelterbelt Establishment (Ft.) 380
Windbreak/Shelterbelt Renovation (Ft.) 650

DATES: Comments will be received for a 30-day period commencing with this date of publication.

FOR FURTHER INFORMATION CONTACT: Inquire in writing to Kevin Wickey, Assistant State Conservationist for Technology, Natural Resources Conservation Service, 3001 Coolidge Road, Suite 250, E. Lansing, MI 48823. Copies of these standards will be made available upon written request. You may submit electronic requests and comments to *Kevin.Wickey@mi.usda.gov.*

FOR FURTHER INFORMATION CONTACT: Kevin Wickey 517–324–5279.

SUPPLEMENTARY INFORMATION: Section 393 of the Federal Agriculture Improvement and Reform Act of 1996 states that revisions made after enactment of the law, 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 Michigan will receive comments relative to the proposed changes. Following that period, a determination will be made by the NRCS in Michigan regarding disposition of those comments and a final determination of change will be made.

Dated: August 23, 2002.

Ronald C. Williams,

State Conservationist, E. Lansing, Michigan.

[FR Doc. 02–22858 Filed 9–9–02; 8:45 am]

BILLING CODE 3410–16–P

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Public Rights-of-Way Access Advisory Committee; Meeting

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) established a Public Rights-of-Way Access Advisory Committee (Committee) to assist the Board in developing a proposed rule on accessibility guidelines for newly constructed and altered public rights-of-way covered by the Americans with Disabilities Act of 1990 and the Architectural Barriers Act of 1968. This document announces the next meeting of the technical assistance sub-committee of that Committee, which will be open to the public.

DATES: The meeting of the sub-committee is scheduled for October 7, 2002 beginning at 9 a.m. and ending at 5 p.m..

ADDRESSES: The meeting will be held at the Hilton Portland, 921 SW., Sixth Avenue, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Scott Windley, Office of Technical and Information Services, Architectural and Transportation Barriers Compliance

Board, 1331 F Street, NW., suite 1000, Washington, DC 20004–1111. Telephone number (202) 272–5434 extension 125 (Voice); (202) 272–5449 (TTY). E-mail *windley@access-board.gov.* This document is available in alternate formats (cassette tape, Braille, large print, or ASCII disk) upon request. This document is also available on the Board's Internet Site (*http://www.access-board.gov/prowmtg.htm*).

SUPPLEMENTARY INFORMATION: On October 20, 1999, the Architectural and Transportation Barriers Compliance Board (Access Board) published a notice appointing members to a Public Rights-of-Way Access Advisory Committee (Committee). 64 FR 56482 (October 20, 1999). The objectives of the Committee include providing recommendations for developing a proposed rule addressing accessibility guidelines for newly constructed and altered public rights-of-way covered by the Americans with Disabilities Act of 1990 and the Architectural Barriers Act of 1968, recommendations regarding technical assistance issues, and guidance for best practices for alterations in the public rights-of-way.

On January 10, 2001, the Committee presented its recommendations on accessible public rights-of-way in a report entitled ''Building a True Community''. The report is available on the Access Board's website at *http://www.access-board.gov* or can be ordered by calling the Access Board at (800) 872–2253 (voice) or (800) 993–2822 (TTY).

At its October meeting, the technical assistance sub-committee will continue to address the development and format of technical assistance materials relating to public rights-of-way. The sub-committee meeting will be open to the public and interested persons can attend the meeting and participate on subcommittees of the Committee. All interested persons will have the opportunity to comment when the proposed accessibility guidelines for public rights-of-way are issued in the **Federal Register** by the Access Board.

Individuals who require sign language interpreters or real-time captioning systems should contact Scott Windley by September 20, 2002. Notices of future meetings will be published in the **Federal Register**.

Lawrence W. Roffee,

Executive Director.

[FR Doc. 02–22854 Filed 9–9–02; 8:45 am]

BILLING CODE 8150–01–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 34–2002]

Foreign-Trade Zone 214—Lenoir County, North Carolina Application for Expansion

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the North Carolina Global TransPark Authority, grantee of Foreign-Trade Zone 214, requesting authority to expand its zone to include an additional site in Rocky Mount, North Carolina, adjacent to the Durham Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on September 3, 2002.

FTZ 214 was approved on May 7, 1996 (Board Order 815, 61 FR 27048, 5/30/96). The zone currently consists of a site at the Kinston Regional Jetport complex (1,170 acres) in Lenoir County, North Carolina.

The applicant is now requesting authority to expand the general-purpose zone to include an additional site in Rocky Mount: *Site 2* (35 acres) at the warehouse facility of Kanban Logistics, Inc., 1114 Kingsboro Road, Rocky Mount (Edgecombe County), North Carolina. No specific manufacturing authority is being requested at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at one of the addresses below:

1. *Submissions via Express/Package Delivery Services:* Foreign-Trade Zones Board, U.S. Department of Commerce, Franklin Court Building—Suite 4100W, 1099 14th Street NW, Washington, DC 20005; or

2. *Submissions via the U.S. Postal Service:* Foreign-Trade Zones Board, U.S. Department of Commerce, FCB—Suite 4100W, 1401 Constitution Avenue NW, Washington, DC 20230.

The closing period for their receipt is November 12, 2002. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to November 25, 2002).

A copy of the application and accompanying exhibits will be available for public inspection at the Office of the Foreign-Trade Zones Board's Executive Secretary at the first address listed above, and at the office of the Carolinas Gateway Partnership, 427 Falls Road, Rocky Mount, NC 27804–4808.

Dated: September 4, 2002.

Pierre V. Duy,

Acting Executive Secretary.

[FR Doc. 02–23000 Filed 9–9–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–703]

Notice of Preliminary Results of Antidumping Duty Administrative Review: Granular Polytetrafluoroethylene Resin From Italy

AGENCY: Import Administration, International Trade Administration, Department Commerce.

SUMMARY: In response to requests by the respondent, Ausimont SpA and Ausimont USA (Ausimont), and the petitioner, E.I. DuPont de Nemours & Company (DuPont), the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on granular polytetrafluoroethylene (PTFE) resin from Italy. The period of review (POR) is August 1, 2000, through July 31, 2001.

We preliminarily determine that sales have been made below normal value (NV). If these preliminary results are adopted in our final results, we will instruct the U.S. Customs Service to assess antidumping duties based on the difference between the constructed export price and NV.

EFFECTIVE DATE: September 10, 2002.

FOR FURTHER INFORMATION CONTACT: Vicki Schepker or Constance Handley, at (202) 482–1756 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.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless

otherwise indicated, all citations to the Department's regulations are to 19 CFR Part 351 (2001).

Case History

On August 30, 1988, the Department published in the **Federal Register** the antidumping duty order on granular PTFE resin from Italy (53 FR 33163). On August 1, 2001, the Department issued a notice of opportunity to request the 13th administrative review of this order, for the period August 1, 2000, through July 31, 2001. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 66 FR 39729 (August 1, 2001). Pursuant to this notice, on August 30 and 31, 2001, the petitioner and Ausimont, respectively, requested that the Department conduct an administrative review. We published the notice of initiation of this antidumping duty administrative review on October 1, 2001. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 66 FR 49924 (October 1, 2001).

We issued an antidumping questionnaire to Ausimont on October 17, 2001, followed by a supplemental questionnaire on August 8, 2002. Included in that questionnaire was a reiteration of the Department's previous request that Ausimont report its production costs on a POR-basis. It also included instructions regarding the reporting of what Ausimont claims are sales of ''off-spec'' merchandise. We received timely responses to the antidumping questionnaire and section C of the supplemental questionnaire.[1]

Scope of the Review

The product covered by this order is granular PTFE resin, filled or unfilled. This order also covers PTFE wet raw polymer exported from Italy to the United States. *See Final Affirmative Determination; Granular Polytetrafluoroethylene Resin from Italy*, 58 FR 26100 (April 30, 1993). This order excludes PTFE dispersions in water and fine powders. During the period covered by this review, such merchandise was classified under item number 3904.61.00 of the Harmonized Tariff Schedule of the United States (HTS). We are providing this HTS number for convenience and U.S. Customs purposes only. The written description of the scope remains dispositive.

Fair Value Comparisons

We compared the constructed export price (CEP) to the NV, as described in the *Constructed Export Price* and *Normal Value* sections of this notice. Pursuant to section 777A(d)(2) of the Act, we compared the CEPs of individual transactions to contemporaneous monthly weighted-average prices of sales of the foreign like product.

We first attempted to compare contemporaneous sales of products sold in the United States and the comparison market that were identical with respect to the following characteristics: type, filler, percentage of filler, and grade. Where we were unable to compare sales of identical merchandise, we compared U.S. sales with comparison market sales of the most similar merchandise.

Constructed Export Price

For all sales to the United States, we calculated CEP, as defined in section 772(b) of the Act, because all sales to unaffiliated parties were made after importation of the subject merchandise into the United States through the respondent's affiliate, Ausimont USA. We based CEP on the packed, delivered prices to unaffiliated purchasers in the United States, net of billing adjustments. We adjusted these prices for movement expenses, including international freight, marine insurance, brokerage and handling in the United States, U.S. inland freight, and U.S. customs duties, in accordance with section 772(c)(2)(A) of the Act.

In accordance with section 772(d)(1) of the Act, we deducted selling expenses incurred by the affiliated seller in connection with economic activity in the United States. These expenses include credit, inventory carrying costs, and indirect expenses incurred by Ausimont USA.

With respect to sales involving imported wet raw polymer that was further manufactured into finished PTFE resin in the United States, we deducted the cost of such further manufacturing in accordance with section 772(d)(2) of the Act.[2]

Finally, we made an adjustment for the profit allocated to the above-referenced selling and further manufacturing expenses, in accordance with section 772(d)(3) of the Act.

Normal Value

A. *Selection of Comparison Markets*

In order to determine whether there was a sufficient volume of sales of granular PTFE resin in the home market to serve as a viable basis for calculating NV, we compared Ausimont's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a) of the Act. Because the aggregate volume of home market sales of the foreign like product was greater than five percent of the respective aggregate volume of U.S. sales for the subject merchandise, we determined that the home market provided a viable basis for calculating NV. Therefore, in accordance with section 773(a)(1)(B)(i) of the Act, we based NV on the prices at which the foreign like product was first sold for consumption in the exporting country, in the usual commercial quantities and in the ordinary course of trade.

B. *Cost of Production Analysis*

Because we disregarded below-cost sales in the calculation of the final results of the 12th administrative review, we had reasonable grounds to believe or suspect that home market sales of the foreign like product by Ausimont had been made at prices below the cost of production (COP) during the period of this review. Therefore, pursuant to section 773(b)(1) of the Act, we initiated a COP investigation regarding home market sales.

Initially, Ausimont calculated its model-specific costs of production on a calendar year basis. On August 8, 2002, we issued a supplemental questionnaire requesting that Ausimont report its costs on a POR basis.

1. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated the model-

[1] Due to issues involving the timing of the supplemental questionnaire, we granted Ausimont an extension until September 16, 2002, to respond to sections B and D of the supplemental questionnaire. The information in the response to the supplemental questionnaire may result in changes to our analysis in the final results of the review.

[2] We note that on November 21, 2001, Ausimont requested that the Department apply the ''special rule'' in accordance with section 772(e) of the Act. Under the special rule, where the value added to the merchandise by an affiliate is likely to exceed substantially the value of the subject merchandise, the administering authority may determine the constructed export price using the price of identical or similar subject merchandise sold by the exporter or producer to an unaffiliated person, provided that the administering authority determines that the use of such sales is appropriate. On November 29, 2001, we rejected Ausimont's request, noting that, as in the previous review (where the same issue had been raised) the administrative burden of applying Section 772(d)(2) of the Act in this case is relatively low, and the proportion of the respondent's further-manufactured sales relative to total sales is sufficiently high to raise concerns about the accuracy of the dumping margin that would result from application of the special rule. See Letter from the Department of Commerce to Ausimont, dated November 29, 2001, including *Memorandum from Magd Zalok to Holly Kuga, Acting Deputy Assistant Secretary for Import Administration*, dated December 9, 1999, on file in the Central Records Unit (CRU).

specific, weighted-average COP, by model, based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for general and administrative expenses, interest expenses, selling expenses, and packing costs.

2. Test of Home Market Sales Prices

We compared the adjusted weighted-average COP to the home market sales of the foreign like product, as required under section 773(b) of the Act, in order to determine whether these sales had been made at prices below the COP within an extended period of time (*i.e.*, a period of one year) in substantial quantities and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time.

On a model-specific basis, we compared the COP to home market prices, less any rebates, discounts, applicable movement charges, and direct and indirect selling expenses (which were also deducted from COP).

3. Results of the COP Test

We disregarded below-cost sales where 20 percent or more of the respondent's sales of a given product were made at prices below the COP. We determined such sales were made within an extended period of time in substantial quantities in accordance with sections 773(b)(2)(B) and (C) of the Act and at prices which would not permit recovery of all costs within a reasonable time period, in accordance with section 773(b)(2)(D) of the Act.

C. *Calculation of NV Based on Comparison-Market Prices* [3]

We determined home market prices net of price adjustments (*i.e.*, early payment discounts and rebates). Where applicable, we made adjustments for packing and movement expenses, in accordance with sections 773(a)(6)(A) and (B) of the Act. In order to adjust for differences in packing between the two markets, we deducted home market packing costs from NV and added U.S. packing costs. We also made adjustments for differences in costs attributable to differences in physical characteristics of the merchandise, pursuant to section 773(a)(6)(C)(ii) of the Act, and for other differences in the circumstances of sale (COS) in accordance with section 773(a)(6)(C)(iii) of the Act (*i.e.*, differences in credit expenses). Finally, we made a CEP-offset adjustment to the NV for indirect selling expenses pursuant to section 773(a)(7)(B) of the Act as discussed in the *Level of Trade/CEP Offset* section below.

Level of Trade/CEP Offset

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales at the same level of trade in the comparison market as the level of trade of the U.S. sales. The NV level of trade is that of the starting-price sales in the comparison market. For CEP sales, such as those made by Ausimont in this review, the U.S. level of trade is the level of the constructed sale from the exporter to the importer.

To determine whether NV sales are at a different level of trade than that of the U.S. sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison-market sales are at a different level of trade and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the level of trade of the export transaction, we make a level-of-trade adjustment under section 773(a)(7)(A) of the Act. Finally, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP-offset provision). *See, e.g., Industrial Nitrocellulose From the United Kingdom; Notice of Final Results of Antidumping Duty Administrative Review*, 65 FR 6148, 6151 (February 8, 2000) (*Industrial Nitrocellulose*).

In implementing these principles in this review, we obtained information from Ausimont about the marketing involved in the reported U.S. sales and in the home market sales, including a description of the selling activities performed by Ausimont for each channel of distribution. In identifying levels of trade for CEP and for home market sales, we considered the selling functions reflected in the CEP, after the deduction of expenses and profit under section 772(d) of the Act, and those reflected in the home market starting price before making any adjustments. We expect that, if claimed levels of trade are the same, the functions and activities of the seller should be similar. Conversely, if a party claims that levels of trade are different for different groups of sales, the functions and activities of the seller should be dissimilar.

The record evidence in this review indicates that the home market and the CEP levels of trade have not changed from the 1999–00 review,[4] the most recently completed review in this case. As explained below, we determined in this review that, as in the prior review, there was one home market level of trade and one U.S. level of trade (i.e., the CEP level of trade).

In the home market, Ausimont sold directly to fabricators. These sales primarily entailed selling activities such as technical assistance, engineering services, research and development, technical programs, and delivery services. Given this fact pattern, we found that all home market sales were made at a single level of trade. In determining the level of trade for the U.S. sales, we only considered the selling activities reflected in the price after making the appropriate adjustments under section 772(d) of the Act. *See, e.g., Industrial Nitrocellulose* at 6150. The CEP level of trade involves minimal selling functions such as invoicing and the occasional exchange of personnel between Ausimont SpA and its U.S. affiliate. Given this fact pattern, we found that all U.S. sales were made at a single level of trade.

Based on a comparison of the home market level of trade and this CEP level of trade, we find the home market sales to be at a different level of trade from, and more remote from the factory than, the CEP sales. Section 773(a)(7)(A) of the Act directs us to make an adjustment for difference in levels of trade where such differences affect price comparability. However, we were

[3] As discussed in the *Case History* section above, in our August 8, 2002, supplemental questionnaire, we requested that Ausimont report all sales of what the company referred to as ''off-spec'' merchandise. In a letter of clarification dated August 16, 2002, we further requested that Ausimont include documentation to support the claim that the product sold was in fact ''off-spec.'' In its August 29, 2002, response to our requests, Ausimont reported sales of ''off-spec'' merchandise, but failed to provide adequate supporting documentation regarding the product sold. As such, we are unable to determine if these sales are, in fact, sales of ''off-spec'' merchandise. Furthermore, Ausimont failed to report the actual product codes for these sales and we are unable to compare them to home market sales of identical or similar products. As a result, we are comparing the U.S. sales of ''off-spec'' merchandise to constructed value (CV). To calculate the CV for these sales, we have chosen the highest cost of production for any product and added amounts for selling expenses, profit and U.S. packing. In accordance with section 773(e)(2)(A) of the Act, we used the actual amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product, in the ordinary course of trade, for consumption in the comparison market to calculate selling expenses and profit.

[4] *See Notice of Final Results of Antidumping Duty Administrative Review; Granular Polytetrafluoroethylene Resin From Italy*, 67 FR 1960 (January 15, 2002), and *Granular Polytetrafluoroethylene Resin from Italy; Preliminary Results of Antidumping Duty Administrative Review*, 66 FR 46996 (September 10, 2001).

unable to quantify such price differences from information on the record. Because we have determined that the home-market level of trade is more remote from the factory than the CEP level of trade, and because the data necessary to calculate a level-of-trade adjustment are unavailable, we made a CEP-offset adjustment to NV pursuant to section 773(a)(7)(B) of the Act.

Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A of the Act, based on exchange rates in effect on the date of the U.S. sale, as certified by the Federal Reserve Bank.

Preliminary Results of Review

As a result of this review, we preliminarily determine that the following weighted-average margin exists for the period August 1, 2000, through July 31, 2001:

Exporter/ manufacturer	Weighted-average margin percentage
Ausimont SpA	3.87

The Department will disclose calculations performed within five days of the date of publication of this notice to the parties of this proceeding in accordance with 19 CFR 351.224(b). An interested party may request a hearing within 30 days of publication of these preliminary results. *See* 19 CFR 351.310(c). Any hearing, if requested, will be held 44 days after the date of publication, or the first working day thereafter. Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication of these preliminary results of review. Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than 37 days after the date of publication. Parties who submit arguments are requested to submit with the argument (1) a statement of the issue, (2) a brief summary of the argument, and (3) a table of authorities. We encourage parties submitting written comments to provide the Department with an additional copy of the public version of any such comments on diskette. The Department will issue the final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, within 120 days of publication of these preliminary results.

Assessment

Upon completion of this administrative review, the Department will determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we have calculated an exporter/importer (or customer)-specific assessment rate for merchandise subject to this review. The Department will issue appropriate assessment instructions directly to the Customs Service within 15 days of publication of the final results of review. If these preliminary results are adopted in the final results of review, we will direct the Customs Service to assess the resulting assessment rates against the entered customs values for the subject merchandise on each of the importer's/customer's entries during the review period.

Cash Deposit Requirements

The following deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of granular PTFE resin from Italy entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) the cash deposit rate for Ausimont will be the rate established in the final results of administrative review; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in the original less than fair value (LTFV) investigation or a previous review, the cash deposit will continue to be the most recent rate published in the final determination or final results for which the manufacturer or exporter received a company-specific rate; (3) if the exporter is not a firm covered in this review, a previous review, or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review, the cash deposit rate will be 46.46 percent, the ''all others'' rate established in the LTFV investigation. *See* 53 FR 26090 (July 11, 1988).

These cash deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties. This administrative review and notice are in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: September 3, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–22993 Filed 9–9–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–802]

Preliminary Results and Rescission in Part of Antidumping Duty Administrative Review: Gray Portland Cement and Clinker From Mexico

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results and rescission in part of antidumping duty administrative review.

EFFECTIVE DATE: September 10, 2002.

SUMMARY: In response to requests from interested parties, the Department of Commerce is conducting an administrative review of the antidumping duty order on gray portland cement and clinker from Mexico. The review covers exports of subject merchandise to the United States during the period August 1, 2000, through July 31, 2001, and one firm, CEMEX, S.A. de C.V., and its affiliate, GCC Cemento, S.A. de C.V. We have preliminarily determined that sales were made below normal value during the period of review. With respect to Apasco, S.A. de C.V., we are rescinding the antidumping duty administrative review of this company.

We invite interested parties to comment on these preliminary results. Parties who submit arguments in this proceeding are requested to submit with the argument (1) a statement of the issues, and (2) a brief summary of the argument.

FOR FURTHER INFORMATION CONTACT: Hermes Pinilla or Brian Ellman, Office of AD/CVD Enforcement 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–3477, (202) 482–4852, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to 19 CFR part 351 (April 2001).

Background

On August 1, 2001, the Department published in the **Federal Register** the *Notice of Opportunity to Request Administrative Review* concerning the antidumping duty order on gray portland cement and clinker from Mexico (66 FR 39729). In accordance with 19 CFR 351.213, the petitioner, the Southern Tier Cement Committee (STCC), requested a review of CEMEX, S.A. de C.V. (CEMEX), CEMEX's affiliate, GCC Cemento, S.A. de C.V. (GCCC), and Apasco, S.A. de C.V. (Apasco). In addition, CEMEX and GCCC requested reviews of their own sales during the period of review. On October 1, 2001, we published the *Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews* (66 FR 49924) initiating this review. The period of review is August 1, 2000, through July 31, 2001. Our review of Customs Service import data indicated that there were no entries of subject merchandise made by Apasco during the period of review. *See* Memorandum from Analyst to the File, dated August 6, 2002. Therefore, in accordance with 19 CFR 351.213(d)(3), we are rescinding the review with respect to this manufacturer/exporter. We are now conducting a review of CEMEX and GCCC pursuant to section 751 of the Act.

Scope of Review

The products covered by this review include gray portland cement and clinker. Gray portland cement is a hydraulic cement and the primary component of concrete. Clinker, an intermediate material product produced when manufacturing cement, has no use other than of being ground into finished cement. Gray portland cement is currently classifiable under *Harmonized Tariff Schedule* (HTS) item number 2523.29 and cement clinker is currently classifiable under HTS item number 2523.10. Gray portland cement has also been entered under HTS item number 2523.90 as ''other hydraulic cements.'' The HTS subheadings are provided for convenience and customs purposes only. Our written description of the scope of the proceeding is dispositive.

Verification

As provided in section 782(i) of the Act, we verified sales information provided by CEMEX using standard verification procedures, including an examination of relevant sales and financial records, and selection of original documentation containing relevant information. Our verification results are outlined in public versions of the verification reports.

Collapsing

Section 771(33) of the Act defines when two or more parties will be considered affiliated for purposes of an antidumping analysis. Moreover, 19 CFR 351.401(f) describes when the Department will treat two or more affiliated producers as a single entity (*i.e.*, ''collapse'' the firms) for purposes of calculating a dumping margin. In six previous administrative reviews of this order, we analyzed and determined to collapse CEMEX and GCCC in accordance with our regulations. *See, e.g., Gray Portland Cement and Clinker from Mexico; Final Results of Antidumping Duty Administrative Review,* 67 FR 12518 (March 19, 2002).

The regulations state that we will treat two or more affiliated producers as a single entity where those producers have production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities and we conclude that there is a significant potential for the manipulation of price or production. In identifying a significant potential for the manipulation of price or production, the factors we may consider include the following: (i) The level of common ownership; (ii) the extent to which managerial employees or board members of one firm sit on the board of directors of an affiliated firm; and (iii) whether operations are intertwined, such as through the sharing of sales information, involvement in production and pricing decisions, the sharing of facilities or employees, or significant transactions between the affiliated producers. *See* 19 CFR 351.401(f).

Having reviewed the current record, we find that the factual information underlying our decision to collapse these two entities has not changed from previous administrative reviews. CEMEX's indirect ownership of GCCC exceeds five percent; therefore, these two companies are affiliated pursuant to section 771(33)(E) of the Act. In addition, both CEMEX and GCCC satisfy the criteria for treatment of affiliated parties as a single entity described at 19 CFR 351.401(f)(1): both producers have production facilities for similar and identical products such that substantial retooling of their production facilities would not be necessary to restructure manufacturing priorities. Consequently, any minor retooling required could be accomplished swiftly and with relative ease.

We also find that there exists a significant potential for manipulation of prices and production as outlined under 19 CFR 351.401(f)(2). CEMEX indirectly owns a substantial percentage of GCCC. Also, CEMEX's managers or directors sit on the board of directors of GCCC and its affiliated companies. Accordingly, the percentage of ownership and interlocking boards of directors give rise to a significant potential for affecting GCCC's pricing and production decisions. See the Department's memorandum from Analyst to File, Collapsing CEMEX, S.A. de C.V. and GCC Cemento, S.A. de C.V. for the Current Administrative Review, dated July 31, 2002.[1] Therefore, we have collapsed CEMEX and GCCC into one entity and calculated a single weighted-average margin using information provided by CEMEX and GCCC in this review.

Constructed Export Price

Both CEMEX and GCCC reported constructed export price (CEP) sales. We calculated CEP based on delivered prices to unaffiliated customers in accordance with section 772(b) of the Act. Where appropriate, we made adjustments to the starting price for discounts and billing adjustments. In accordance with section 772(d) of the Act and 19 CFR 351.402(b), we deducted those selling expenses, including inventory carrying costs, that were associated with commercial activities in the United States and relate to the sale to an unaffiliated purchaser. We also made deductions for foreign brokerage and handling, foreign inland freight, U.S. inland freight and insurance, U.S. warehousing expenses, U.S. brokerage and handling, and U.S. duties, pursuant to section 772(c)(2)(A) of the Act. Finally, we made an adjustment for CEP profit in accordance

[1] Our decision to collapse both companies and treat them as a single entity is consistent with our decisions in earlier segments of this proceeding. *See, e.g., Preliminary Results and Rescission in Part of Antidumping Duty Administrative Review: Gray Portland Cement and Clinker From Mexico,* 66 FR 47632, 47633 (September 13, 2001). No changes were made in the final results of review (*see Gray Portland Cement and Clinker From Mexico; Final Results of Antidumping Duty Review,* 67 FR 12518 (March 19, 2002)).

with section 772(d)(3) of the Act. No other adjustments to CEP were claimed or allowed.

With respect to subject merchandise to which value was added in the United States prior to sale to unaffiliated U.S. customers (*i.e.*, cement that was imported and further-processed into finished concrete by U.S. affiliates of foreign exporters), we preliminarily determine that the special rule under section 772(e) of the Act for merchandise with value added after importation is applicable.

Section 772(e) of the Act provides that, where the subject merchandise is imported by a person affiliated with the exporter or producer and the value added in the United States by the affiliated person is likely to exceed substantially the value of the subject merchandise, we will determine the CEP for such merchandise using the price of identical or other subject merchandise if there is a sufficient quantity of sales to provide a reasonable basis for comparison and we determine that the use of such sales is appropriate. The regulations at 19 CFR 351.402(c)(2) provide that normally we will determine that the value added in the United States by the affiliated person is likely to exceed substantially the value of the subject merchandise if we estimate the value added to be at least 65 percent of the price charged to the first unaffiliated purchaser for the merchandise as sold in the United States. Normally we will estimate the value added based on the difference between the price charged to the first unaffiliated purchaser for the merchandise as sold in the United States and the price paid for the subject merchandise by the affiliated person. We will base this determination normally on averages of the prices and the value added to the subject merchandise. If there is not a sufficient quantity of such sales or if we determine that using the price of identical or other subject merchandise is not appropriate, we may use any other reasonable basis to determine the CEP. *See* section 772(e) of the Act.

During the course of this administrative review, the respondent submitted information which allowed us to determine whether, in accordance with section 772(e) of the Act, the value added in the United States by its U.S. affiliates is likely to exceed substantially the value of the subject merchandise. To determine whether the value added is likely to exceed substantially the value of the subject merchandise, we estimated the value added based on the difference between the averages of the prices charged to the first unaffiliated purchaser for the merchandise as sold in the United States and the averages of the prices paid for subject merchandise by the affiliate. Based on this analysis, we estimate that the value added was at least 65 percent of the price the respondent charged to the first unaffiliated purchaser for the merchandise as sold in the United States. Therefore, we preliminarily determine that the value added is likely to exceed substantially the value of the subject merchandise. Also, the record indicates that there is a sufficient quantity of subject merchandise to provide a reasonable and appropriate basis for comparison. Accordingly, for purposes of determining dumping margins for the further-manufactured sales, we will apply the preliminary weighted-average margin reflecting the rate calculated for sales of identical or other subject merchandise sold to unaffiliated purchasers.

Normal Value

A. Comparisons

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating normal value (NV), we compared the respondent's volume of home-market sales of the foreign like product to the volume of U.S. sales of the subject merchandise in accordance with section 773(a)(1)(C) of the Act. Since the respondent's aggregate volume of home-market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales for the subject merchandise, we determined that the home market was viable. Therefore, we have based NV on home-market sales.

During the period of review, the respondent sold Type II LA and Type V LA cement in the United States. The statute expresses a preference for matching U.S. sales to identical merchandise in the home market. The respondent sold cement produced as Type III, CPC 30 R, CPC 40, and CPO 40 cement in the home market. We have attempted to match the subject merchandise to identical merchandise in the home market. In situations where identical product types cannot be matched, we have attempted to match the subject merchandise to sales of similar merchandise in the home market. See sections 773(a)(1)(B) and 771(16) of the Act.

We were able to find identical and similar models to which we could match sales of Type II LA and Type V LA cement sold in the U.S. market. In the 1999/2000 administrative review of this proceeding, we determined that CPO 40 cement produced and sold in the home market is the identical match to Type V LA cement sold in the United States. *See Gray Portland Cement and Clinker From Mexico; Final Results of Antidumping Duty Administrative Review,* 67 FR 12518 (March 19, 2002), and the accompanying Issues and Decision Memorandum at comment 7. We have reviewed the information on the record and have determined that CPO 40 cement produced and sold in the home market is the identical match to Type V LA cement sold in the United States during this review period.

If we could not find an identical match to the cement types sold in the United States in the same month in which the U.S. sale was made or during the contemporaneous period, we based NV on similar merchandise. During the review period, GCCC had sales of Type II LA in the United States but did not have any sales of this type in the home market. Based on information on the record, we find that the chemical and physical characteristics of type CPO 40 cement produced and sold in Mexico are most similar to Type II LA cement sold in the United States. *See, e.g.*, GCCC's response to the supplemental questionnaire dated June 28, 2002, at pages 30–31 and at Exhibit A56. Therefore, for this review period, we matched sales of CPO 40 cement produced and sold in Mexico to all sales of Type II LA sold in the United States.

Furthermore, in accordance with section 771(16)(B) of the Act, we find that both bulk and bagged cement are produced in the same country and by the same producer as the types sold in the United States, both bulk and bagged cement are like the types sold in the United States in component materials and in the purposes for which used, and both bulk and bagged cement are approximately equal in commercial value to the types sold in the United States. The questionnaire responses submitted by the respondent indicate that, with the exception of packaging, cement sold in bulk and cement sold in bags are physically identical and both are used in the production of concrete. Also, since there is no difference in the cost of production between cement sold in bulk or in bagged form (again with the exception of packaging), both are approximately equal in commercial value. *See* CEMEX's and GCCC's responses to the Department's original and supplemental questionnaires.

B. Ordinary Course of Trade

Section 773(a)(1)(B) of the Act requires the Department to base NV on ''the price at which the foreign like product is first sold (or in the absence

of a sale, offered for sale) for consumption in the exporting country, in the usual commercial quantities and in the ordinary course of trade.'' Ordinary course of trade is defined as ''the conditions and practices which, for a reasonable time prior to the exportation of the subject merchandise, have been normal in the trade under consideration with respect to merchandise of the same class or kind.'' *See* section 771(15) of the Act.

In this review, we analyzed home-market sales of cement produced as Type III cement. Pursuant to section 773(a)(1)(B) of the Act, we based our examination on the totality of circumstances surrounding the respondent's sales in Mexico that are produced as Type III cement and, as in previous reviews of this order, we continue to find that the respondent's home-market sales of Type III cement are outside the ordinary course of trade. *See* Preliminary Results Analysis Memo of CEMEX S.A. de C.V. and its affiliate GCC Cemento, S.A. de C.V., for the Eleventh Administrative Review of Gray Portland Cement and Clinker from Mexico (August 30, 2002).

C. Arm's-Length Sales

To test whether sales to affiliated customers were made at arm's length, we compared the prices of sales to affiliated and unaffiliated customers, net of all movement charges, direct selling expenses, discounts, and packing. Where the price to the affiliated party was on average 99.5 percent or more of the price to the unaffiliated parties, we determined that the sales made to the affiliated party were at arm's length. Consistent with 19 CFR 351.403, we included these sales in our analysis.

D. Cost of Production

The petitioner alleged on January 9, 2002, that the respondent sold gray portland cement and clinker in the home market at prices below the cost of production (COP). After examining the allegation, we determined that there were reasonable grounds to believe or suspect that the respondent had sold the subject merchandise in the home market at prices below the COP. Therefore, pursuant to section 773(b)(1) of the Act, we initiated a COP investigation in order to determine whether the respondent made home-market sales during the period of review at below-cost prices. *See* the memorandum from case analysts to Laurie Parkhill entitled Gray Portland Cement and Clinker from Mexico: Request to Initiate Cost Investigation in the 2000/2001 Review (April 24, 2002).

In accordance with section 773(b)(3) of the Act, we calculated the COP based on the sum of the costs of materials and fabrication employed in producing the foreign like product, plus amounts for home-market selling, and general and administrative (SG&A) expenses. We used the home-market sales data and COP information provided by the respondent in its questionnaire response.

After calculating a weighted-average COP, in accordance with section 773(b)(3) of the Act, we tested whether the home-market sales of the respondent were made at prices below COP within an extended period of time in substantial quantities and whether such prices permitted recovery of all costs within a reasonable period of time. We compared type-specific COPs to the reported home-market prices less any applicable direct selling expenses, movement charges, discounts and rebates, indirect selling expenses, and commissions.

Pursuant to section 773(b)(2)(C) of the Act, if less than 20 percent of the respondent's sales of a certain type were at prices less than the COP, we do not disregard any below-cost sales of that product because the below-cost sales were not made in substantial quantities within an extended period of time. If 20 percent or more of the respondent's sales of a certain type during the period of review were at prices less than the COP, such below-cost sales were made in substantial quantities within an extended period of time pursuant to sections 773(b)(2) (B) and (C) of the Act. Based on comparisons of home-market prices to weighted-average COPs for the period of review, we determined that below-cost sales of all types of cement were not made in substantial quantities within an extended period of time, and, therefore, we did not disregard any below-cost sales.

E. Adjustments to Normal Value

Where appropriate, we adjusted home-market prices for discounts, rebates, packing, handling, interest revenue, and billing adjustments to the invoice price. In addition, we adjusted the starting price for inland freight, inland insurance, and warehousing expenses. We also deducted home-market direct selling expenses from the home-market price and home-market indirect selling expenses as a CEP-offset adjustment (*see* Level of Trade/CEP Offset section below). In addition, in accordance with section 773(a)(6) of the Act, we deducted home-market packing costs and added U.S. packing costs.

Section 773(a)(6)(C)(ii) of the Act directs us to make an adjustment to NV to account for differences in the physical characteristics of merchandise where similar products are compared. The regulations at 19 CFR 351.411(b) direct us to consider differences in variable costs associated with the physical differences in the merchandise. Where we matched U.S. sales of subject merchandise to similar models in the home market, we adjusted for differences in merchandise.

F. Level of Trade/CEP Offset

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the home market at the same level of trade as the CEP. The NV level of trade is that of the starting-price sales in the home market or, when NV is based on constructed value (CV), that of sales from which we derive SG&A expenses and profit. For CEP, it is the level of the constructed sale from the exporter to an affiliated importer after the deductions required under section 772(d) of the Act.

To determine whether NV sales are at a different level of trade than CEP, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison-market sales are at a different level of trade and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the level of trade of the export transaction, we make a level-of-trade adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP-offset provision). *See Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa,* 62 FR 61731, 61732–33 (November 19, 1997).

With respect to U.S. sales, we conclude that CEMEX's and GCCC's sales constituted two separate levels of trade, one CEMEX U.S. level of trade and one GCCC U.S. level of trade. We based our conclusion on our analysis of each company's reported selling functions and sales channels after making deductions for selling expenses under section 772(d) of the Act. We found that CEMEX and GCCC performed different sales functions for sales to their respective U.S. affiliates. For

instance, CEMEX reported that it performed technical advice, solicitation of orders/customer visits, account receivable management, post-sale warehousing, and communication activities whereas GCCC reported that it did not perform any of these activities.

Based on our analysis of the respondent's reported selling functions and sales channels, we conclude that the respondent's home-market sales to various classes of customers which purchase both bulk and bagged cement constitute one level of trade. We found that, with some minor exceptions, CEMEX and GCCC performed the same selling functions to varying degrees in similar channels of distribution. We also concluded that the variations in the intensities of selling functions performed were not substantial when all selling expenses were considered as a whole. *See* the memorandum entitled Gray Portland Cement and Clinker from Mexico: Level-of-Trade Analysis for the 00/01 Administrative Review, dated August 30, 2002 (Level-of-Trade Analysis memorandum).

Furthermore, the respondent's home-market sales occur at a different and more advanced stage of distribution than its sales to the United States. For example, the CEMEX U.S. level of trade does not include activities such as market research, after-sales service/warranties, advertising, and packing whereas the home-market level of trade includes these activities. Similarly, the GCCC U.S. level of trade does not include activities such as market research, technical advice, advertising, customer approval, solicitation of orders, computer/legal/accounting/business systems, sales promotion, sales forecasting, strategic and economic planning, personnel training/exchange, and procurement and sourcing services whereas the home-market level of trade includes these activities.

As a result of our level-of-trade analysis, we could not match U.S. sales at either of the two U.S. levels of trade to sales at the same level of trade in the home market because there are no home-market sales at the same level of trade. In addition, because we found only one home-market level of trade, we could not determine a level-of-trade adjustment based on the collapsed entity's home-market sales of merchandise under review. Therefore, we have determined that the data available do not provide an appropriate basis on which to calculate a level-of-trade adjustment. However, we determined that the level of trade of the home-market sales is more advanced than the levels of the U.S. sales. Thus, we made a CEP-offset adjustment in accordance with section 773(a)(7)(B) of the Act for the respondent's CEP sales. In accordance with section 773(a)(7) of the Act, we calculated the CEP offset as the smaller of the following: (1) the indirect selling expenses on the home-market sale, or (2) the indirect selling expenses deducted from the starting price in calculating CEP. See the Level-of-Trade Analysis memorandum.

Currency Conversion

Pursuant to section 773A(a) of the Act, we made currency conversions into U.S. dollars based on the exchange rates in effect on the dates of U.S. sales as certified by the Federal Reserve Bank.

Preliminary Results of Review

As a result of our review, we preliminarily determine the dumping margin for the collapsed parties, CEMEX and GCCC, for the period August 1, 2000, through July 31, 2001, to be 74.78 percent.

We will disclose calculations performed in connection with these preliminary results to parties within five days of the date of publication of this notice. *See* 19 CFR 351.224(b). Interested parties may request a hearing within 30 days of publication of this notice. A hearing, if requested, will be held at the main Commerce Department building three business days after submission of rebuttal briefs.

Issues raised in hearings will be limited to those raised in the respective case and rebuttal briefs. Case briefs from interested parties may be filed no later than 30 days after publication of this notice. Rebuttal briefs, limited to the issues raised in case briefs, may be submitted no later than five days after the deadline for filing case briefs.

Parties who submit case or rebuttal briefs in this proceeding are requested to submit with each argument (1) a statement of the issue, and (2) a brief summary of the argument with an electronic version included.

Upon completion of this review, the Department will determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we have calculated an exporter/importer (or customer)-specific assessment rate for merchandise subject to this review. The Department will issue appropriate assessment instructions directly to the Customs Service within 15 days of publication of the final results of review. If these preliminary results are adopted in the final results of review, we will direct the Customs Service to assess the resulting assessment rates against the entered customs values for the subject merchandise on each of the importer's/customer's entries during the review period.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of review, as provided by section 751(a)(1) of the Act: (1) The cash-deposit rate for the respondent will be the rate determined in the final results of review; (2) for previously reviewed or investigated companies not mentioned above, the cash-deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or in the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash-deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash-deposit rate for all other manufacturers or exporters will be 61.35 percent, the all-others rate from the LTFV investigation. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: September 3, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–22996 Filed 9–9–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–877]

Notice of Postponement of Preliminary Antidumping Duty Determination: Lawn and Garden Steel Fence Posts From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: September 10, 2002.

FOR FURTHER INFORMATION CONTACT: Salim Bhabhrawala or Christopher Smith, Office 5, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230; telephone (202) 482–1784, or (202) 482–1442, respectively.

SUPPLEMENTARY INFORMATION:

Postponement of Preliminary Determination:

The Department of Commerce (the Department) is postponing the deadline for issuance of the preliminary determination in the antidumping duty investigation of lawn and garden steel fence posts from the People's Republic of China until November 27, 2002.

On May 21, 2002, the Department initiated an antidumping investigation of lawn and garden steel fence posts from the People's Republic of China. *See Initiation of Antidumping Duty Investigation: Lawn and Garden Steel Fence Posts from the People's Republic of China*, 67 FR 37388 (May 29, 2002). The notice stated that the Department would issue its preliminary determination no later than 140 days after the date of initiation (*i.e.*, October 8, 2002).

On August 26, 2002, the petitioner, Steel City Corporation, made a timely request pursuant to 19 CFR 351.205(e) for a fifty-day postponement. Therefore, in accordance with section 733 (c)(1)(a) of the Tariff Act of 1930, as amended, the Department is postponing the date of the preliminary determination until November 27, 2002, which is 190 days from the date on which the Department initiated this investigation. We will issue our final determination no later than 75 days from the date on which the Department issues its preliminary determination in this proceeding.

This determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: September 3, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–22991 Filed 9–9–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–504]

Notice of Preliminary Results of Antidumping Administrative Review: Petroleum Wax Candles From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on petroleum wax candles from the People's Republic of China (PRC) in response to a request from Dongguan Fay Candle Co., Ltd. (Fay), a PRC producer and exporter of subject merchandise, and its U.S. importers, TIJID, Inc. (TIJID) (d/b/a DIJIT Inc.), and Palm Beach Home Accents, Inc., (Palm Beach), (collectively, ''respondents''). The review covers the period August 1, 2000 through July 31, 2001.

We preliminarily determine that sales have been made below normal value (NV). The preliminary results are listed below in the section titled ''Preliminary Results of Review.'' If these preliminary results are adopted in our final results, we will instruct the U.S. Customs Service (Customs) to assess antidumping duties on imports into the United States of subject merchandise exported by Fay. Interested parties are invited to comment on these preliminary results. (*See* the ''Preliminary Results of Review'' section of this notice.)

EFFECTIVE DATE: September 10, 2002.

FOR FURTHER INFORMATION CONTACT: Sally C. Gannon or Mark Hoadley, Office of AD/CVD Enforcement VII, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0162 or (202) 482–3148, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations are to the Tariff Act of 1930, as amended (the Act). In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR part 351 (2001).

Background

The Department published in the **Federal Register** an antidumping duty order on petroleum wax candles from the PRC on August 28, 1986 (51 FR 30686). On August 31, 2001, the Department received, in accordance with section 751(a)(2)(B) of the Act and section 351.213(b) of the Department's regulations, a timely request from respondents to conduct an administrative review of the antidumping duty order on petroleum wax candles from the PRC. On October 1, 2001, the Department published its initiation of this administrative review for the period August 1, 2000 through July 31, 2001 (66 FR 49924). Because it was not practicable to complete the review within the initial time period, on April 18, 2002, the Department published an extension of the deadline for completion of the preliminary results of this administrative review until no later than September 3, 2002 (67 FR 19159).

Scope of the Antidumping Duty Order

The products covered by this order are certain scented or unscented petroleum wax candles made from petroleum wax and having fiber or paper-cored wicks. They are sold in the following shapes: tapers, spirals, and straight-sided dinner candles; rounds, columns, pillars, votives; and various wax-filled containers. The products were classified under the Tariff Schedules of the United States (TSUS) item 755.25, Candles and Tapers. The products are currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) item 3406.00.00. Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of this proceeding remains dispositive.

Period of Review

The period of review (POR) is August 1, 2000 through July 31, 2001.

Application of Facts Available

The Department conducted verification at Fay's factory in China from July 22 through 26, 2002. On July 22, 2002, respondents presented corrections to their questionnaire responses. The corrections included a previously unreported production order, which amounted to a significant increase in the production for the POR. The verification team proceeded with verification of the questionnaire responses, but indicated that it would

have to confer with Washington concerning whether the new information could be accepted. On July 26, 2002, after consulting with Washington, the team returned all documents relating to the new production data and halted the remainder of the verification in China. *See Administrative Review of Petroleum Wax Candles from the Peoples Republic of China (PRC) (A–570–504): PRC Verification*, Memorandum to the File, through Sally C. Gannon, from Mark Hoadley, Brett Royce, and Jessica Burdick (August 30, 2002) (*PRC Verification Report*), which is on file in the Central Records Unit (CRU), room B–099 of the main Department building; *2000/2001 Administrative Review on Candles from the People Republic of China (A–570–504): Telephone Call Regarding Verification*, Memorandum to the File from Sally C. Gannon (July 26, 2002).

The next week, the Department informed respondents that it would proceed with the U.S. portion of the verification, and the Department and respondents agreed on August 12 through 15, 2002 as the dates for this verification. *See 2000/2001 Administrative Review on Candles from the People Republic of China (A–570–504): Telephone Call Regarding Verification & Rejection of New Factual Information*, Memorandum to the File, through Sally C. Gannon, from Jessica Burdick (July 31, 2002). On August 9, 2002, respondents called and informed the Department that they had made a decision not to proceed with the U.S. portion of the verification. *See 2000/2001 Administrative Review on Candles from the People Republic of China (A–570–504): Telephone Call Regarding Verification dated August 9, 2002*, Memorandum to the File from Sally C. Gannon (August 9, 2002). On August 9, 2002, respondents also filed a letter informing the Department of their decision not to participate in the U.S. verification.

We find that, in accordance with section 776(a)(2)(D) of the Act, the use of facts available for respondents is appropriate for these preliminary results of review. Respondents' decision not to allow the Department to conduct an on-site U.S. verification prevented necessary information from being verified as provided in section 782(i), a condition specifically listed in section 776(a)(2)(D) as mandating the use of facts available. Once the Department determines that the use of facts available is warranted, section 776(b) of the Act further permits the Department to apply an adverse inference if it makes the additional finding that ''an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information.'' As stated above, the Department set a date for the U.S. portion of the verification that respondents agreed was acceptable. The respondents decided not to proceed with verification. The respondents did not ask that the verification be rescheduled, but simply stated that they would not proceed with the verification. Since the respondents cancelled the U.S. sales verification, the Department cannot rely on respondents' questionnaire responses to calculate a dumping margin for Fay. The U.S. sales verification is integral to our calculation because, without performing the U.S. sales verification, we were unable to complete the sales reconciliation as well as verification of total quantity and value, which are principle elements of the over all verification of respondents' questionnaire responses.

Furthermore, while the Department was able to verify parts of the questionnaire responses in China, that information is inextricably linked with the information unverified in the United States. *See PRC Verification Report*. For example, the Department was able to verify several factors used in the production of candles; that information, however, is not usable if the Department is unable to verify which products were actually sold in the United States, a step in the verification process that would have taken place in the United States if verification had been allowed. Moreover, personnel at Fay stated that some items in the factors of production portion of the response would have to be verified, at least in part, in the United States. For example, they stated that additional documents we requested to confirm the amounts of dyes, fragrances, packaging and hang tags used in production were kept in Florida. In addition, as noted above, by not performing the U.S. sales verification, we were unable to complete the sales reconciliation as well as verification of total quantity and value, which are principle elements of the overall verification of respondents' questionnaire responses. Thus, the use of facts available is mandated for the total response of Fay and its importers. In other words, it is not possible to rely on the respondents' questionnaire responses to calculate a margin for Fay's exports, even using partial facts available ''plugs'' for U.S. sales data, which is the data for which respondents decided not to allow verification.

Therefore, we determine that the respondents did not cooperate to the best of their ability and that the use of adverse facts available is appropriate under section 776(b). Accordingly, as adverse facts available, we have applied the calculated margin of 95.22 percent as published in *Petroleum Wax Candles from the People's Republic of China: Notice of Final Results of New Shipper Review*, 67 FR 41395 (June 18, 2002) (*Candles NSR*). *See Memorandum to Joseph A. Spetrini, Regarding the Application of Facts Available for Exports from Dongguan Fay Candle Co., Ltd.* (September 3, 2002) for a complete discussion of the Department's decision to apply adverse facts available and the choice of the rate from the new shipper review.

Corroboration

Section 776(c) of the Act provides that when the Department relies on the facts otherwise available and relies on ''secondary information,'' the Department shall, to the extent practicable, corroborate that information from independent sources reasonably at the Department's disposal. The *Statement of Administrative Action (SAA)*, H.R. Doc. 103–316, states that ''corroborate'' means to determine that the information used has probative value. *See SAA* at 870. To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. However, unlike other types of information, such as input costs or selling expenses, there are no independent sources for calculated dumping margins. The only source for calculated margins is administrative determinations. Thus, in an administrative review, if the Department chooses as total adverse facts available a calculated dumping margin from the current or a prior segment of the proceeding, it is not necessary to question the reliability of the margin for that time period. *See, e.g., Grain-Oriented Electrical Steel From Italy; Preliminary Results of Antidumping Duty Administrative Review*, 61 FR 36551, 36552 (July 11, 1996). With respect to the relevance aspect of corroboration, however, the Department will consider information reasonably at its disposal to determine whether a margin continues to have relevance. Where circumstances indicate that the selected margin is not appropriate as adverse facts available, the Department will disregard the margin and determine an appropriate margin. For example, in *Fresh Cut Flowers from Mexico: Final Results of Antidumping Administrative Review*, 61 FR 6812 (February 22, 1996), the Department disregarded the highest margin in that case as adverse best information available (the predecessor to facts available) because the margin

was based on another company's uncharacteristic business expense resulting in an unusually high margin. Similarly, the Department does not apply a margin that has been discredited. *See D & L Supply Co. v. United States*, 113 F.3d 1220, 1221(Fed. Cir. 1997) (the Department will not use a margin that has been judicially invalidated). None of these unusual circumstances are present here.

Accordingly, we determine that the new shipper rate is in accord with section 776(c)'s requirement that secondary information be corroborated, *i.e.*, that it have probative value. The information used in the new shipper review to determine this margin was fully verified and subject to the comments of both respondents and petitioner throughout the review. Thus, it is based on the verified sales and production data of the respondents in that review, as well as on the most appropriate surrogate value information available to the Department, chosen from submissions by the parties in that review as well as information gathered by the Department itself. Moreover, as there is no information on the record of this review that demonstrates that this rate is not appropriately used as facts available for respondents, we determine that this rate has probative value.

Separate Rates

Fay requested a separate, company-specific rate. In its questionnaire responses, Fay stated that it is an independent legal entity. To establish whether a company operating in an NME country is sufficiently independent to be eligible for a separate rate, the Department analyzes each exporting entity under the test established in *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991), as amplified by *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994). Under this policy, exporters in NMEs are granted separate, company-specific margins when they can demonstrate an absence of government control, in law and in fact, with respect to export activities. Evidence supporting, though not requiring, a finding of *de jure* absence of government control over export activities includes: 1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses; 2) any legislative enactments decentralizing control of companies; and 3) any other formal measures by the government decentralizing control of companies. *De facto* absence of government control over exports is based on four factors: 1) whether each exporter sets its own export prices independently of the government and without the approval of a government authority; 2) whether each exporter retains the proceeds from its sales and makes independent decisions regarding the disposition of profits or financing of losses; 3) whether each exporter has the authority to negotiate and sign contracts and other agreements; and 4) whether each exporter has autonomy from the government regarding the selection of management.

De Jure Control

With respect to the absence of *de jure* government control over the export activities of the company reviewed, evidence on the record indicates that Fay's export activities are not controlled by the government. Fay submitted evidence of its legal right to set prices independently of all government oversight. The business license of the company indicates that it is permitted to engage in the exportation of candles. We find no evidence of *de jure* government control restricting this company's exportation of candles.

The following laws, which have been placed on the record of this review, indicate a lack of *de jure* government control over privately-owned companies, such as Fay, and that control over these enterprises rests with the enterprises themselves. The Administrative Regulations of the People's Republic of China Governing the Registration of Legal Corporations, issued on June 3, 1988 by the State Council of the PRC, and the Law of the People's Republic of China on Chinese-Foreign Cooperative Joint Ventures, promulgated on April 13, 1998 by Order No. 4 of the President of the People's Republic of China and effective from April 13, 1998, all placed on the record of this review, provide that, to qualify as legal persons, companies must have the ''ability to bear civil liability independently'' and the right to control and manage their businesses. These regulations also state that, as an independent legal entity, a company is responsible for its own profits and losses. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Manganese Metal from the People's Republic of China*, 60 FR 56045 (November 6, 1995) (*Manganese Metal*). Therefore, we preliminarily determine that there is an absence of de jure government control over export activity with respect to this firm.

De Facto Control

With respect to the absence of *de facto* control over export activities, the information on the record indicates that the government has no involvement in the determination of export prices, profit distribution, marketing strategy, and contract negotiations. Our analysis indicates that there is no government involvement in the daily operations or the selection of management for this company. In addition, we found that Fay's pricing and export strategy decisions are not subject to any governmental review or approval, and that there are no governmental policy directives that affect these decisions. There are no restrictions on the use of export earnings. The company's general manager has the right to negotiate and enter into contracts, and may delegate this authority to employees within the company. There is no evidence that this authority is subject to any level of governmental approval. Fay has stated that its management is selected by its board of directors and/or its employees and that there is no government involvement in the selection process. Consequently, because evidence on the record indicates an absence of government control, both in law and in fact, over its export activities, we preliminarily determine that Fay has met the requirements for receiving a separate rate for purposes of this review.

Preliminary Results of Review

As a result of our review, we preliminarily determine the antidumping margin for Fay, for the period of August 1, 2000 through July 31, 2001, to be as follows:

Manufacturer/exporter	Time period	Margin
Dongguan Fay Candle Co., Ltd.	8/1/00–7/31/01	95.22%

Cash Deposit Requirements

If these preliminary results are not modified in the final results of this review, the following deposit rates will be effective upon publication of the final results of this administrative review for all shipments of petroleum wax candles from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) the cash deposit rate for the reviewed company will be the rate established in the final results of this review; (2) for previously reviewed PRC and non-PRC exporters with separate rates, the cash deposit rate will be the company-specific rate established for the most recent period; (3) for all other PRC exporters, the rate will be the PRC-wide rate, which is currently 54.21 percent; and (4) for all other non-PRC exporters of subject merchandise from the PRC, the cash deposit rate will be the rate applicable to the PRC supplier of that exporter. These deposit rates, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Comments and Hearing

Any interested party may request a hearing within 30 days of publication of this notice in accordance with section 351.310(c) of the Department's regulations. Any hearing would normally be held 37 days after the publication of this notice, or the first workday thereafter, at the U.S. Department of Commerce, 14th Street and Constitution Avenue N.W., Washington, D.C. 20230. Individuals who wish to request a hearing must submit a written request within 30 days of the publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230. Requests for a public hearing should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and, (3) to the extent practicable, an identification of the arguments to be raised at the hearing.

Unless otherwise notified by the Department, interested parties may submit case briefs within 30 days of the date of publication of this notice in accordance with section 351.309(c)(ii) of the Department's regulations. As part of the case brief, parties are encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. Rebuttal briefs, which must be limited to issues raised in the case briefs, must be filed within five days after the case brief is filed. If a hearing is held, an interested party may make an affirmative presentation only on arguments included in that party's case brief and may make a rebuttal presentation only on arguments included in that party's rebuttal brief. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time. The Department will issue the final results of this administrative review, which will include the results of its analysis of issues raised in the briefs, within 120 days from the date of publication of these preliminary results, unless the time limit is extended.

Assessment Rates

Upon completion of this administrative review, the Department will determine, and Customs shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we have calculated an exporter/importer (or customer)-specific assessment rate for merchandise subject to this review. The Department will issue appropriate assessment instructions directly to Customs within 15 days of publication of the final results of review. If these preliminary results are adopted in the final results of review, we will direct Customs to assess the resulting assessment rates, where appropriate, against the entered Customs values for the subject merchandise on each of the importer's/customer's entries during the review period.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 351.402(f)(2) of the Department's regulations to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and this notice are issued and published in accordance with sections 751(a)(1) and 777 (i)(1) of the Act.

Dated: September 3, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–22992 Filed 9–9–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–807]

Polyethylene Terephthalate Film Sheet, and Strip From Korea; Notice of Rescission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of rescission of the antidumping duty administrative review.

SUMMARY: On July 24, 2002, in response to requests by Hyosung Corporation (Hyosung), the Department of Commerce (the Department) published a notice of initiation of antidumping duty administrative review of Polyethylene Terephthalate Film, Sheet and Strip from Korea, for the period June 1, 2001 through May 31, 2002. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 67 FR 48435 (July 24, 2002). Hyosung has timely withdrawn its request for review; therefore, the Department is rescinding this review.

EFFECTIVE DATE: September 10, 2002.

FOR FURTHER INFORMATION CONTACT: Michael J. Heaney or Robert James, Enforcement Group III, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–4475 and (202) 482–0649, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Tariff Act), are references to the provisions effective January 1, 1995, the effective date of the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR Part 351 (2001).

Background

On June 5, 1991 the Department published the antidumping duty order on polyethylene terephthalate film, sheet and strip from Korea. *See Antidumping Duty Order and Amendment to Final Determination of Less Than Fair Value: Polyethylene Terephthalate Film, Sheet and Strip from the Republic of Korea*, 56 FR 25660 (June 5, 1991). On June 28, 2002,

Hyosung, producers of the subject merchandise, requested that the Department conduct an administrative review of their respective sales for the period June 1, 2001 through May 31, 2002. There were no other requests for review. On July 24, 2002, the Department published a notice of initiation of antidumping duty administrative review of polyethylene terephtalate film, sheet and strip from Korea, in accordance with 19 CFR 351.221(c)(1)(i). *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 67 FR 48435 (July 24, 2002). On July 29, 2002, Hyosung withdrew its request for review.

Rescission of Review

The Department's regulations provide that the Department will rescind an administrative review ''if a party that requested the review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review.'' *See* 19 CFR 351.213(d)(1). Hyosung's withdrawal of its request for review was within the 90–day time limit. Therefore, the Department is rescinding this review as to Hyosung in accordance with 19 CFR 351.213(d)(1). Because the Department received no other requests for review, the Department is rescinding the administrative review for the period June 1, 2001 through May 31, 2002, and will issue appropriate assessment instructions to the U.S. Customs Service.

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This notice is issued and published in accordance with 19 CFR 351.213(d)(4) and sections 751(a)(1) and 777(i)(1) of the Tariff Act.

Dated: August 30, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–22999 Filed 9–9–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–485–805]

Certain Small Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe From Romania: Preliminary Results of Antidumping Duty Administrative Review and Postponement of Final Results

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: In response to a request by S.C. Silcotub S.A. (Silcotub), a producer/exporter of subject merchandise, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain small diameter carbon and alloy seamless standard, line and pressure pipe (seamless pipe) from Romania. The period of review (POR) is February 4, 2000, through July 31, 2001.

We preliminarily find that sales have not been made below normal value (NV). If these preliminary results are adopted in our final results of administrative review, we will instruct the U.S. Customs Service to assess no antidumping duties on the subject merchandise exported by Silcotub and entered during the POR.

The Department also is now conducting an inquiry into Romania's status as a nonmarket economy country under section 771(18)(C)(ii) of the Tariff Act of 1930, as amended.

EFFECTIVE DATE: September 10, 2002.

FOR FURTHER INFORMATION CONTACT: Magd Zalok, Tisha Loeper-Viti, or Martin Claessens, Group II, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4162, (202) 482–07425, or (202) 482–5451, respectively.

For further information regarding the analysis of Romania's nonmarket economy country status under the antidumping and countervailing duty laws, contact George Smolik or Lawrence Norton at (202) 482–1843 and (202) 482–1579, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce (the Department) regulations are to the regulations at 19 CFR Part 351 (2001).

Case History

On August 10, 2000, the Department published an antidumping duty order on certain small diameter carbon and alloy seamless standard, line and pressure pipe from Romania. *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Small Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe From Romania*, 65 FR 48963 (August 10, 2000) (*Amended Final Determination*). On August 1, 2001, the Department published in the **Federal Register** a notice of opportunity to request administrative review of antidumping or countervailing duty order, finding or suspended investigation. *See Notice of Opportunity to Request Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation*, 66 FR 39729 (August 1, 2001). On August 30, 2001, Silcotub requested an administrative review of the antidumping duty order on seamless pipe from Romania. On October 1, 2001, the Department initiated the current administrative review. *See Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 66 FR 49924 (October 1, 2001). Since the initiation of this administrative review, the following events have occurred:

On October 18, 2001, we issued an antidumping questionnaire to Silcotub. We received the questionnaire responses from Silcotub on November 15 and December 7, 2001. We issued supplemental questionnaires on December 13, 2001, January 10 and April 5, 2002, to which we received responses on January 10, January 31, and April 19, 2002, respectively.

On May 8, 2002, the Department extended the time limit for completion of these preliminary results until no later than May 24, 2002. *See Certain Small Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe from Romania: Extension of Preliminary Results of Antidumping Duty Administrative Review*, 67 FR 30874 (May 8, 2002).

On May 28, 2002, the Department determined that additional time was necessary to consider the proper surrogate valuation of the factors of production and also to consider a request from the Romanian Ministry of Foreign Affairs, submitted to the

Department on May 10, 2002, to revoke Romania's nonmarket economy status. As such, it was not possible for the Department to complete the preliminary analysis in this review by May 24, 2002. Therefore, the Department fully extended the time limit for completion of the preliminary results until no later than September 3, 2002. *See Certain Small Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe from Romania: Extension of Preliminary Results of Antidumping Duty Administrative Review*, 67 FR 36856 (May 28, 2002).

Scope of the Order

The products covered by the order are seamless carbon and alloy (other than stainless) steel standard, line, and pressure pipes and redraw hollows produced, or equivalent, to the ASTM A–53, ASTM A–106, ASTM A–333, ASTM A–334, ASTM A–335, ASTM A–589, ASTM A–795, and the API 5L specifications and meeting the physical parameters described below, regardless of application. The scope of the order also includes all products used in standard, line, or pressure pipe applications and meeting the physical parameters described below, regardless of specification. Specifically included within the scope of the order is seamless pipes and redraw hollows, less than or equal to 4.5 inches (114.3 mm) in outside diameter, regardless of wall-thickness, manufacturing process (hot finished or cold-drawn), end finish (plain end, beveled end, upset end, threaded, or threaded and coupled), or surface finish.

The seamless pipes subject to the order is currently classifiable under the subheadings 7304.10.10.20, 7304.10.50.20, 7304.31.30.00, 7304.31.60.50, 7304.39.00.16, 7304.39.00.20, 7304.39.00.24, 7304.39.00.28, 7304.39.00.32, 7304.51.50.05, 7304.51.50.60, 7304.59.60.00, 7304.59.80.10, 7304.59.80.15, 7304.59.80.20, and 7304.59.80.25 of the Harmonized Tariff Schedule of the United States (HTSUS).

Specifications, Characteristics, and Uses: Seamless pressure pipes are intended for the conveyance of water, steam, petrochemicals, chemicals, oil products, natural gas and other liquids and gasses in industrial piping systems. They may carry these substances at elevated pressures and temperatures and may be subject to the application of external heat. Seamless carbon steel pressure pipe meeting the ASTM A–106 standard may be used in temperatures of up to 1000 degrees Fahrenheit, at various ASME code stress levels. Alloy pipes made to ASTM A–335 standard must be used if temperatures and stress levels exceed those allowed for ASTM A–106. Seamless pressure pipes sold in the United States are commonly produced to the ASTM A–106 standard.

Seamless standard pipes are most commonly produced to the ASTM A–53 specification and generally are not intended for high temperature service. They are intended for the low temperature and pressure conveyance of water, steam, natural gas, air and other liquids and gasses in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses. Standard pipes (depending on type and code) may carry liquids at elevated temperatures but must not exceed relevant ASME code requirements. If exceptionally low temperature uses or conditions are anticipated, standard pipe may be manufactured to ASTM A–333 or ASTM A–334 specifications.

Seamless line pipes are intended for the conveyance of oil and natural gas or other fluids in pipe lines. Seamless line pipes are produced to the API 5L specification.

Seamless water well pipe (ASTM A–589) and seamless galvanized pipe for fire protection uses (ASTM A–795) are used for the conveyance of water.

Seamless pipes are commonly produced and certified to meet ASTM A–106, ASTM A–53, API 5L–B, and API 5L–X42 specifications. To avoid maintaining separate production runs and separate inventories, manufacturers typically triple or quadruple certify the pipes by meeting the metallurgical requirements and performing the required tests pursuant to the respective specifications. Since distributors sell the vast majority of this product, they can thereby maintain a single inventory to service all customers.

The primary application of ASTM A–106 pressure pipes and triple or quadruple certified pipes is in pressure piping systems by refineries, petrochemical plants, and chemical plants. Other applications are in power generation plants (electrical-fossil fuel or nuclear), and in some oil field uses (on shore and off shore) such as for separator lines, gathering lines and metering runs. A minor application of this product is for use as oil and gas distribution lines for commercial applications. These applications constitute the majority of the market for the subject seamless pipes. However, ASTM A–106 pipes may be used in some boiler applications.

Redraw hollows are any unfinished pipe or ''hollow profiles'' of carbon or alloy steel transformed by hot rolling or cold drawing/hydrostatic testing or other methods to enable the material to be sold under ASTM A–53, ASTM A–106, ASTM A–333, ASTM A–334, ASTM A–335, ASTM A–589, ASTM A–795, and API 5L specifications.

The scope of the order includes all seamless pipe meeting the physical parameters described above and produced to one of the specifications listed above, regardless of application, with the exception of the specific exclusions discussed below, and whether or not also certified to a non-covered specification. Standard, line, and pressure applications and the above-listed specifications are defining characteristics of the scope of the order. Therefore, seamless pipes meeting the physical description above, but not produced to the ASTM A–53, ASTM A–106, ASTM A–333, ASTM A–334, ASTM A–335, ASTM A–589, ASTM A–795, and API 5L specifications shall be covered if used in a standard, line, or pressure application, with the exception of the specific exclusions discussed below.

For example, there are certain other ASTM specifications of pipe which, because of overlapping characteristics, could potentially be used in ASTM A–106 applications. These specifications generally include ASTM A–161, ASTM A–192, ASTM A–210, ASTM A–252, ASTM A–501, ASTM A–523, ASTM A–524, and ASTM A–618. When such pipes are used in a standard, line, or pressure pipe application, with the exception of the specific exclusions discussed below, such products are covered by the scope of the order.

Specifically excluded from the scope of the order is boiler tubing and mechanical tubing, if such products are not produced to ASTM A–53, ASTM A–106, ASTM A–333, ASTM A–334, ASTM A–335, ASTM A–589, ASTM A–795, and API 5L specifications and are not used in standard, line, or pressure pipe applications. In addition, finished and unfinished OCTG are excluded from the scope of the order, if covered by the scope of another antidumping duty order from the same country. If not covered by such an OCTG order, finished and unfinished OCTG are included in this scope when used in standard, line or pressure applications.

With regard to the excluded products listed above, the Department will not instruct Customs to require end-use certification until such time as petitioner or other interested parties provide to the Department a reasonable basis to believe or suspect that the products are being used in a covered application. If such information is provided, we will require end-use certification only for the product(s) (or

specification(s)) for which evidence is provided that such products are being used in covered applications as described above. For example, if, based on evidence provided by petitioner, the Department finds a reasonable basis to believe or suspect that seamless pipe produced to the A–161 specification is being used in a standard, line or pressure application, we will require end-use certifications for imports of that specification. Normally we will require only the importer of record to certify to the end use of the imported merchandise. If it later proves necessary for adequate implementation, we may also require producers who export such products to the United States to provide such certification on invoices accompanying shipments to the United States.

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the merchandise subject to this scope is dispositive.

Nonmarket Economy Status

As indicated above, on May 10, 2002, the Department received a letter from the Romanian Ministry of Foreign Affairs requesting a review of the status of Romania as a nonmarket economy (NME) country, either as a free-standing investigation or in the context of this administrative review. In response to this request, the Department is conducting an inquiry into Romania's status as an NME country in the context of the instant review. See section 771(18)(C)(ii) of the Act.

The Department has treated Romania as a NME country in all past antidumping duty investigations and administrative reviews. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Small Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe from Romania*, 65 FR 39125 (June 23, 2000); and Notice of Final Determination of Antidumping Duty Investigation: Certain Hot-Rolled Carbon Steel Flat Products from Romania, 66 FR 49625 (September 28, 2001). A designation as an NME country remains in effect until it is revoked by the Department. *See* section 771(18)(C)(i) of the Act.

As part of its review of Romania's NME status, the Department invites public comment with respect to Romania on the factors listed in section 771(18)(B) of the Act, which the Department must take into account in making a market economy/NME determination: (i) The extent to which the currency of the foreign country is convertible into the currency of other countries; (ii) the extent to which wage rates in the foreign country are determined by free bargaining between labor and management; (iii) the extent to which joint ventures or other investments by firms of other foreign countries are permitted in the foreign country; (iv) the extent of government ownership or control of the means of production; (v) the extent of government control over allocation of resources and over price and output decisions of enterprises; and (vi) such other factors as the administering authority considers appropriate.

The deadline for submission of comments regarding Romania's NME status will be 45 days after the date of publication of this notice in the **Federal Register**. All comments should be filed at the Department's Central Records Unit (CRU), located at the address listed below. Rebuttal comments may be submitted up to 30 days after the date the initial comments are due. Each person submitting comments should include his or her name and address, and give reasons for any recommendation. To facilitate their consideration by the Department, comments should be submitted in the following format: (1) Begin each comment on a separate page; (2) concisely state the issue identified and discussed in the comment and include any supporting documentation in exhibits or appendices; (3) provide a brief summary of the comment (a maximum of 3 sentences) and label this section ''Summary of Comment;'' (4) provide an index or table of contents; and (5) include the case number A–485–805 in the top right hand corner of the submission. To simplify the processing and distribution of comments, the Department requires the submission of documents in electronic form accompanied by an original and six copies in paper form. We require that documents filed in electronic form be on DOS formatted 3.5 inch diskettes and prepared in either WordPerfect 9 format or a format that the WordPerfect program can convert and import into WordPerfect 9. Please submit comments in separate files on the diskette. Comments received on diskette will be made available to the public on the Internet at Import Administration's Website, *http://ia.ita.doc.gov*. Paper copies will be available for reading and photocopying in the CRU, Room B–099, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street, NW., Washington, DC 20230. Any questions concerning file formatting, document conversion, access on the Internet, or other file requirements should be addressed to Andrew Lee Beller, Import Administration Webmaster, (202) 482–0866.

After reviewing all comments and rebuttal comments, the Department will determine if a public hearing on the NME country issue is warranted, if one is requested in the initial or rebuttal comments on this issue, and, if so, the Department will announce a place and time for that hearing.

Separate Rates

It is the Department's standard policy to assign all exporters of subject merchandise subject to review in an NME country a single rate unless an exporter can demonstrate an absence of government control, both in law and in fact, with respect to exports. To establish whether an exporter is sufficiently independent of government control to be entitled to a separate rate, the Department analyzes the exporter in light of the criteria established in the *Final Determination of Sales at Less Than Fair Value: Sparklers From the People's Republic of China*, 56 FR 20588 (May 6, 1991) (*Sparklers*), as amplified in *Final Determination of Sales at Less Than Fair Value: Silicon Carbide From the People's Republic of China*, 59 FR 22585 (May 2, 1994) (*Silicon Carbide*). Under this test, exporters in NME countries are entitled to separate, company-specific margins when they can demonstrate an absence of government control over exports, both in law (*de jure*) and in fact (*de facto*).

Absence of *De Jure* Control

Evidence supporting, though not requiring, a finding of *de jure* absence of government control over export activities includes: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) Any legislative enactments decentralizing control of companies; and (3) Any other formal measures by the government decentralizing control of companies. *See Sparklers*, 56 FR at 20589.

Absence of *De Facto* Control

A *de facto* analysis of absence of government control over exports is based on four factors—whether the respondent: (1) Sets its own export prices independently of the government and other exporters; (2) retains the proceeds from its export sales and makes independent decisions regarding the disposition of profits or financing of losses; (3) has the authority to negotiate and sign contracts and other agreements; and (4) has autonomy from the government regarding the selection of management. *See Silicon Carbide*, 59

FR at 22587; *see also Sparklers*, 56 FR at 20589.

We have determined, according to the criteria identified in *Sparklers* and *Silicon Carbide*, that evidence on the record demonstrates an absence of government control, both in law and in fact, with respect to exports by Silcotub. Silcotub is a private joint stock commercial company organized under the Romanian Commercial Companies Law, Law No. 31/1990, as amended. Silcotub is limited only by its articles of incorporation and bylaws. Specifically, the information on the record shows that Silcotub is autonomous in selecting its management, negotiating and signing contracts, setting its own export prices and retaining its own profits. For a complete discussion of the Department's analysis regarding Silcotub's entitlement to a separate rate, see the September 3, 2002, memorandum, Assignment of Separate Rates for S.C. Silcotub S.A., which is on file in the Central Record Unit (CRU), Room B–099, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street, NW., Washington, DC 20230.

Export Price and Constructed Export Price

For certain sales made by Silcotub to the United States, we used constructed export price (CEP) in accordance with section 772(b) of the Act because the first sale to an unaffiliated purchaser occurred after importation of the merchandise into the United States. For Silcotub's remaining sales to the United States, we used export price (EP), in accordance with section 772(a) of the Act, because the subject merchandise was sold to unaffiliated purchasers in the United States prior to importation into the United States and because the CEP methodology was not indicated by other circumstances.

We calculated EP based on the C&F prices to unaffiliated purchasers, as appropriate. In accordance with section 772(c) of the Act, we deducted amounts, where appropriate, for foreign inland freight, foreign brokerage and handling, and international freight. We valued the deductions for foreign inland freight and brokerage and handling using surrogate data based on Egyptian values. (The selection of the surrogate country and surrogate values is explained in the ''Normal Value'' section of this notice, below.) Since ocean freight for U.S. sales was provided by an unaffiliated carrier from a market economy country and was paid for in a market economy currency, we valued ocean freight using the actual charges from the market economy country.

We calculated CEP based on the packed, ex-warehouse or delivered prices from Silcotub's U.S. subsidiary to unaffiliated customers. In accordance with section 772(c) of the Act, we made deductions, where appropriate, from the starting price for CEP for foreign inland freight, foreign brokerage and handling, international freight, marine insurance, customs duties, U.S. brokerage and handling, and other U.S. transportation expenses such as wharfage, stevedoring, and surveying. In accordance with section 772(d)(1) of the Act, we made further deductions for the following selling expenses that related to economic activity in the United States: credit expenses, direct selling expenses (*i.e.*, bank charges), and indirect selling expenses (including inventory carrying costs). In accordance with section 772(d)(3) of the Act, we have deducted from the starting price an amount for profit.

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine the NV using a factors-of-production methodology if: (1) The merchandise is exported from an NME country; and (2) the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value (CV) under section 773(a) of the Act.

The Department has treated Romania as an NME country in all previous antidumping cases. Furthermore, available information does not permit the calculation of NV using home market prices, third country prices, or CV under section 773(a) of the Act. In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. As discussed in the ''Nonmarket Economy Status'' section above, since Romania's designation as a NME country remains in effect until it is revoked by the Department, we treated Romania as an NME country for purposes of this review and calculated NV by valuing the factors of production in a surrogate country.

Surrogate Country

Section 773(c)(4) of the Act requires the Department to value the NME producer's factors of production, to the extent possible, in one or more market economy countries that: (1) Are at a level of economic development comparable to that of the NME, and (2) are significant producers of comparable merchandise. We chose Egypt as the surrogate country on the basis of the criteria set out in 19 CFR 351.408(b). For a further discussion of our surrogate selection, *see* the September 3, 2002, memorandum Selection of Surrogate Country. (This memorandum is on file in the Department's CRU.)

Factors of Production

We used publicly available information from Egypt to value the various factors of production. Because some of the Egyptian import data were not contemporaneous with the POR, we inflated the data, expressed in U.S. dollars, to the POR using the U.S. producer price index published by the International Monetary Fund.

In accordance with section 773(c) of the Act, we valued Silcotub's reported factors of production by multiplying them by publicly available Egyptian values. In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data. As appropriate, we adjusted input prices to make them delivered prices. We added to Egyptian surrogate values a surrogate freight cost using the reported distance from the supplier to the factory because this distance was shorter than the distance from the nearest seaport to the factory. This adjustment is in accordance with the Court of Appeals for the Federal Circuit's decision in *Sigma Corp.* v. *United States*, 117 F.3d 1401 (Fed. Cir. 1997).

We valued material inputs and packing material (*i.e.*, where applicable, steel billet, plastic caps, and ink) by Harmonized Tariff Schedule (HTS) number, using imports statistics from the *Egyptian Central Agency for Public Mobilization and Statistics, National Information Center*. Where a material input was purchased in a market economy currency from a market economy supplier (*i.e.*, lacquer, strap, clips, and tags), we valued the input at the actual purchase price in accordance with section 351.408(c)(1) of the Department's regulations. We note that, while lacquer was purchased from both NME and market economy suppliers, respondent argued that the price paid to the market economy supplier should not be used to value the factor. We disagree and have used the actual price Silcotub paid for lacquer, in a market economy currency, to a market economy supplier. This methodology is consistent with section 351.408(c)(1) of the Department's regulations in that the Department will normally value the factor using the price paid to the market economy supplier, where a portion of a factor is purchased from a market economy and a NME supplier. We valued labor using the method described in 19 CFR 351.408(c)(3) of the

Department's regulations. For a complete analysis of surrogate values, see the September 3, 2002, memorandum, Factors of Production Valuation for Preliminary Results, (Valuation Memorandum) on file in the CRU.

To value electricity, we used the 2001 electricity rates for Egypt reported on the website of the International Trade Administration of the Department under ''Trade Information Center.'' *See http://www.web.ita.doc.gov/ticwebsite/neweb.nsf/*. We based the value of natural gas on 1998 Egyptian prices reported in Egyptian Ministerial Decree number 1435/1997, adjusted for inflation.

We based our calculation of factory overhead and selling, general and administrative (SG&A) expenses, as well as profit, on 1998/99 financial statements of El-Naser Steel Pipes & Fittings Co., an Egyptian producer of products comparable to the subject merchandise.

To value truck freight rates, we used a 1999 rate (adjusted for inflation) provided by a trucking company located in Egypt. For rail transportation, we valued rail rates using information used in *Titanium Sponge From the Republic of Kazakhstan: Notice of Final Results of Antidumping Duty Administrative Review*, 64 FR 66169 (November 24, 1999), which were initially obtained from a 1999 letter from the Egyptian International House.

For brokerage and handling, we used a 1999 rate (adjusted for inflation) provided by a trucking and shipping company located in Alexandria, Egypt. For further details, see Valuation Memorandum.

Currency Conversion

We made currency conversions in accordance with Section 773(A)(a) of the Act. For currency conversions involving the Egyptian pound, we used exchange rates published by the International Monetary Fund in *International Financial Statistics*. For all other conversions, we used daily exchange rates published by the Federal Reserve Bank.

Preliminary Results of the Review

We preliminarily determine that the following dumping margin exists for the period February 4, 2000, through July 31, 2001.

Exporter/manufacturer	Weighted-average margin percentage
Silcotub	0.04

Within five days of the date of publication of this notice, in accordance with 19 CFR 351.224, the Department will disclose its calculations. Any interested party may request a hearing within 30 days of the date of publication of this notice. Any hearing, if requested, will be held approximately 42 days after the publication of this notice, or the first workday thereafter. Issues raised in hearings will be limited to those raised in the case and rebuttal briefs. Interested parties may submit case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than 35 days after the date of publication of this notice. Parties who submit case briefs or rebuttal briefs in this review are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument with an electronic version included. Parties who submit arguments in this proceeding are requested to provide the Department copies of the public versions on diskette.

Postponement of the Final Results

The Department has determined that it is not practicable to complete the final results of this review within the original time limit because of the need to evaluate Romania's NME status. Therefore, the Department is fully extending the due date for the final results of this administrative review, including the results of its analysis of issues raised in any written briefs or hearing. Accordingly, the final results will be issued no later than 180 days after the date of publication of this Notice in the **Federal Register** pursuant to section 751(a)(3)(A) of the Act.

Assessment

Upon completion of this administrative review, the Department will determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we have calculated an exporter/importer (or customer)-specific assessment rate for merchandise subject to this review. The Department will issue appropriate assessment instructions directly to the Customs Service within 15 days of publication of the final results of review. If these preliminary results are adopted in the final results of review, we will direct the Customs Service to assess no antidumping duties on the merchandise subject to review pursuant to 19 CFR 351.106(c)(2). For the final results, if any importer-specific assessment rate is above *de minimis*, we will instruct Customs to assess duties accordingly. This rate will be assessed uniformly on all entries of that particular importer made during the POR.

Cash Deposit Requirements

The following deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of seamless pipe from Romania entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(c) of the Act: (1) For Silcotub, which has a separate rate, the cash deposit rate will be zero if Silcotub's rate in the final results of review continues to be less than 0.5 percent and, therefore, *de minimis*; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in the original less than fair value (LTFV) investigation, the cash deposit will continue to be the most recent rate published in the final determination for which the manufacturer or exporter received a company-specific rate; (3) if the exporter is not a firm covered in this review, or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this review or the LTFV investigation, the cash deposit rate will be 13.06 percent, the ''Romania-Wide'' rate established in the LTFV investigation. *See Amended Final Determination*, 65 FR 48963.

These cash deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are issued and published in accordance

with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: September 3, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–22995 Filed 9–9–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–451–801]

Notice of Initiation of Inquiry Into the Status of Lithuania as a Non-Market Economy Country for Purposes of the Antidumping and Countervailing Duty Laws Under a Changed Circumstances Review of the Solid Urea Order Against Lithuania

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of initiation and request for comments.

DATES: September 10, 2002.

FOR FURTHER INFORMATION CONTACT: George Smolik, Office of Policy, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–1843.

SUMMARY: The Department of Commerce is initiating an inquiry into the status of Lithuania as a non-market economy country for purposes of the antidumping and countervailing duty laws under a changed circumstances review of the solid urea order against Lithuania.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''the Act'') are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's (''Department'') regulations are to 19 CFR part 351 (2002).

Background

On May 15, 2002, the Department received a letter from the Embassy of Lithuania requesting a review of Lithuania's status as a non-market economy (''NME'') country. On June 5, 2002, the Government of Lithuania submitted a document supporting its request for market economy status. On August 20, 2002, the Department received a letter from the Embassy of Lithuania requesting that the Department review this issue under a changed circumstances review of the solid urea order against Lithuania. In response to this latter request, the Department is initiating an inquiry into Lithuania's status as an NME in the context of a changed circumstances review of the solid urea order against Lithuania pursuant to sections 751(b) and 771(18)(C)(ii) of the Act.

The Department has treated Lithuania as a NME country in all past antidumping duty investigations and administrative reviews. *See, e.g., Urea From the Union of Soviet Socialist Republics; Final Determination of Sales at Less Than Fair Value,* 52 FR 19557 (May 26, 1987); and, *Solid Urea from the Union of Soviet Socialist Republics; Transfer of the Antidumping Duty Order on Solid Urea From the Union of Soviet Socialist Republics to the Commonwealth of Independent States and the Baltic States and Opportunity to Comment,* 57 FR 28828 (June 29, 1992. A designation as a NME remains in effect until it is revoked by the Department. *See* section 771(18)(C)(i) of the Act.

Opportunity for Public Comment

As part of this inquiry to determine whether to revoke Lithuania's NME status, the Department is interested in receiving public comment with respect to Lithuania on the factors listed in section 771(18)(B) of the Act, which the Department must take into account in making a market/non-market economy determination: (i) The extent to which the currency of the foreign country is convertible into the currency of other countries; (ii) the extent to which wage rates in the foreign country are determined by free bargaining between labor and management; (iii) the extent to which joint ventures or other investments by firms of other foreign countries are permitted in the foreign country; (iv) the extent of government ownership or control of the means of production; (v) the extent of government control over allocation of resources and over price and output decisions of enterprises; and, (vi) such other factors as the administering authority considers appropriate.

Comments—Deadline, Format, and Number of Copies

The deadline for submission of comments will be 45 days after the date of publication of this notice in the **Federal Register**. All comments should be filed at the Department of Commerce Central Records Unit located at the address listed below. Rebuttal comments may be submitted up to 30 days after the date initial comments are due. Each person submitting comments should include his or her name and address, and give reasons for any recommendation. To facilitate their consideration by the Department, comments should be submitted in the following format: (1) Begin each comment on a separate page; (2) concisely state the issue identified and discussed in the comment and include any supporting documentation in exhibits or appendices; (3) provide a brief summary of the comment (a maximum of 3 sentences) and label this section ''summary of comment;'' (4) provide an index or table of contents; and (5) include the case number A–451–801 in the top right hand corner of the submission. To simplify the processing and distribution of comments, the Department requires the submission of documents in electronic form accompanied by an original and six copies in paper form. We require that documents filed in electronic form be on DOS formatted 3.5' diskettes and prepared in either WordPerfect 9 format or a format that the WordPerfect program can convert and import into Word Perfect 9. Please submit comments in separate files on the diskette. Comments received on diskette will be made available to the public on the Internet at Import Administration's Web site, *http://ia.ita.doc.gov.* Paper copies will be available for reading and photocopying in the Central Records Unit, Room B–099, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street, NW., Washington, DC 20230. Any questions concerning file formatting, document conversion, access on the Internet, or other file requirements should be addressed to Andrew Lee Beller, Import Administration Webmaster, (202) 482–0866.

Hearing

After reviewing all comments and rebuttal comments, the Department will determine if a public hearing on the NME country issue is warranted, if one is requested in the initial or rebuttal comments on this issue, and, if so, will announce a place and time for that hearing.

This determination is issued and published in accordance with sections 751(b) and 771(18)(C)(ii).

Dated: August 30, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–22998 Filed 9–9–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–122–815]

Pure Magnesium and Alloy Magnesium from Canada: Final Results of Countervailing Duty Administrative Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of countervailing duty administrative reviews.

SUMMARY: On May 8, 2002, the Department of Commerce published in the **Federal Register** the preliminary results and partial rescission of the administrative reviews of the countervailing duty orders on pure magnesium and alloy magnesium from Canada for the period January 1, 2000, through December 31, 2000. The Department has now completed these reviews in accordance with section 751(a) of the Act. The final results do not differ from the preliminary results.

EFFECTIVE DATE: September 10, 2002.

FOR FURTHER INFORMATION CONTACT: Sally Hastings, AD/CVD Enforcement, Group I, Office 1, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–3464.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions of section 751(a) of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (''URAA''), effective January 1, 1995 (''the Act''). In addition, unless otherwise indicated, all citations to the Department of Commerce's (''the Department's'') regulations are to 19 CFR part 351 (2001).

Background

On August 31, 1992, the Department published in the **Federal Register** the countervailing duty orders on pure magnesium and alloy magnesium from Canada (57 FR 39392). The Department published the preliminary results and partial rescission of these administrative reviews on May 8, 2002 (*see Pure Magnesium and Alloy Magnesium From Canada: Preliminary Results and Partial Rescission of Countervailing Duty Administrative Reviews*, 67 FR 30874 (May 8, 2002) (''*Preliminary Results*'')). No comments were received on the *Preliminary Results*.

The Magnesium Corporation of America (''Magcorp''), the petitioner in these reviews, requested reviews of Norsk Hydro Canada, Inc. (''NHCI''), and Magnola Metallurgy Inc. (''Magnola''). As stated in the *Preliminary Results*, we rescinded these reviews as to Magnola. Accordingly, these reviews cover only NHCI.

On June 24, 2002, we received notification from U.S. Magnesium, LLC (''U.S. Magnesium'') that it had purchased all of the assets of Magcorp and its ongoing magnesium business. In response to U.S. Magnesium's request, we are treating that company as a successor-in-interest to Magcorp for the purpose of these countervailing duty reviews.

Scope of the Orders

The products covered by these orders are pure and alloy magnesium from Canada. Pure magnesium contains at least 99.8 percent magnesium by weight and is sold in various slab and ingot forms and sizes. Magnesium alloys contain less than 99.8 percent magnesium by weight with magnesium being the largest metallic element in the alloy by weight, and are sold in various ingot and billet forms and sizes.

The pure and alloy magnesium are currently classifiable under items 8104.11.0000 and 8104.19.0000, respectively, of the *Harmonized Tariff Schedule of the United States* (''*HTSUS*''). Although the *HTSUS* subheadings are provided for convenience and customs purposes, the written descriptions of the merchandise subject to the orders are dispositive.

Secondary and granular magnesium are not included in the scope of these orders. Our reasons for excluding granular magnesium are summarized in *Preliminary Determination of Sales at Less Than Fair Value: Pure and Alloy Magnesium From Canada*, 57 FR 6094 (February 20, 1992).

Period of Review

The period of review for which we are measuring subsidies is from January 1, 2000, through December 31, 2000.

Analysis of Programs

As stated above, there were no comments submitted to the Department with respect to the *Preliminary Results*. Therefore, we determine the following:

I. Program Determined To Confer Countervailable Subsidies

A. Article 7 Grant From the Québec Industrial Development Corporation (''SDI'')

SDI (Société de Développement Industriel du Québec) administers development programs on behalf of the Government of Quebec (''GOQ''). SDI provides assistance under Article 7 of the SDI Act in the form of loans, loan guarantees, grants, assumptions of costs associated with loans, and equity investments. This assistance involves projects capable of having a major impact upon the economy of Québec. Article 7 assistance greater than 2.5 million dollars must be approved by the Council of Ministers and assistance over 5 million dollars becomes a separate budget item under Article 7. Assistance provided in such amounts must be of ''special economic importance and value to the province.'' (*See Final Affirmative Countervailing Duty Determinations: Pure Magnesium and Alloy Magnesium from Canada*, 57 FR 30946, 30948 (July 13, 1992) (''*Magnesium Investigation*'').)

In 1988, NHCI was awarded a grant under Article 7 to cover a large percentage of the cost of certain environmental protection equipment. In the *Magnesium Investigation*, the Department determined that NHCI received a disproportionately large share of assistance under Article 7. On this basis, we determined that the Article 7 grant was limited to a specific enterprise or industry, or group of enterprises or industries and, therefore, countervailable. In these reviews, neither the GOQ nor NHCI has provided new information which would warrant reconsideration of this determination.

In the *Magnesium Investigation*, the Department found that the Article 7 assistance received by NHCI constituted a non-recurring grant because it represented a one-time provision of funds. In the *Preliminary Results of First Countervailing Duty Administrative Reviews: Pure Magnesium and Alloy Magnesium From Canada*, 61 FR 11186, 11187 (March 19, 1996), we found this determination to be consistent with the principles enunciated in the Allocation section of the *General Issues Appendix* (''*GIA*'') appended to the *Final Countervailing Duty Determination; Certain Steel Products from Austria*, 58 FR 37225, 37226 (July 9, 1993). In the current review, no new information has been placed on the record that would cause us to depart from this treatment. Therefore, in accordance with 19 C.F.R. 351.524(b)(2), we have continued to allocate the benefit of this grant over time. We used our standard grant methodology as described in 19 C.F.R. 351.524(d) to calculate the countervailable subsidy. We divided the benefit attributable to the POR by NHCI's total sales of Canadian-manufactured products in the POR. On this basis, we determine the

countervailable subsidy from the Article 7 SDI grant to be 1.59 percent ad valorem for NHCI.

II. Programs Determined To Be Not Used

We examined the following programs and determine that NHCI did not apply for or receive benefits under these programs during the POR:

- St. Lawrence River Environment Technology Development Program
- Program for Export Market Development
- The Export Development Corporation
- Canada-Québec Subsidiary Agreement on the Economic Development of the Regions of Québec
- Opportunities to Stimulate Technology Programs
- Development Assistance Program
- Industrial Feasibility Study Assistance Program
- Export Promotion Assistance Program
- Creation of Scientific Jobs in Industries
- Business Investment Assistance Program
- Business Financing Program
- Research and Innovation Activities Program
- Export Assistance Program
- Energy Technologies Development Program
- Transportation Research and Development Assistance Program

III. Program From Which NHCI No Longer Receives a Countervailable Benefit

- Exemption from Payment of Water Bills

In the administrative reviews covering calendar year 1997 the Department found that NHCI's benefits from this program had been exhausted and NHCI's participation in this program had ended. We also found that no residual benefits were being provided or received and no substitute program had been implemented. In our final results, we stated that therefore, we did not intend to continue to examine this program in the future (*see Pure Magnesium and Alloy Magnesium From Canada: Final Results of Countervailing Duty Administrative Reviews*, 64 FR 48805, 48806 (September 8, 1999)). Consistent with this determination and in the absence of any new allegation, we did not examine this program in these reviews.

Final Results of Reviews

In these final results, we have determined that no changes to our analysis in the *Preliminary Results* are warranted. Therefore, for the period January 1, 2000, through December 31, 2000, we determine the net subsidy rate for the reviewed company to be as follows:

Net Subsidy Rate	
Manufacturer/exporter	Percent
Norsk Hydro Canada, Inc..	1.59 percent

The Department will issue appropriate assessment instructions directly to the Customs Service (''*Customs*'') within 15 days of publication of these final results of review. We will direct Customs to assess the countervailing duties in the above amount on all entries of subject merchandise produced and exported by NHCI during the review period.

The Department will also instruct Customs to collect cash deposits of estimated countervailing duties in the above percentage on the f.o.b. invoice price on all shipments of the subject merchandise from NHCI entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of these reviews.

Because the URAA replaced the general rule in favor of a country-wide rate with a general rule in favor of individual rates for investigated and reviewed companies, the procedures for establishing countervailing duty rates, including those for non-reviewed companies, are now essentially the same as those in antidumping cases, except as provided for in section 777A(e)(2)(B) of the Act. The requested review will normally cover only those companies specifically named (*see* 19 CFR 351.213(b)). Pursuant to 19 CFR 351.212(c), for all companies for which a review was not requested, duties must be assessed at the cash deposit rate, and cash deposits must continue to be collected at the rate previously ordered. As such, the countervailing duty cash deposit rate applicable to a company can no longer change, except pursuant to a request for a review of that company. *See Federal-Mogul Corporation and The Torrington Company* v. *United States*, 822 F. Supp. 782 (CIT 1993), and *Floral Trade Council* v. *United States,* 822 F. Supp. 766 (CIT 1993). Therefore, the cash deposit rates for all companies except NHCI will be unchanged by the results of these reviews.

Accordingly, we will instruct Customs to continue to collect cash deposits for non-reviewed companies at the most recent company-specific or country-wide rate applicable to the company. Except for Timminco Limited, which was excluded from the orders in the original investigations, these rates were established in the first administrative proceeding conducted under the URAA. *See Final Results of the Second Countervailing Duty Administrative Reviews: Pure Magnesium and Alloy Magnesium From Canada*, 62 FR 48607 (September 16, 1997).

In addition, for the period January 1, 2000, through December 31, 2000, the assessment rates applicable to all non-reviewed companies covered by these orders are the cash deposit rates in effect at the time of entry, except for Timminco Limited (which was excluded from the orders in the original investigations).

This notice serves as a reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

These administrative reviews and notice are in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: September 3, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–22994 Filed 9–9–02; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–580–835]

Preliminary Results, Intent to Partially Rescind and Postponement of Final Results of Countervailing Duty Administrative Review: Stainless Steel Sheet and Strip in Coils from the Republic of Korea

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results, intent to partially rescind and postponement of final results of countervailing duty administrative review.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the countervailing duty (CVD) order on

stainless steel sheet and strip in coils from the Republic of Korea for the period January 1, 2000, through December 31, 2000. For information on the net subsidy for the reviewed company, see the ''Preliminary Results of Review'' section of this notice. Interested parties are invited to comment on these preliminary results. (*See* the ''Public Comment'' section of this notice).

EFFECTIVE DATE: September 10, 2002.

FOR FURTHER INFORMATION CONTACT: Tipten Troidl or Carrie Farley, Office of AD/CVD Enforcement VI, Group II, Import Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On August 6, 1999, the Department published in the **Federal Register** the CVD order on stainless steel sheet and strip in coils from the Republic of Korea. *See Amended Final Determination: Stainless Steel Sheet and Strip in Coils From the Republic of Korea; and Notice of Countervailing Duty Orders: Stainless Steel Sheet and Strip From France, Italy and the Republic of Korea,* 64 FR 42923 (August 6, 1999). On August 1, 2001, the Department published an opportunity to request an administrative review of this CVD order. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request an Administrative Review,* 66 FR 39729 (August 1, 2001). We received a timely request for review of Inchon Iron and Steel Co. (Inchon) and Sammi Steel Co. (Sammi), from petitioners. On October 1, 2001, the Department published in the **Federal Register** a notice initiating an administrative review of the countervailing duty order on stainless steel sheet and strip in coils from the Republic of Korea, covering the period of review (POR) January 1, 2000 through December 31, 2000. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part,* 66 FR 49924 (October 1, 2001). On December 20, 2001, the Department received questionnaire responses from the Government of Korea (GOK), Inchon and Sammi. On April 24, 2002, the Department published in the **Federal Register**, an extension of the preliminary results deadline. *See Stainless Steel Sheet and Strip in Coils From the Republic of Korea: Extension of Preliminary Results of Countervailing Duty Administrative Review,* 67 FR 20093. On August 12 and 19, 2002, we received supplemental responses from respondents.

In accordance with 19 CFR 351.213(b), this review covers only those producers or exporters for which a review was specifically requested. The companies subject to this review are Inchon and Sammi. This review covers 17 programs.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (URAA) effective January 1, 1995 (the Act). In addition, unless otherwise indicated, all citations to the regulations are references to the provisions codified at 19 CFR part 351 (2001).

Extension of Time Limits for Final Results

Under 19 CFR 351.213(h)(2), the Department finds that it is not practicable to complete the review within the normal time period allocated under 19 CFR 351.213(h)(1); therefore, we are extending the final results from 120 days to 180 days after the publication of the preliminary results. The reason for this extension is due to extenuating circumstances related to the complexity of this case. Specifically, the additional time will be needed to examine the change of fixed-rate loan methodology, the issue of cross-ownership of Inchon and Sammi, and Inchon's purchase of POSCO's inputs for less than adequate remuneration. As we cannot fully resolve these issues until after verifying the submitted information and examining comments submitted by interested parties, we will be unable to complete the final results by December 29, 2002. Therefore, the Department will issue its final results no later than 180 days after the publication of the preliminary results of this review.

Scope of Review

For purposes of this review, the products covered are certain stainless steel sheet and strip in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject sheet and strip is a flat-rolled product in coils that is greater than 9.5 mm in width and less than 4.75 mm in thickness, and that is annealed or otherwise heat treated and pickled or otherwise descaled. The subject sheet and strip may also be further processed (*e.g.*, cold-rolled, polished, aluminized, coated, *etc.*) provided that it maintains the specific dimensions of sheet and strip following such processing.

The merchandise subject to this review is classified in the *Harmonized Tariff Schedule of the United States* (HTSUS) at subheadings: 7219.13.00.30, 7219.13.00.50, 7219.13.00.70, 7219.13.00.80, 7219.14.00.30, 7219.14.00.65, 7219.14.00.90, 7219.32.00.05, 7219.32.00.20, 7219.32.00.25, 7219.32.00.35, 7219.32.00.36, 7219.32.00.38, 7219.32.00.42, 7219.32.00.44, 7219.33.00.05, 7219.33.00.20, 7219.33.00.25, 7219.33.00.35, 7219.33.00.36, 7219.33.00.38, 7219.33.00.42, 7219.33.00.44, 7219.34.00.05, 7219.34.00.20, 7219.34.00.25, 7219.34.00.30, 7219.34.00.35, 7219.35.00.05, 7219.35.00.15, 7219.35.00.30, 7219.35.00.35, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.12.10.00, 7220.12.50.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.20.70.05, 7220.20.70.10, 7220.20.70.15, 7220.20.70.60, 7220.20.70.80, 7220.20.80.00, 7220.20.90.30, 7220.20.90.60, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTSUS subheadings are provided for convenience and U.S. Customs Service (Customs) purposes, the Department's written description of the merchandise is dispositive.

Excluded from the scope of this review are the following: (1) Sheet and strip that is not annealed or otherwise heat treated and pickled or otherwise descaled, (2) sheet and strip that is cut to length, (3) plate (*i.e.*, flat-rolled stainless steel products of a thickness of 4.75 mm or more), (4) flat wire (*i.e.*, cold-rolled sections, with a prepared edge, rectangular in shape, of a width of not more than 9.5 mm), and (5) razor blade steel. Razor blade steel is a flat rolled product of stainless steel, not further worked than cold-rolled (cold-reduced), in coils, of a width of not more than 23 mm and a thickness of 0.266 mm or less, containing, by weight, 12.5 to 14.5 percent chromium, and certified at the time of entry to be used in the manufacture of razor blades. *See* Chapter 72 of the HTSUS, ''Additional U.S. Note'' 1(d).

The Department has determined that certain specialty stainless steel products are also excluded from the scope of this order. These excluded products are described below:

Flapper valve steel is defined as stainless steel strip in coils containing, by weight, between 0.37 and 0.43 percent carbon, between 1.15 and 1.35 percent molybdenum, and between 0.20 and 0.80 percent manganese. This steel also contains, by weight, phosphorus of 0.025 percent or less, silicon of between 0.20 and 0.50 percent, and sulfur of 0.020 percent or less. The product is manufactured by means of vacuum arc remelting, with inclusion controls for sulphide of no more than 0.04 percent and for oxide of no more than 0.05 percent. Flapper valve steel has a tensile strength of between 210 and 300 ksi, yield strength of between 170 and 270 ksi, plus or minus 8 ksi, and a hardness (Hv) of between 460 and 590. Flapper valve steel is most commonly used to produce specialty flapper valves in compressors.

Also excluded is a product referred to as suspension foil, a specialty steel product used in the manufacture of suspension assemblies for computer disk drives. Suspension foil is described as 302/304 grade or 202 grade stainless steel of a thickness between 14 and 127 microns, with a thickness tolerance of plus-or-minus 2.01 microns, and surface glossiness of 200 to 700 percent Gs. Suspension foil must be supplied in coil widths of not more than 407 mm, and with a mass of 225 kg or less. Roll marks may only be visible on one side, with no scratches of measurable depth. The material must exhibit residual stresses of 2 mm maximum deflection, and flatness of 1.6 mm over 685 mm length.

Certain stainless steel foil for automotive catalytic converters is also excluded from the scope of this review. This stainless steel strip in coils is a specialty foil with a thickness of between 20 and 110 microns used to produce a metallic substrate with a honeycomb structure for use in automotive catalytic converters. The steel contains, by weight, carbon of no more than 0.030 percent, silicon of no more than 1.0 percent, manganese of no more than 1.0 percent, chromium of between 19 and 22 percent, aluminum of no less than 5.0 percent, phosphorus of no more than 0.045 percent, sulfur of no more than 0.03 percent, lanthanum of between 0.002 and 0.05 percent, and total rare earth elements of more than 0.06 percent, with the balance iron.

Permanent magnet iron-chromium-cobalt alloy stainless strip is also excluded from the scope of this order. This ductile stainless steel strip contains, by weight, 26 to 30 percent chromium, and 7 to 10 percent cobalt, with the remainder of iron, in widths 228.6 mm or less, and a thickness between 0.127 and 1.270 mm. It exhibits magnetic remanence between 9,000 and 12,000 gauss, and a coercivity of between 50 and 300 oersteds. This product is most commonly used in electronic sensors and is currently available under proprietary trade names such as ''Arnokrome III.'' [1]

Certain electrical resistance alloy steel is also excluded from the scope of this order. This product is defined as a non-magnetic stainless steel manufactured to American Society of Testing and Materials (ASTM) specification B344 and containing, by weight, 36 percent nickel, 18 percent chromium, and 46 percent iron, and is most notable for its resistance to high temperature corrosion. It has a melting point of 1390 degrees Celsius and displays a creep rupture limit of 4 kilograms per square millimeter at 1000 degrees Celsius. This steel is most commonly used in the production of heating ribbons for circuit breakers and industrial furnaces, and in rheostats for railway locomotives. The product is currently available under proprietary trade names such as ''Gilphy 36.''[2]

Certain martensitic precipitation-hardenable stainless steel is also excluded from the scope of this order. This high-strength, ductile stainless steel product is designated under the Unified Numbering System (UNS) as S45500-grade steel, and contains, by weight, 11 to 13 percent chromium, and 7 to 10 percent nickel. Carbon, manganese, silicon and molybdenum each comprise, by weight, 0.05 percent or less, with phosphorus and sulfur each comprising, by weight, 0.03 percent or less. This steel has copper, niobium, and titanium added to achieve aging, and will exhibit yield strengths as high as 1700 Mpa and ultimate tensile strengths as high as 1750 Mpa after aging, with elongation percentages of 3 percent or less in 50 mm. It is generally provided in thicknesses between 0.635 and 0.787 mm, and in widths of 25.4 mm. This product is most commonly used in the manufacture of television tubes and is currently available under proprietary trade names such as ''Durphynox 17.''[3]

Finally, three specialty stainless steels typically used in certain industrial blades and surgical and medical instruments are also excluded from the scope of this review. These include stainless steel strip in coils used in the production of textile cutting tools (*e.g.*, carpet knives).[4] This steel is similar to ASTM grade 440F, but containing, by weight, 0.5 to 0.7 percent of molybdenum. The steel also contains, by weight, carbon of between 1.0 and 1.1 percent, sulfur of 0.020 percent or less, and includes between 0.20 and 0.30 percent copper and between 0.20 and 0.50 percent cobalt. This steel is sold under proprietary names such as ''GIN4 HI–C.'' The second excluded stainless steel strip in coils is similar to AISI 420–J2 and contains, by weight, carbon of between 0.62 and 0.70 percent, silicon of between 0.20 and 0.50 percent, manganese of between 0.45 and 0.80 percent, phosphorus of no more than 0.025 percent and sulfur of no more than 0.020 percent. This steel has a carbide density on average of 100 carbide particles per square micron. An example of this product is ''GIN5'' steel. The third specialty steel has a chemical composition similar to AISI 420 F, with carbon of between 0.37 and 0.43 percent, molybdenum of between 1.15 and 1.35 percent, but lower manganese of between 0.20 and 0.80 percent, phosphorus of no more than 0.025 percent, silicon of between 0.20 and 0.50 percent, and sulfur of no more than 0.020 percent. This product is supplied with a hardness of more than Hv 500 guaranteed after customer processing, and is supplied as, for example, ''GIN6.''

Sammi Steel Company and Cross-ownership with Inchon

According to section 351.525(b)(6)(vi) of the CVD Regulations, cross ownership exists between two corporations where one corporation can use or direct the individual assets of the other corporation in essentially the same ways it can use its own assets. Normally, this standard will be met where there is a majority voting ownership interest between two corporations. On December 6, 2000, Inchon became the majority shareholder of Sammi with 68 percent of Sammi's shares. However, Sammi remained under court receivership throughout the POR, and until March 23, 2001.

The CVD Regulations acknowledge that control can be exercised by one corporation over another even when that one corporation does not hold majority voting ownership. *See Countervailing Duties; Final Rule,* 63 FR 65348, 65401 (November 25, 1998), preamble to CVD Regulations. The percentage of shares, therefore, is not a dispositive indicator of cross ownership between companies. Accordingly, it is also possible, under certain

[1] ''Arnokrome III'' is a trademark of the Arnold Engineering Company.

[2] ''Gilphy 36'' is a trademark of Imphy, S.A.

[3] ''Durphynox 17'' is a trademark of Imphy, S.A.

[4] This list of uses is illustrative and provided for descriptive purposes only.

extraordinary circumstances, that a corporation holding majority ownership in another corporation may not be in a position to exercise control over that corporation's assets. We therefore requested additional information from the GOK, Inchon and Sammi, to determine whether Inchon was in a position to control and direct the use of Sammi's assets during the POR.

Sammi filed for bankruptcy prior to the POR and came under court receivership prior to and throughout the POR. Under Korea's Company Reorganization Act, the authority for management control, the right to operate the company's business, management, and disposition of the company's property rests exclusively with the court or with the receiver appointed by the court. The information on the record demonstrates that the control of Sammi and the ability to use and direct the company's assets were held by the court and the court appointed receiver throughout the POR. Therefore, while Inchon held 68 percent of Sammi's shares, it was not in the position to control Sammi's assets until March 23, 2001, when Sammi's court receivership ended. Therefore, we find preliminarily that cross ownership as defined under section 351.525(b)(6)(vi) of the CVD Regulations did not exist between Inchon and Sammi during the POR.

Partial Rescission

As noted above, we initiated an administrative review of Sammi. According to the response, Sammi produced subject merchandise but did not export subject merchandise to the United States during calendar year 2000, the POR. However, Sammi provided a complete response to the Department's questionnaire because it was affiliated with Inchon. An affiliated company must provide a questionnaire response if cross-ownership exists and the affiliated company produces the subject merchandise. It is the Department's practice not to review a respondent, in this case Sammi, that has not exported subject merchandise to the United States during the POR. Therefore, because we preliminarily find no cross ownership between Sammi and Inchon, in accordance with 19 CFR 351.213(d)(3), we intend to rescind the review with respect to Sammi because it made no sales or shipments of subject merchandise to the United States during the review period. If, in the final determination, we find that Sammi is not cross owned by Inchon, *See Sammi Steel Company and Cross Ownership with Inchon* above, we will rescind the administrative review of Sammi.

Subsidies Valuation Information

Benchmarks for Long-term Loans: During the POR, Inchon had both won-denominated and foreign currency-denominated long-term loans outstanding which it received from government-owned banks, Korean commercial banks, overseas banks, and foreign banks with branches in Korea.

In the *Final Negative Countervailing Duty Determination: Stainless Steel Plate in Coils from the Republic of Korea,* 64 FR at 15532 (March 31, 1999) (*Plate in Coils*) and in the *Final Affirmative Countervailing Duty Determination: Stainless Steel Sheet and Strip in Coils From the Republic of Korea,* 64 FR at 30641 (June 8, 1999) (*Sheet and Strip*), the Department examined the GOK's direction of credit policies for the period 1992 through 1997. Based on new information gathered during the course of those investigations, the Department determined that the GOK controlled directly or indirectly the lending practices of most sources of credit in Korea between 1992 and 1997. In the *Final Affirmative Countervailing Duty Determination: Certain Cut-to Length Carbon-Quality Steel Plate From the Republic of Korea,* 64 FR at 73180 (December 29, 1999) (*CTL Plate*) the Department determined that the GOK still exercised substantial control over lending institutions in Korea during 1998. In the *Final Results and Partial Rescission of Countervailing Duty Administrative Review: Stainless Steel Sheet and Strip in Coils from the Republic of Korea,* 67 FR 1964 (January 15, 2002) (*1999 Sheet and Strip*), and accompanying Issues and Decision Memorandum (*1999 Sheet and Strip Decision Memo*) at ''the GOK's Direction of Credit'' section, we found that the GOK had control over the lending institutions during 1999. As such, because no new factual information has been placed on the record, we preliminarily find direction of credit countervailable through 2000, the POR of this current administrative review.

Based on our findings on this issue in prior investigations, we are using the following benchmarks to calculate the subsidies attributable to respondent's long-term loans obtained in the years 1992 through 2000:

(1) For countervailable, foreign-currency denominated loans, we used, where available, the company-specific weighted-average U.S. dollar-denominated interest rates on the company's loans from foreign bank branches in Korea.

(2) For countervailable won-denominated long-term loans, where available, we used the company-specific corporate bond rate on the company's public and private bonds. We note that this benchmark is based on the decision in *Plate in Coils* 64 FR at 15531, in which we determined that the GOK did not control the Korean domestic bond market after 1991, and that domestic bonds may serve as an appropriate benchmark interest rate. Where unavailable, we used the national average of the yields on three-year corporate bonds, as reported by the Bank of Korea (BOK). We note that the use of the three-year corporate bond rate from the BOK follows the approach taken in *Plate in Coils,* in which we determined that, absent company-specific interest rate information, the corporate bond rate is the best indicator of a market rate for won-denominated long-term loans in Korea. *Id.*

Benchmarks for Short-Term Financing: For those programs that require the application of a short-term won-denominated interest rate benchmark, we used as our benchmark a company-specific weighted-average interest rate for commercial won-denominated loans outstanding during the POR.

Treatment of Subsidies Received by Trading Companies: We required responses from trading companies because the subject merchandise may be subsidized by means of subsidies provided to both the producer and the exporter of the subject merchandise. Subsidies conferred on the production and exportation of subject merchandise benefit the subject merchandise even if the merchandise is exported to the United States by a trading company rather than by the producer itself. Therefore, the Department calculates countervailable subsidy rates on the subject merchandise by cumulating subsidies provided to the producer with those provided to the exporter. During the POR, Inchon exported subject merchandise to the United States through a trading company, Hyundai Corporation (Hyundai). We required the trading company to provide a response to the Department with respect to the export subsidies under review.

Under section 351.107(b)(1) of the Department's regulations, when the subject merchandise is exported to the United States by a company that is not the producer of the merchandise, the Department may establish a ''combination'' rate for each combination of an exporter and supplying producer. However, as noted in the Preamble to the regulations, there may be situations in which it is not appropriate or practicable to establish combination rates when the subject

merchandise is exported by a trading company. *See Antidumping Duties; Countervailing Duties; Final Rule,* 62 FR 27296, 27303 (May 19, 1997). In such situations, the Department will make exceptions to its combination rate approach on a case-by-case basis. *Id.*

We preliminarily determine that it is not appropriate to establish combination rates, with respect to this review. This determination is based on two main facts: first, the majority of the subsidies conferred upon the subject merchandise were received by the producer; second, the level of subsidies conferred upon the individual trading company with regard to the subject merchandise is insignificant.

Instead, we have continued to calculate a rate for the producer of subject merchandise that includes the subsidies received by the trading company. To reflect those subsidies that are received by the exporter of the subject merchandise in the calculated *ad valorem* subsidy rate, we calculated the benefit attributable to the subject merchandise. We then factored that amount into the calculated subsidy rate for the relevant producer. In each case, we determined the benefit received by the trading company from each export subsidy program, and weighted the average of the benefit amounts by the relative share of the trading company's value of exports of the subject merchandise to the United States. We then added these calculated *ad valorem* subsidies to the subsidies calculated for the producer of subject merchandise. Thus, for each of the programs below, the listed *ad valorem* subsidy rate includes countervailable subsidies received by both the producer and the trading company.

I. Programs Conferring Subsidies

A. The GOK's Direction of Credit

The Department previously determined in the *Final Affirmative Countervailing Duty Determination: Structural Steel Beams from the Republic of Korea*, 65 FR 41051 (July 3, 2000) (*H-beams*), and accompanying Issues and Decision Memorandum (*H-Beams Decision Memo*) at section ''The GOK's Credit Policies through 1991'', that the provision of long-term loans via the GOK's direction of credit policies was specific to the Korean steel industry through 1991 within the meaning of section 771(5A)(D)(iii) of the Act. Also in *H-Beams*, we determined that the provision of these long-term loans through 1991 provided a financial contribution that resulted in the conferral of a benefit, within the meaning of sections 771(5)(D)(i) and 771(5)(E)(ii) of the Act, respectively. *Id.*

In *H-beams*, the Department also determined that the GOK continued to control directly and indirectly the lending practices of most sources of credit in Korea through 1998, and that the GOK's regulated credit from domestic commercial banks and government-controlled banks such as the Korea Development Bank (KDB) was specific to the steel industry. *Id.* Furthermore, the Department determined in *H-Beams* that these regulated loans conferred a benefit on the producer of the subject merchandise to the extent that the interest rates on these loans were less than the interest rates on comparable commercial loans within the meaning of section 771(5)(E)(ii) of the Act. *Id.* In the final determination of *CTL Plate*, 64 FR at 73180, the Department determined that the GOK continued to control, directly and indirectly, the lending practices of sources of credit in Korea in 1998, and the Department continued to find this for 1999. *See 1999 Sheet and Strip Decision Memo* at section ''The GOK's Direction of Credit''.

We provided the GOK with the opportunity to present new factual information concerning the government's credit policies through 2000, the POR, which we would consider along with our findings in the prior investigations. The GOK did not provide any new factual information on this program that would lead us to change our determination in the current administrative review. Therefore, for purposes of these preliminary results, we continue to find lending from domestic banks and from government-owned banks, such as the KDB, to be countervailable through 2000.

With respect to foreign sources of credit, in *Plate in Coils*, 64 FR at 15533, and *Sheet and Strip*, 64 FR at 30642, we determined that access to foreign currency loans from Korean branches of foreign banks (*e.g.*, branches of U.S.-owned banks operating in Korea) did not confer countervailable subsidies to the recipient as defined by section 771(5) of the Act, and, as such, credit received by respondents from these sources was found not to be countervailable. We based this decision upon the fact that credit from Korean branches of foreign banks was not subject to the government's control and direction. Thus, in *Plate in Coils* and *Sheet and Strip*, we determined that respondent's loans from these banks could serve as an appropriate benchmark to establish whether access to regulated foreign sources of credit conferred a benefit on respondents. As such, we preliminarily determine that lending from this source continues to be not countervailable, and, where available, loans from Korean branches of foreign banks continue to serve as an appropriate benchmark to establish whether access to regulated foreign currency loans from domestic banks confers a benefit upon respondents.

Inchon received long-term fixed and variable rate loans from GOK owned/controlled institutions that were outstanding during the POR. In order to determine whether these GOK directed loans conferred a benefit, we compared the interest rates on the directed loans to the benchmark interest rates detailed in the ''Subsidies Valuation Information'' section of this notice.

Won-Denominated Loans: For certain loans, the repayment schedules did not remain constant during the lives of the respective loans. Therefore, in these preliminary results, we have calculated the benefit from these loans using the Department's variable rate methodology. Regarding the calculation of the benefit on countervailable, fixed-rate loans, in past cases the Department has employed the ''grant equivalent'' methodology, as described in section 351.505(c)(3) of the CVD Regulations, when the government-provided loan and the comparison loan have dissimilar grace periods or maturities, or where the repayment schedules have different shapes (*e.g.*, declining balance versus annuity style). *See, e.g.*, *Sheet and Strip*, *CTL Plate*, and *H-Beams.*

In these preliminary results, the Department is revising its application of the grant equivalent methodology discussed in 351.505(c)(3) of the CVD Regulations. We note that section 351.505(c)(2) of the CVD Regulations states that the Department ''will normally calculate the subsidy amount to be assigned to a particular year by calculating the difference in interest payments for that year, (*i.e.*, the difference between the interest paid by the firm in that year on the government-provided loan and the interest the firm would have paid on the comparison loan).'' We also note that, in reference to paragraph (c)(2), the Preamble of the Department's CVD Regulations states that in situations where the benefit from a long-term, fixed rate loan stems solely from a concessionary interest rate, it is not necessary to engage in the grant equivalent methodology. *See* 63 FR at 65369. Thus, the CVD Regulations and the Preamble direct the Department to default to a simple comparison of interest payments made during the POR when calculating the benefit from a long-term, fixed rate loan.

The Preamble goes on to describe those situations in which the Department shall deviate from the ''simple, default methodology,'' and instead employ the grant equivalent methodology. The Preamble states that, ''[b]ecause a firm may derive a benefit from special repayment terms, in addition to any benefit derived from a concessional interest rate,'' the Department will calculate the benefit using the grant equivalent methodology. *See* 63 FR at 65369.

There is no information on the record of these preliminary results that indicates that Inchon derived a benefit from any special repayment terms (*i.e.*, abnormally long grace periods or maturities, etc.) on its long-term, fixed-rate loans. Therefore, in accordance with section 351.505(c)(2) of the CVD Regulations, we are calculating the benefit that Inchon received on its long-term, fixed-rate loans by comparing the amount of interest paid on the loan during the POR to the amount of interest that would have been paid during the POR on a comparable, commercial loan. We invite parties to comment on this issue in the final results.

To calculate the countervailable subsidy benefit, we first derived the benefit amounts attributable to the POR for the company's fixed and variable rate loans, and then summed the benefit amounts from the loans.

Foreign-Currency Denominated Loans: We used the same methodology as set out in the won-denominated loan section above. We compared the interest rates on the directed loans to the benchmark interest rates detailed in the ''Subsidies Valuation Information'' section of this notice. Inchon had both variable and fixed rate long term loans.

To determine the total benefit for all directed credit, we added the benefit derived from foreign currency loans to the benefit derived from won denominated loans and divided the total benefit by Inchon's total f.o.b. sales value during the POR. On this basis, we preliminarily determine the countervailable subsidy to be 0.76 percent *ad valorem* for Inchon.

B. Article 16 of the Tax Exemption and Reduction Control Act (TERCL): Reserve for Export Losses

Under Article 16 of the TERCL, a domestic person engaged in a foreign-currency earning business can establish a reserve amounting to the lesser of one percent of foreign exchange earnings or 50 percent of net income for the respective tax year. Losses accruing from the cancellation of an export contract, or from the execution of a disadvantageous export contract, may be offset by returning an equivalent amount from the reserve fund to the income account. Any amount that is not used to offset a loss must be returned to the income account and taxed over a three-year period, after a one-year grace period. All of the money in the reserve is eventually reported as income and subject to corporate tax either when it is used to offset export losses or when the grace period expires and the funds are returned to taxable income. The deferral of taxes owed amounts to an interest-free loan in the amount of the company's tax savings. This program is only available to exporters. According to information provided by respondents, this program was terminated on April 10, 1998, and no new funds could be placed in this reserve after January 1, 1999. However, Inchon still had an outstanding balance in this reserve during the POR.

In *Sheet and Strip*, 64 FR at 30645, we determined that this program was specific as it constituted an export subsidy under section 771(5A)(B) of the Act because the use of the program is contingent upon export performance. We also determined that this program provided a financial contribution within the meaning of section 771(5)(D)(i) of the Act in the form of a loan. *See* 64 FR 30645. No new information or evidence of changed circumstances has been presented to cause us to revisit this determination. Thus, we preliminarily determine that this program constitutes a countervailable export subsidy.

To determine the benefit conferred by this program, we calculated the tax savings by multiplying the balance amount of the reserve as of December 31, 1999, as filed during the POR, by the corporate tax rate for 1999. We treated the tax savings on these funds as a short-term interest-free loan. *See* 19 CFR 351.509. Accordingly, to determine the benefit, we multiplied the amount of tax savings for Inchon by its respective weighted-average interest rate for short-term won-denominated commercial loans for the POR, as described in the ''Subsidies Valuation Information'' section, above. We then divided the benefit by the respective total f.o.b. export sales. On this basis, we preliminarily calculated a countervailable subsidy of less than 0.005 percent *ad valorem* for Inchon.

For our final determination, we will consider whether the methodology the Department has traditionally applied to these types of Korean tax programs accurately quantifies the benefit conferred by these tax reserves. As noted above, the Department has treated these tax reserve programs as providing a deferral of tax liability. That is, in Year X a company places funds into a reserve account and these funds are, therefore, not taxed in Year X. However, three years later when the funds in the tax reserve are returned to taxable income, income taxes are paid on these funds in Year X plus three. Therefore, we have considered the tax savings on these funds to benefit the company in the form of an interest-free loan. However, if the company is in a tax loss situation and does not pay any taxes on income in the year in which the funds are refunded to the income account, the funds placed into the tax reserve are never taxed. Under this scenario, the company, instead of being provided with a deferral of tax liability on these reserve funds, may have been provided with a complete exemption of tax liability on these funds. Therefore, we will carefully analyze this methodological issue for the final determination. We also invite interested parties to comment on this issue.

C. Article 17 of the TERCL: Reserve for Overseas Market Development

Under Article 17 of the TERCL, a domestic person engaged in a foreign trade business is allowed to establish a reserve fund equal to one percent of its foreign exchange earnings from its export business for the respective tax year. Expenses incurred in developing overseas markets may be offset by returning from the reserve, to the income account, an amount equivalent to the expense. Any part of the fund that is not placed in the income account for the purpose of offsetting overseas market development expenses must be returned to the income account over a three-year period, after a one-year grace period. The balance of this reserve fund is not subject to corporate income tax during the grace period. However, all of the money in the reserve is eventually reported as income and subject to corporate tax either when it offsets export losses or when the grace period expires. The deferral of taxes owed amounts to an interest-free loan equal to the company's tax savings. This program is only available to exporters. Although Inchon did not use this program during the POR, it exported subject merchandise through Hyundai, which used this program during the POR.

In *CTL Plate,* 64 FR at 73181, we determined that the Reserve for Overseas Market Development program is specific under section 771(5A)(B) of the Act because use of the program is contingent upon export performance. We also determined that this program provides a financial contribution within the meaning of section 771(5)(D)(i) of

the Act in the form of a loan. The benefit provided by this program is the tax savings enjoyed by the companies. Respondents have not provided any new information to warrant reconsideration of this determination. Therefore, we continue to find this program countervailable.

To determine the benefit conferred by this program, we calculated the tax savings by multiplying the balance amount of the reserve as of December 31, 1999, by the corporate tax rate for 1999. We treated the tax savings on these funds as a short-term interest-free loan. Accordingly, to determine the benefit, we multiplied the amount of tax savings by Hyundai's weighted-average interest rate for short-term won-denominated commercial loans for the POR. Using the methodology for calculating subsidies received by trading companies, which also is detailed in the ''Subsidies Valuation Information'' section of this notice, we calculate a countervailable subsidy of less than 0.005 percent *ad valorem* for Inchon.

D. Technical Development Fund (RSTA Article 9, Formerly TERCL Article 8)

On December 28, 1998, the TERCL was replaced by the Tax Reduction and Exemption Control Act (RSTA). Pursuant to this change in law, TERCL Article 8 is now identified as RSTA Article 9. Apart from the name change, the operation of RSTA Article 9 is the same as the previous TERCL Article 8 and its Enforcement Decree.

This program allows a company operating in manufacturing or mining, or in a business prescribed by the Presidential Decree, to appropriate reserve funds to cover the expenses needed for development or innovation of technology. These reserve funds are included in the company's losses and reduce the amount of taxes paid by the company. Under this program, capital good and capital intensive companies can establish a reserve of five percent, while companies in all other industries are only allowed to establish a three percent reserve.

In *CTL Plate,* 64 FR 73181, we determined that this program is specific because the capital goods industry is allowed to claim a larger tax reserve under this program than all other manufacturers. We also determined that this program provides a financial contribution within the meaning of section 771(5)(D)(i) of the Act in the form of a loan. The benefit provided by this program is the differential two percent tax savings enjoyed by the companies in the capital goods industry, which includes steel manufacturers. *Id.* No new information, or evidence of changed circumstances, were presented in this review to warrant any reconsideration of the countervailability of this program. Therefore, we continue to find this program to be countervailable. Record evidence indicated that Inchon did not contribute funds to this reserve during the POR, but it did carry a balance. Thus, to calculate the benefit on the balance, we compared the amount that it would have paid if it had only claimed the three percent tax reserve with the tax reserve amount as claimed under five percent. Next, we calculated the amount of the tax savings earned through the use of this tax reserve during the POR and divided that amount by Inchon's total f.o.b. sales during the POR. On this basis, we preliminarily determine a net countervailable subsidy of less than 0.005 percent *ad valorem* for Inchon.

E. Asset Revaluation: TERCL Article 56(2)

Under Article 56(2) of the TERCL, the GOK permitted companies that made an initial public offering between January 1, 1987, and December 31, 1990, to revalue their assets at a rate higher than the 25 percent required of most other companies under the Asset Revaluation Act. In *CTL Plate,* we found this program countervailable. *See* 64 FR at 73183. No new information, or evidence of changed circumstances, were presented in this review to warrant any reconsideration of the countervailability of this program.

To calculate the benefit from the program we reviewed the effect that the difference of the revaluation of depreciable assets had on Inchon's tax liability each year. We multiplied the additional depreciation in the tax return filed during the POR, which resulted from the company's asset revaluation, by the tax rate applicable to that tax return. We then divided the benefit by Inchon's total f.o.b. sales. Accordingly, the net subsidy for this program is less than 0.005 percent *ad valorem* for Inchon.

F. Electricity Discounts Under the Requested Load Adjustment Program (RLA)

With respect to the Requested Load Adjustment (RLA) program, the GOK introduced this discount in 1990, to address emergencies in Korea Electric Power Company's (KEPCO's) ability to supply electricity. Under this program, customers with a contract demand of 5,000 kW or more, who can curtail their maximum demand by 20 percent or suppress their maximum demand by 3,000 kW or more, are eligible to enter into an RLA contract with KEPCO. Customers who choose to participate in this program must reduce their load upon KEPCO's request, or pay a surcharge to KEPCO.

Customers can apply for this program between May 1 and May 15 of each year. If KEPCO finds the application in order, KEPCO and the customer enter into a contract with respect to the RLA discount. The RLA discount is provided based upon a contract for two months, normally July and August. Under this program, a basic discount of 440 won per kW is granted between July 1 and August 31, regardless of whether KEPCO makes a request for a customer to reduce its load. During the POR, KEPCO granted Inchon electricity discounts under this program.

In *Sheet and Strip,* 64 FR at 30646, the Department found this program to be specific under section 771(5A)(D)(iii)(I) of the Act because the discounts were distributed to a limited number of customers. Inchon did receive discounts during the POR, therefore we find that a financial contribution is provided to Inchon under this program within the meaning of section 771(5)(D)(ii) of the Act in the form of revenue foregone by the government. The benefit provided under this program is a discount on a company's monthly electricity charges. Respondents have not provided any new information to warrant reconsideration of this determination. Therefore, we continue to find this program countervailable.

Because the electricity discounts provide recurring benefits, we have expensed the benefit from this program in the year of receipt. To measure the benefit from this program, we summed the electricity discounts which Inchon received from KEPCO under the RLA program during the POR. We then divided that amount by Inchon's total f.o.b. sales value for 2000. On this basis, we determine a net countervailable subsidy of 0.01 percent *ad valorem* for Inchon.

G. POSCO's Provision of Steel Inputs for Less Than Adequate Remuneration

POSCO is the only Korean producer of hot-rolled stainless steel coil (hot-rolled coil), which is the main input into the subject merchandise. During the POR, POSCO sold hot-rolled coil to Inchon for products that were consumed in Korea, as well as hot-rolled coil, to produce exports of the subject merchandise. In *CTL Plate,* which covered calendar year 1998, the Department determined that the GOK, through its ownership and control of POSCO, set prices of steel inputs used

by the Korean steel industry for less than adequate remuneration. *See* 64 FR at 73184. Thus, in *CTL Plate,* the Department found this program to be countervailable.

Prior to 1999, POSCO set different prices depending on whether the input was to be used to produce products for domestic consumption or export consumption. Respondent claims that in May 1999, POSCO eliminated its two-tiered pricing system and established unit prices applicable for sales to all customers, thereby removing the aspect of the program that constituted a countervailable subsidy. However, we find that this change in pricing policies does not impact the determination made by the Department in *CTL Plate,* 64 FR at 73184–85. In *CTL Plate,* the Department did not determine that the difference in pricing between domestic and export consumption constituted a countervailable subsidy. Instead, the Department found that the prices charged by POSCO were for less than adequate remuneration. *Id.* at 73185. Therefore, the fact that POSCO now only charges one price to the Korean steel industry for steel inputs does not affect the determination as to whether a good or service has been provided for less than adequate remuneration. The Department must still examine the prices charged to Inchon by POSCO for hot rolled coil to determine whether the prices are still for less than adequate remuneration.

Under section 351.511(a)(2) of the CVD Regulations, the adequacy of remuneration is determined by comparing the government price to a market determined price based on actual transactions in the country in question. Such prices could include prices stemming from actual transactions between private parties, actual imports, or, in certain circumstances, actual sales from competitively run government auctions. During the POR, Inchon also imported hot-rolled coil; therefore, we are using Inchon's actual import prices of hot-rolled coil as our basis of comparison to the price at which Inchon purchased hot-rolled coil from POSCO. Based upon this comparison, we preliminarily determine that POSCO sold hot-rolled coil to Inchon for less than adequate remuneration.

In the *Notice of Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination: Certain Cold-Rolled Carbon Steel Flat Products from the Republic of Korea,* 67 FR at 9693, (March 4, 2002), we stated that we are reviewing the issue of whether this program is an untied domestic subsidy. However, for purposes of these preliminary results, we continue to find this program tied to subject merchandise. The Department will collect additional information prior to the final results. We invite comments from interested parties on this issue.

The GOK has argued in this proceeding that POSCO underwent privatization in September 2000, and, thus, cannot possibly sell HR coil to Inchon at less than adequate remuneration at the behest of the GOK. It further contends that POSCO's privatization constitutes a program-wide change pursuant to section 351.526 of the CVD Regulations. In *1999 Sheet and Strip,* the Department determined that the information on the record was insufficient to determine whether a program-wide change occurred with respect to this program. We also noted that because of the long history and ties between the GOK and POSCO, the September 29, 2000, partial change in ownership must be carefully analyzed.

In *Sheet and Strip*, the Department relied upon a number of factors to determine that the GOK controlled POSCO. For example, we found that the GOK was the largest shareholder of POSCO and that the GOK's shareholdings of POSCO were ten times larger than the next largest shareholder. In order to further maintain its control over POSCO, the GOK enacted a law which required that no individual shareholder except the GOK could exercise voting rights in excess of three percent of the company's common stock. This same requirement was placed into POSCO's Articles of Incorporation. In addition, the Chairman of POSCO was also a former Deputy Prime Minister and Minister of the GOK's Economic Planning Board, and was appointed as POSCO's president by the Korean President (*i.e.*, by the GOK). Half of POSCO's outside directors were appointed by the GOK. The appointed directors of POSCO included a Minister of Finance, the Vice Minister of Commerce and Industry, the Minister of Science and Technology, and a Member of the Bank of Korea's Monetary Board. POSCO was also only one of three companies designated a ''Public Company'' by the GOK. *See Sheet and Strip*, 64 FR at 30642–43.

In this current administrative review, the respondents have made a similar claim that POSCO's change in ownership removes the GOK's control of POSCO which was found for this program in *CTL Plate* and in *Sheet and Strip*. The respondents have placed additional information on the record of this review regarding a program-wide change under section 351.526 of the CVD Regulations. In particular, the GOK and POSCO have placed information on the record which they claim indicates that many of the elements of control cited to in *Sheet and Strip* have changed. According to this information, the GOK, through the government-owned Industrial Bank of Korea (IBK), currently holds only 3.02 percent of POSCO's shares. According to the GOK, all of POSCO's shares are common shares and have equal voting rights. The GOK also reports that the Seoul Bank holds 1.47 percent of POSCO's shares. The Seoul Bank became government-owned as a result of the financial crisis in Korea. However, the GOK states that the shares listed for Seoul Bank are shares the bank holds on behalf of its customers in trust accounts. Shares held in these trust accounts are not in the possession of, or controlled by, the bank, but belong to its customers.

POSCO also states that the restrictions that no individual other than the GOK can exercise voting rights in excess of three percent have been removed. Under the Securities and Exchange Act, a company designated as a ''public company'' was not permitted to have individual shareholders exercising voting rights in excess of three percent of the company's common shares. This legal requirement applied to POSCO until September 26, 2000. As part of POSCO's privatization process, the GOK removed POSCO's designation as a ''public company'' on that date. Accordingly, any legal limits on individual shareholder's voting rights or ownership in POSCO ceased on September 26, 2000. POSCO's Articles of Incorporation also included this restriction on the acquisition of shares. According to POSCO, although its Articles of Incorporation had not been implemented during the POR, once the GOK eliminated the restrictions on the acquisition of shares, POSCO was in effect no longer a public company.

According to information on the record, POSCO has seven standing directors and eight outside directors on its Board of Directors who are elected for terms of three years and may be re-elected. The directors are elected at the General Meeting of Shareholders, which usually take place in March of each year. Further, none of POSCO's current standing directors are either current or former government officials. With respect to the outside directors, five candidates were recommended by each of the five largest shareholders, which include the IBK and Seoul Bank, and three candidates were recommended by the Board of Directors. There were changes to the Board of Directors during

the General Meeting of Shareholders which occurred during the POR; two outside directors that were former government officials resigned and were replaced.

For the purposes of this preliminary determination, we continue to countervail POSCO's sales of hot-rolled coil as in the *1999 Sheet and Strip* review. In that review, we compared monthly delivered weighted-average prices. However, due to the lack of complete monthly data or quarterly data on this record, we find that it is more appropriate to only compare prices in the months in which Inchon had both domestic and import purchases. We compared Inchon's import prices to prices charged by POSCO to find the price differential (per month). In our comparison we used delivered weighted-average prices charged by POSCO to Inchon for hot-rolled coils and delivered weighted-average prices Inchon paid for imported hot-rolled coil, by grade of hot-rolled coil, making due allowance for factors affecting comparability. We then weight averaged the price differentials by the quantity of imports to derive a single weight averaged price differential. To derive the benefit we multiplied the single weight averaged price differential by the total quantity of inputs purchased from POSCO during the POR. Next, we divided the amount of the price savings by the f.o.b. sales value of merchandise produced using hot-rolled coils. On this basis, we determine that Inchon received a countervailable subsidy of 4.32 percent *ad valorem* from this program during the POR.

During verification we plan to closely examine whether or not the GOK continues either directly or indirectly to control POSCO's pricing policy in the Korean domestic market. We invite interested parties to comment on this issue.

H. Tax Credit for Investments in Productivity Improvement Facilities Under Restriction of Special Taxation (RSTA) Article 24

Under Korean tax laws, companies in Korea are allowed to claim investment tax credits for various kinds of investments. If the investment tax credits cannot all be used at the time they are claimed, then the company is authorized to carry them forward for use in subsequent years. Until December 28, 1998, these investment tax credits were provided under the Tax Reduction and Exemption Control Act (TERCL). On that date, TERCL was replaced by the Restriction of Special Taxation Act (RSTA). Pursuant to this change in the law, investment tax credits received after December 28, 1998, were provided under the authority of RSTA.

During the POR, Inchon earned or used tax credits for investments in productivity increasing facilities (RSTA Article 24, previously TERCL Article 25). If a company invested in foreign-produced facilities (*i.e.*, facilities produced in a foreign country), the company received a tax credit equal to either three or five percent of its investment. However, if a company invested in domestically-produced facilities (*i.e.*, facilities produced in Korea), it received a ten percent tax credit. Under section 771(5A)(C) of the Act, a program that is contingent upon the use of domestic goods over imported goods is specific, within the meaning of the Act. Because Korean companies received a higher tax credit for investments made in domestically-produced facilities, in *CTL Plate*, 63 FR at 73182, we determined that these investment tax credits constituted import substitution subsidies under section 771(5A)(C) of the Act. In addition, because the GOK forewent the collection of tax revenue otherwise due under this program, we determined that a financial contribution is provided under section 771(5)(D)(ii) of the Act. The benefit provided by this program was a reduction in taxes payable. Therefore, we determined that this program was countervailable.

According to the response of the GOK, the government has changed the manner in which these investment tax credits are determined. Pursuant to amendments made to TERCL, which occurred on April 10, 1998, the distinction between investments in domestic and imported goods was eliminated for the tax credits for investments in productivity increasing facilities (RSTA 24). According to the response of the GOK, for investments made after April 10, 1998, there is no longer a difference between domestic-made and foreign-made facilities. The current tax credit is five percent for all of these investments.

Because the distinction between investments in domestic and foreign-made goods was eliminated for investments made after April 10, 1998, we preliminarily determine that the tax credits received pursuant to these investment programs for investments made after April 10, 1998, are no longer countervailable. However, record evidence indicates that companies can still carry forward and use the tax credits for investments earned under the countervailable aspects of the TERCL program before the April 10, 1998, amendment to the tax law. Therefore, we continue to find the use of investment tax credits earned on domestic investments made before April 10, 1998, to be countervailable.

Inchon claimed tax credits under RSTA 24 that originated when there was a distinction between purchasing domestic facilities and imported facilities. To calculate the benefit from this investment tax credit, we examined the amount of tax credits Inchon deducted from its taxes payable for the 1999 fiscal year income tax return, which was filed during the POR. We first determined the amount of the tax credits claimed which were based upon investments in domestically-produced facilities. We then calculated the additional amount of tax credits received by the company because it earned tax credits of ten percent on such investments instead of a three or five percent tax credit. Next, we calculated the amount of the tax savings earned through the use of this tax credit during the POR and divided that amount by Inchon's total f.o.b. sales during the POR. On this basis, we preliminarily determine a net countervailable subsidy of 0.12 percent *ad valorem.*

II. Programs Preliminarily Determined To Be Not Used

A. *Investment Tax Credits Under RSTA Article 10, 18, 26, 27 and 71 of TERCL*
B. *Loans From the National Agricultural Cooperation Federation*
C. *Tax Incentives for Highly-Advanced Technology Businesses Under the Foreign Investment and Foreign Capital Inducement Act*
D. *Reserve for Investment Under Article 43–5 of TERCL*
E. *Export Insurance Rates Provided by the Korean Export Insurance Corporation*
F. *Special Depreciation of Assets on Foreign Exchange Earnings*
G. *Excessive Duty Drawback*
H. *Short-Term Export Financing*
I. *Export Industry Facility Loans*

Preliminary Results of Review

In accordance with 19 CFR 351.221(b)(4)(i), we calculated an individual subsidy rate for the producer/exporter subject to this administrative review. For the period January 1, 2000 through December 31, 2000, we preliminarily determine the net subsidy for Inchon to be 5.21 percent *ad valorem.*

If the final results of this review remain the same as these preliminary results, the Department intends to instruct Customs to assess countervailing duties as indicated above. The Department also intends to instruct Customs to collect cash deposits of estimated countervailing

duties as indicated above as a percentage of the f.o.b. invoice price on all shipments of the subject merchandise from reviewed companies, entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review.

Because the URAA replaced the general rule in favor of a country-wide rate with a general rule in favor of individual rates for investigated and reviewed companies, the procedures for establishing countervailing duty rates, including those for non-reviewed companies, are now essentially the same as those in antidumping cases, except as provided for in section 777A(e)(2)(B) of the Act. The requested review will normally cover only those companies specifically named. *See* 19 CFR 351.213(b). Pursuant to 19 CFR 351.212(c), for all companies for which a review was not requested, duties must be assessed at the cash deposit rate, and cash deposits must continue to be collected, at the rate previously ordered. As such, the countervailing duty cash deposit rate applicable to a company can no longer change, except pursuant to a request for a review of that company. *See Federal-Mogul Corporation and The Torrington Company* v. *United States,* 822 F.Supp. 782 (CIT 1993) and *Floral Trade Council* v. *United States,* 822 F.Supp. 766 (CIT 1993) (interpreting 19 CFR 353.22(e), the antidumping regulation on automatic assessment, which is identical to 19 CFR 351.212(c)(ii)(2)). Therefore, the cash deposit rates for all companies except those covered by this review will be unchanged by the results of this review.

We will instruct Customs to continue to collect cash deposits for non-reviewed companies at the most recent company-specific or country-wide rate applicable to the company. Accordingly, the cash deposit rates that will be applied to non-reviewed companies covered by this order will be the rate for that company established in the most recently completed administrative proceeding conducted under the URAA. If such a review has not been conducted, the rate established in the most recently completed administrative proceeding pursuant to the statutory provisions that were in effect prior to the URAA amendments is applicable. *See Final Affirmative Countervailing Duty Determination: Stainless Steel Sheet and Strip in Coils from the Republic of Korea,* 64 FR 30636 (June 8, 1999). These rates shall apply to all non-reviewed companies until a review of a company assigned these rates is requested. In addition, for the period January 1, 2000 through December 31, 2000, the assessment rates applicable to all non-reviewed companies covered by this order are the cash deposit rates in effect at the time of entry.

Upon completion of this administrative review, the Department will determine, and the Customs Service shall assess, countervailing duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(2), we have calculated a company-specific assessment rate for merchandise subject to this review. The Department will issue appropriate assessment instructions directly to the Customs Service within 15 days of publication of the final results of review. If these preliminary results are adopted in the final results of review, we will direct the Customs Service to assess the resulting assessment rates against the entered customs values for the subject merchandise on each of the company's entries during the review period.

Verification

We find that there are numerous issues that require verification; such as, the allegation of a program-wide change and Inchon's possible cross-ownership of Sammi. Therefore, the Department will verify the information submitted by respondents in accordance with section 782(i)(3) of the Act and 351.307(b)(iv) of the CVD Regulations.

Public Comment

Pursuant to 19 CFR 351.224(b), the Department will disclose to parties to the proceeding any calculations performed in connection with these preliminary results within five days after the date of the public announcement of this notice. Pursuant to 19 CFR 351.309, interested parties may submit written comments in response to these preliminary results. Unless otherwise indicated by the Department, case briefs must be submitted within 14 days after the release of the verification reports. Rebuttal briefs, which are limited to arguments raised in case briefs, must be submitted no later than five days after the time limit for filing case briefs, unless otherwise specified by the Department. Parties who submit argument in this proceeding are requested to submit with the argument: (1) A statement of the issue, and (2) a brief summary of the argument. Parties submitting case and/or rebuttal briefs are requested to provide the Department copies of the public version on disk. Case and rebuttal briefs must be served on interested parties in accordance with 19 CFR 351.303(f). Also, pursuant to 19 CFR 351.310, within 30 days of the date of publication of this notice, interested parties may request a public hearing on arguments to be raised in the case and rebuttal briefs. Unless the Secretary specifies otherwise, the hearing, if requested, will be held two days after the date for submission of rebuttal briefs.

Representatives of parties to the proceeding may request disclosure of proprietary information under administrative protective order no later than 10 days after the representative's client or employer becomes a party to the proceeding, but in no event later than the date the case briefs, under 19 CFR 351.309(c)(ii), are due. The Department will publish the final results of this administrative review, including the results of its analysis of issues raised in any case or rebuttal brief or at a hearing.

This administrative review is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act (19 U.S.C. 1675(a)(1) and 19 U.S.C. 1677f(i)(1)).

Dated: September 3, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–22997 Filed 9–9–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 090302B]

Marine Mammals; File No. 112–1684

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

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that Point Defiance Zoo and Aquarium, 5400 North Pearl Street, Tacoma, Washington 98407, has been issued a permit to import one harbor seal (*Phoca vitulina richardsi*) for purposes of public display.

ADDRESSES: The permit 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

Regional Administrator, Northwest Region, NOAA Fisheries, 7600 Sand

Point Way NE, BIN C15700, Bldg. 1, Seattle, WA 98115–0700; phone (206) 526–6150; fax (206) 526–6426.

FOR FURTHER INFORMATION CONTACT: Jennifer Skidmore or Jill Lewandowski, (301) 713–2289.

SUPPLEMENTARY INFORMATION: On July 12, 2002, notice was published in the **Federal Register** (67 FR 46180) that a request for a public display permit to import one female harbor seal had been submitted by the above-named organization. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, (16 U.S.C. 1361 *et seq.*), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

Dated: September 4, 2002.

Eugene T. Nitta,

Acting Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 02–22923 Filed 9–9–02; 8:45 am]

BILLING CODE 3510–22–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Products Produced or Manufactured in Bahrain

September 3, 2002.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 2003.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The import restraint limits for textile products, produced or manufactured in Bahrain and exported during the period January 1, 2003 through December 31, 2003 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the limits for the 2003 period.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 66 FR 65178, published on December 18, 2001). Information regarding the availability of the 2003 CORRELATION will be published in the **Federal Register** at a later date.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

September 3, 2002.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 2003, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, man-made fiber, silk blend and other vegetable fiber textile products in the following categories, produced or manufactured in Bahrain and exported during the twelve-month period beginning on January 1, 2003 and extending through December 31, 2003, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
Group I	
237, 239pt. [1], 331pt. [2], 332–336, 338, 339, 340–342, 345, 347, 348, 351, 352, 359pt. [3], 433–436, 438, 440, 442–448, 459pt. [4], 631pt. [5], 633–636, 638, 639, 640–647, 648, 651, 652, 659pt. [6], 845, 846 and 852, as a group.	71,428,613 square meters equivalent.
Sublevels in Group I	
338/339	992,558 dozen.
340/640	476,212 dozen of which not more than 357,158 dozen shall be in Categories 340–Y/640–Y [7].

[1] Category 239pt.: only HTS number 6209.20.5040 (diapers).

[2] Category 331pt.: all HTS numbers except 6116.10.1720, 6116.10.4810, 6116.10.5510, 6116.10.7510, 6116.92.6410, 6116.92.6420, 6116.92.6430, 6116.92.6440, 6116.92.7450, 6116.92.7460, 6116.92.7470, 6116.92.8800, 6116.92.9400 and 6116.99.9510.

[3] Category 359pt.: all HTS numbers except 6115.19.8010, 6117.10.6010, 6117.20.9010, 6203.22.1000, 6204.22.1000, 6212.90.0010, 6214.90.0010, 6406.99.1550, 6505.90.1525, 6505.90.1540, 6505.90.2060 and 6505.90.2545.

[4] Category 459pt.: all HTS numbers except 6115.19.8020, 6117.10.1000, 6117.10.2010, 6117.20.9020, 6212.90.0020, 6214.20.0000, 6405.20.6030, 6405.20.6060, 6405.20.6090, 6406.99.1505 and 6406.99.1560.

[5] Category 631pt.: all HTS numbers except 6116.10.1730, 6116.10.4820, 6116.10.5520, 6116.10.7520, 6116.93.8800, 6116.93.9400, 6116.99.4800, 6116.99.5400 and 6116.99.9530.

[6] Category 659pt.: all HTS numbers except 6115.11.0010, 6115.12.2000, 6117.10.2030, 6117.20.9030, 6212.90.0030, 6214.30.0000, 6214.40.0000, 6406.99.1510 and 6406.99.1540.

[7] Category 340–Y: only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2046, 6205.20.2050 and 6205.20.2060; Category 640Y: only HTS numbers 6205.30.2010, 6205.30.2020, 6205.30.2050 and 6205.30.2060.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 2002 shall be charged to the applicable category limits for that year (see directive dated November 8, 2001) to the extent of any unfilled balances. In the event the limits established for that period have

been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 02–22861 Filed 9–9–02; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the Federative Republic of Brazil

September 3, 2002.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 2003.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The import restraint limits for textile products, produced or manufactured in Brazil and exported during the period January 1, 2003 through December 31, 2003 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 2003 limits.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 66 FR 65178, published on December 18, 2001. Information regarding the 2003 CORRELATION will be published in the **Federal Register** at a later date.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

September 3, 2002.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 2003, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the following categories, produced or manufactured in Brazil and exported during the twelve-month period beginning on January 1, 2003 and extending through December 31, 2003, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
Aggregate Limit	
200–221, 224–227, 237, 239pt. [1], 300–326, 331pt. [2], 332–348, 351, 352, 359pt. [3], 360–363, 369pt. [4], 400–430, 433–438, 440–448, 459pt. [5], 469pt. [6], 601–605, 608-620, 623-629, 631pt. [7], 633–648, 651-652, 659pt. [8], 666pt. [9], as a group	739,844,778 square meters equivalent.
Sublevels within the aggregate	
218	9,853,480 square meters.
219	35,973,957 square meters.
225	17,243,592 square meters.
300/301	13,363,587 kilograms.
313	82,751,739 square meters.
314	13,548,539 square meters.
315	40,645,615 square meters.
317/326	36,950,555 square meters.
334/335	265,154 dozen.
336	147,311 dozen.
338/339/638/639	2,651,551 dozen.
342/642	780,732 dozen.
347/348	1,915,009 dozen.
361	2,003,393 numbers.
363	42,757,242 numbers.
410/624	19,706,964 square meters of which not more than 2,920,158 square meters shall be in Category 410.
433	20,271 dozen.
445/446	79,410 dozen.
604	935,451 kilograms of which not more than 714,953 kilograms shall be in Category 604–A [10].
647/648	883,852 dozen.

[1] Category 239pt.: only HTS number 6209.20.5040 (diapers).

[2] Category 331pt.: all HTS numbers except 6116.10.1720, 6116.10.4810, 6116.10.5510, 6116.10.7510, 6116.92.6410, 6116.92.6420, 6116.92.6430, 6116.92.6440, 6116.92.7450, 6116.92.7460, 6116.92.7470, 6116.92.8800, 6116.92.9400 and 6116.99.9510.

[3] Category 359pt.: all HTS numbers except 6115.19.8010, 6117.10.6010, 6117.20.9010, 6203.22.1000, 6204.22.1000, 6212.90.0010, 6214.90.0010, 6406.99.1550, 6505.90.1525, 6505.90.1540, 6505.90.2060 and 6505.90.2545.

[4] Category 369pt.: all HTS numbers except 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.22.4020, 4202.22.4500, 4202.22.8030, 4202.32.4000, 4202.32.9530, 4202.92.0505, 4202.92.1500, 4202.92.3016, 4202.92.6091, 5601.10.1000, 5601.21.0090, 5701.90.1020, 5701.90.2020, 5702.10.9020, 5702.39.2010, 5702.49.1020, 5702.49.1080, 5702.59.1000, 5702.99.1010, 5702.99.1090, 5705.00.2020, 5805.00.3000, 5807.10.0510, 5807.90.0510, 6301.30.0010, 6301.30.0020, 6302,51.1000, 6302.51.2000, 6302.51.3000, 6302.51.4000, 6302.60.0010, 6302.60.0030, 6302.91.0005, 6302.91.0025, 6302.91.0045, 6302.91.0050, 6302.91.0060, 6303.11.0000, 6303.91.0010, 6303.91.0020, 6304.91.0020, 6304.92.0000, 6305.20.0000, 6306.11.0000, 6307.10.1020, 6307.10.1090, 6307.90.3010, 6307.90.4010, 6307.90.5010, 6307.90.8910, 6307.90.8945, 6307.90.9882, 6406.10.7700, 9404.90.1000, 9404.90.8040 and 9404.90.9505.

[5] Category 459pt.: all HTS numbers except 6115.19.8020, 6117.10.1000, 6117.10.2010, 6117.20.9020, 6212.90.0020, 6214.20.0000, 6405.20.6030, 6405.20.6060, 6405.20.6090, 6406.99.1505, 6406.99.1560.

[6] Category 469pt.: all HTS numbers except 5601.29.0020, 5603.94.1010, 6304.19.3040, 6304.91.0050, 6304.99.1500, 6304.99.6010, 6308.00.0010 and 6406.10.9020.

[7] Category 631pt.: all HTS numbers except 6116.10.1730, 6116.10.4820, 6116.10.5520, 6116.10.7520, 6116.93.8800, 6116.93.9400, 6116.99.4800, 6116.99.5400 and 6116.99.9530.

[8] Category 659pt.: all HTS numbers except 6115.11.0010, 6115.12.2000, 6117.10.2030, 6117.20.9030, 6212.90.0030, 6214.30.0000, 6214.40.0000. 6406.99.1510 and 6406.99.1540.

[9] Category 666pt.: all HTS numbers except 5805.00.4010, 6301.10.0000, 6301.40.0010, 6301.40.0020, 6301.90.0010, 6302.53.0010, 6302.53.0020, 6302.53.0030, 6302.93.1000, 6302.93.2000, 6303.12.0000, 6303.19.0010, 6303.92.1000, 6303.92.2010, 6303.92.2020, 6303.99.0010, 6304.11.2000, 6304.19.1500, 6304.19.2000, 6304.91.0040, 6304.93.0000, 6304.99.6020, 6307.90.9884, 9404.90.8522 and 9404.90.9522.

[10] Category 604–A: only HTS number 5509.32.0000.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 2002 shall be charged to the applicable category limits for that year (see directive dated November 9, 2001) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

The conversion factor for merged Categories 338/339/638/639 is 10 (square meters equivalent/category unit).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 02–22862 Filed 9–9–02; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Wool and Man-Made Fiber Textile Products Produced or Manufactured in Bulgaria

September 3, 2002.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 2003.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The import restraint limits for textile products, produced or manufactured in Bulgaria and exported during the period January 1, 2003 through December 31, 2003 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 2003 limits.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 66 FR 65178, published on December 18, 2001). Information regarding the availability of the 2003 CORRELATION will be published in the **Federal Register** at a later date.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

September 3, 2002.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 2003, entry into the United States for consumption and withdrawal from warehouse for consumption of wool and man-made fiber textile products in the following categories, produced or manufactured in Bulgaria and exported during the twelve-month period beginning on January 1, 2003 and extending through December 31, 2003, in excess of the following levels of restraint:

Category	Twelve-month limit
410/624	4,127,937 square meters of which not more than 912,992 square meters shall be in Category 410.
433	15,086 dozen.
435	27,159 dozen.
442	17,599 dozen.
444	82,370 numbers.
448	31,084 dozen.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 2002 shall be charged to the applicable category limits for that year (see directive dated November 8, 2001) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 02–22863 Filed 9–9–02 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Wool and Man-Made Fiber Textile Products Produced or Manufactured in the Czech Republic

September 3, 2002.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 2003.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854);

Executive Order 11651 of March 3, 1972, as amended.

The import restraint limits for textile products, produced or manufactured in the Czech Republic and exported during the period January 1, 2003 through December 31, 2003 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 2003 limits.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 66 FR 65178, published on December 18, 2001). Information regarding the availability of the 2003 CORRELATION will be published in the **Federal Register** at a later date.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

September 3, 2002.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 2003, entry into the United States for consumption and withdrawal from warehouse for consumption of wool and man-made fiber textile products in the following categories, produced or manufactured in the Czech Republic and exported during the twelve-month period beginning on January 1, 2003 and extending through December 31, 2003, in excess of the following limits:

Category	Restraint limit
410	1,735,805 square meters.
433	6,817 dozen.
435	4,485 dozen.
443	83,104 numbers.
624	3,487,353 square meters.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 2002 shall be charged to the applicable category limits for that year (see directive dated November 16, 2001) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,
James C. Lenard III,
Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 02–22864 Filed 9–9–02; 8:45 am]

I68BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Levels for Certain Wool and Man-Made Fiber Textiles and Textile Products Produced or Manufactured in the United Mexican States

September 3, 2002.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing levels under the North America Free Trade Agreement.

EFFECTIVE DATE: January 1, 2003.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

In order to implement Annex 300–B of the North American Free Trade Agreement (NAFTA), restrictions and consultation levels for certain cotton, wool and man-made fiber textile products from Mexico are being established for the period beginning on January 1, 2003 and extending through December 31, 2003.

These restrictions and consultation levels do not apply to NAFTA originating goods, as defined in Annex 300–B, Chapter 4 and Annex 401 of the NAFTA. In addition, restrictions and consultation levels do not apply to textile and apparel goods that are assembled in Mexico from fabrics wholly formed and cut in the United States and exported from and re-imported into the United States under Harmonized Tariff Schedule of the United States item 9802.00.90.

The 2003 DCL for Category 433 was reduced by 1,000 dozen to account for an increase of 1,000 dozen to the 2002 DCL. To the extent that the 2002 increase was not used, the 2003 DCL will be increased later in 2003.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to implement levels for the 2003 period.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 66 FR 65178, published on December 18, 2001). Information regarding the 2003 CORRELATION will be published in the **Federal Register** at a later date.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

September 3, 2002.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the North American Free Trade Agreement (NAFTA), between the Governments of the United States, the United Mexican States and Canada, you are directed to prohibit, effective on January 1, 2003, entry into the United States for consumption and withdrawal from warehouse for consumption of wool and man-made fiber textile products in the following categories, produced or manufactured in Mexico and exported during the twelve-month period beginning on January 1, 2003 and extending through December 31, 2003, in excess of the following levels:

Category	Twelve-month limit
410	397,160 square meters.
433	10,000 dozen.
443	213,496 numbers.
611	1,267,710 square meters.

The levels set forth above are subject to adjustment pursuant to the provisions of Annex 300–B of the NAFTA.

Products in the above categories exported during 2002 shall be charged to the applicable category levels for that year (see directive dated November 23, 2001) to the extent of any unfilled balances. In the event the levels established for that period have been exhausted by previous entries, such products shall be charged to the levels set forth in this directive.

The foregoing levels do not apply to NAFTA originating goods, as defined in Annex 300–B, Chapter 4 and Annex 401 of the NAFTA. In addition, restrictions and consultation levels do not apply to textile and apparel goods that are assembled in Mexico from fabrics wholly formed and cut in the United States and exported from and re-imported into the United States under Harmonized Tariff Schedule of the United States item 9802.00.90.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 02–22865 Filed 9–9–02; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton, Wool and Man-Made Fiber Textiles and Textile Products Produced or Manufactured in Romania

September 3, 2002.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 2003.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The import restraint limits for textile products, produced or manufactured in Romania and exported during the period January 1, 2003 through December 31, 2003 are based on the limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC).

These limits do not apply to goods entered under the Outward Processing Program, as defined in the notice and letter to the Commissioner of Customs published in the **Federal Register** on December 14, 1999 (see 64 FR 69746).

Any shipment for entry under the Outward Processing Program which is not accompanied by valid certification in accordance with the provisions established in the notice and letter to the Commissioner of Customs, published in the **Federal Register** on December 14, 1999 (see 64 FR 69744), shall be denied entry. However, the Government of Romania may authorize the entry and charges to the appropriate specific limits by the issuance of a valid visa. Also see 49 FR 493, as amended, published on January 4, 1984.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 2003 limits.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 66 FR 65178, published on December 18, 2001). Information regarding the 2003 CORRELATION will be published in the **Federal Register** at a later date.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

September 3, 2002.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 2003, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textiles and textile products in the following categories, produced or manufactured in Romania and exported during the twelve-month period beginning on January 1, 2003 and extending through December 31, 2003, in excess of the following levels of restraint:

Category	Twelve-month limit
313	3,250,497 square meters.
314	2,437,873 square meters.
315	5,866,747 square meters.
333	232,300 dozen.
334	561,629 dozen.
335	288,632 dozen.
338/339	1,270,216 dozen.
340	554,443 dozen.
341	225,160 dozen.
347/348	991,389 dozen.
352	353,413 dozen.
359pt. [1]	1,267,685 kilograms.
360	3,276,049 numbers.
361	2,184,034 numbers.
369pt. [2]	480,425 kilograms.
410	187,671 square meters.
433/434	10,394 dozen.
435	10,873 dozen.
442	12,592 dozen.
443	97,140 numbers.
444	45,793 numbers.
447/448	25,253 dozen.
604	1,791,488 kilograms.
638/639	1,259,072 dozen.
640	173,164 dozen.
647/648	298,915 dozen.
666pt. [3]	227,458 kilograms.

[1] Category 359pt.: all HTS numbers except 6115.19.8010, 6117.10.6010, 6117.20.9010, 6203.22.1000, 6204.22.1000, 6212.90.0010, 6214.90.0010, 6406.99.1550, 6505.90.1525, 6505.90.1540, 6505.90.2060 and 6505.90.2545.

[2] Category 369pt.: all HTS numbers except 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.22.4020, 4202.22.4500, 4202.22.8030, 4202.32.4000, 4202.32.9530, 4202.92.0505, 4202.92.1500, 4202.92.3016, 4202.92.6091, 5601.10.1000, 5601.21.0090, 5701.90.1020, 5701.90.2020, 5702.10.9020, 5702.39.2010, 5702.49.1020, 5702.49.1080, 5702.59.1000, 5702.99.1010, 5702.99.1090, 5705.00.2020, 5805.00.3000, 5807.10.0510, 5807.90.0510, 6301.30.0010, 6301.30.0020, 6302,51.1000, 6302.51.2000, 6302.51.3000, 6302.51.4000, 6302.60.0010, 6302.60.0030, 6302.91.0005, 6302.91.0025, 6302.91.0045, 6302.91.0050, 6302.91.0060, 6303.11.0000, 6303.91.0010, 6303.91.0020, 6304.91.0020, 6304.92.0000, 6305.20.0000, 6306.11.0000, 6307.10.1020, 6307.10.1090, 6307.90.3010, 6307.90.4010, 6307.90.5010, 6307.90.8910, 6307.90.8945, 6307.90.9882, 6406.10.7700, 9404.90.1000, 9404.90.8040 and 9404.90.9505.

[3] Category 666pt.: all HTS numbers except 5805.00.4010, 6301.10.0000, 6301.40.0010, 6301.40.0020, 6301.90.0010, 6302.53.0010, 6302.53.0020, 6302.53.0030, 6302.93.1000, 6302.93.2000, 6303.12.0000, 6303.19.0010, 6303.92.1000, 6303.92.2010, 6303.92.2020, 6303.99.0010, 6304.11.2000, 6304.19.1500, 6304.19.2000, 6304.91.0040, 6304.93.0000, 6304.99.6020, 6307.90.9884, 9404.90.8522 and 9404.90.9522.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 2002 shall be charged to the applicable category limits for that year (see directive dated November 27, 2001) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

These limits do not apply to goods entered under the Outward Processing Program, as defined in the letter to the Commissioner of Customs, dated December 8, 1999 (see 64 FR 69746).

Any shipment for entry under the Outward Processing Program which is not accompanied by a valid certification in accordance with the provisions established in the letter to the Commissioner of Customs, dated December 9, 1999 (see 64 FR 69744), shall be denied entry. However, the Government of Romania may authorize the entry and charges to the appropriate specific limits by the issuance of a valid visa. Also see directive dated December 29, 1983, as amended, (49 FR 493). Any shipment which is declared for entry under the Outward Processing Program but found not to qualify shall be denied entry into the United States.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 02–22866 Filed 9–9–02; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Singapore

September 3, 2002.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 2003.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The import restraint limits for textile products, produced or manufactured in Singapore and exported during the period January 1, 2003 through December 31, 2003 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 2003 limits.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 66 FR 65178, published on December 18, 2001). Information regarding the availability of the 2003 CORRELATION will be published in the **Federal Register** at a later date.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

September 3, 2002.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 2003, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the following categories, produced or manufactured in Singapore and exported during the twelve-month period beginning on January 1, 2003 and extending through December 31, 2003, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
237	382,551 dozen.
239pt. [1]	266,444 kilograms.
331pt. [2]	89,358 dozen pairs.
334	94,792 dozen.
335	285,134 dozen.
338/339	2,039,627 dozen of which not more than 1,191,977 dozen shall be in Category 338 and not more than 1,325,330 dozen shall be in Category 339.
340	1,427,436 dozen.
341	358,930 dozen.
342	220,879 dozen.
347/348	1,334,370 dozen of which not more than 833,979 dozen shall be in Category 347 and not more than 648,653 dozen shall be in Category 348.
435	7,485 dozen.
604	1,193,707 kilograms.
631pt. [3]	550,326 dozen pairs.
634	361,896 dozen.
635	370,342 dozen.
638	1,329,189 dozen.
639	4,163,073 dozen.
640	304,317 dozen.
641	496,373 dozen.
642	524,682 dozen.
645/646	203,864 dozen.
647	858,524 dozen.
648	1,680,702 dozen.

[1] Category 239pt.: only HTS number 6209.20.5040 (diapers).

[2] Category 331pt.: all HTS numbers except 6116.10.1720, 6116.10.4810, 6116.10.5510, 6116.10.7510, 6116.92.6410, 6116.92.6420, 6116.92.6430, 6116.92.6440, 6116.92.7450, 6116.92.7460, 6116.92.7470, 6116.92.8800, 6116.92.9400 and 6116.99.9510.

[3] Category 631pt.: all HTS numbers except 6116.10.1730, 6116.10.4820, 6116.10.5520, 6116.10.7520, 6116.93.8800, 6116.93.9400, 6116.99.4800, 6116.99.5400 and 6116.99.9530.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 2002 shall be charged to the applicable category limits for that year (see directive dated November 27, 2001) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 02–22867 Filed 9–9–02; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the Republic of Turkey

September 3, 2002.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 2003.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The import restraint limits for textile products, produced or manufactured in Turkey and exported during the period January 1, 2003 through December 31, 2003 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 2003 limits.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 66 FR 65178, published on December 18, 2001). Information regarding the 2003 CORRELATION will be published in the **Federal Register** at a later date.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

September 3, 2002.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 2003, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the following categories, produced or manufactured in Turkey and exported during the period January 1, 2003 through December 31, 2003, in excess of the following levels of restraint:

Category	Restraint limit
Fabric Group	
219, 313–O [1], 314–O [2], 315–O [3], 317–O [4], 326–O [5], 617, 625/626/627/628/629, as a group	278,517,342 square meters of which not more than 63,646,891 square meters shall be in Category 219; not more than 77,790,644 square meters shall be in Category 313–O; not more than 45,260,011 square meters shall be in Category 314–O; not more than 60,818,144 square meters shall be in Category 315–O; not more than 63,646,891 square meters shall be in Category 317–O; not more than 7,071,875 square meters shall be in Category 326–O, and not more than 42,431,264 square meters shall be in Category 617.
Sublevel in Fabric Group	
625/626/627/628/629	28,651,713 square meters of which not more than 11,460,683 square meters shall be in Category 625; not more than 11,460,683 square meters shall be in Category 626; not more than 11,460,683 square meters shall be in Category 627; not more than 11,460,683 square meters shall be in Category 628; and not more than 11,460,683 square meters shall be in Category 629.
Limits not in a group	
200	2,685,509 kilograms.
300/301	13,075,550 kilograms.
335	564,562 dozen.
336/636	1,329,857 dozen.
338/339/638/639	8,280,244 dozen of which not more than 7,452,221 dozen shall be in Categories 338–S/339–S/638–S/639–S [6].
340/640	2,140,759 dozen of which not more than 608,859 dozen shall be in Categories 340–Y/640–Y [7].

Category	Restraint limit
341/641	2,114,099 dozen of which not more than 739,935 dozen shall be in Categories 341–Y/641–Y [8].
342/642	1,480,408 dozen.
347/348	8,054,420 dozen of which not more than 2,801,676 dozen shall be in Categories 347–T/348–T [9].
351/651	1,342,404 dozen.
361	2,822,812 numbers.
369–S [10]	2,918,250 kilograms.
410/624	1,195,222 square meters of which not more than 836,656 square meters shall be in Category 410.
448	41,012 dozen.
604	3,368,517 kilograms.
611	84,269,738 square meters.

[1] Category 313–O: all HTS numbers except 5208.52.3035, 5208.52.4035 and 5209.51.6032.

[2] Category 314–O: all HTS numbers except 5209.51.6015.

[3] Category 315–O: all HTS numbers except 5208.52.4055.

[4] Category 317–O: all HTS numbers except 5208.59.2085.

[5] Category 326–O: all HTS numbers except 5208.59.2015, 5209.59.0015 and 5211.59.0015.

[6] Category 338–S: only HTS numbers 6103.22.0050, 6105.10.0010, 6105.10.0030, 6105.90.8010, 6109.10.0027, 6110.20.1025, 6110.20.2040, 6110.20.2065, 6110.90.9068, 6112.11.0030 and 6114.20.0005; Category 339–S: only HTS numbers 6104.22.0060, 6104.29.2049, 6106.10.0010, 6106.10.0030, 6106.90.2510, 6106.90.3010, 6109.10.0070, 6110.20.1030, 6110.20.2045, 6110.20.2075, 6110.90.9070, 6112.11.0040, 6114.20.0010 and 6117.90.9020; Category 638–S: all HTS numbers except 6109.90.1007, 6109.90.1009, 6109.90.1013 and 6109.90.1025; Category 639–S: all HTS numbers except 6109.90.1050, 6109.90.1060, 6109.90.1065 and 6109.90.1070.

[7] Category 340–Y: only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2046, 6205.20.2050 and 6205.20.2060; Category 640–Y: only HTS numbers 6205.30.2010, 6205.30.2020, 6205.30.2050 and 6205.30.2060.

[8] Category 341–Y: only HTS numbers 6204.22.3060, 6206.30.3010, 6206.30.3030 and 6211.42.0054; Category 641–Y: only HTS numbers 6204.23.0050, 6204.29.2030, 6206.40.3010 and 6206.40.3025.

[9] Category 347–T: only HTS numbers 6103.19.2015, 6103.19.9020, 6103.22.0030, 6103.42.1020, 6103.42.1040, 6103.49.8010, 6112.11.0050, 6113.00.9038, 6203.19.1020, 6203.19.9020, 6203.22.3020, 6203.42.4005, 6203.42.4010, 6203.42.4015, 6203.42.4025, 6203.42.4035, 6203.42.4045, 6203.49.8020, 6210.40.9033, 6211.20.1520, 6211.20.3810 and 6211.32.0040; Category 348–T: only HTS numbers 6104.12.0030, 6104.19.8030, 6104.22.0040, 6104.29.2034, 6104.62.2006, 6104.62.2011, 6104.62.2026, 6104.62.2028, 6104.69.8022, 6112.11.0060, 6113.00.9042, 6117.90.9060, 6204.12.0030, 6204.19.8030, 6204.22.3040, 6204.29.4034, 6204.62.3000, 6204.62.4005, 6204.62.4010, 6204.62.4020, 6204.62.4030, 6204.62.4040, 6204.62.4050, 6204.69.6010, 6204.69.9010. 6210.50.9060, 6211.20.1550, 6211.20.6810, 6211.42.0030 and 6217.90.9050.

[10] Category 369–S: only HTS number 6307.10.2005.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 2002 shall be charged to the applicable category limits for that year (see directive dated November 27, 2001) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 02–22868 Filed 9–9–02; 8:45 am]

BILLING CODE 3510–DR–S

DEPARTMENT OF DEFENSE

Department of the Army

Availability of Non-Exclusive, Exclusive License or Partially Exclusive Licensing of U.S. Patent Concerning Flat Panel, Three Dimensional Display Unit

AGENCY: Department of the Army, DoD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR part 404.6, announcement is made of the availability for licensing of U.S. Patent US 6,181,303 B1 entitled ''Flat Panel, Three Dimensional Display Unit'' issued January 30, 2001. This patent is assigned to the United States Government as represented by the Secretary of the Army.

FOR FURTHER INFORMATION CONTACT: Mr. Kelly McGuire at U.S. Army Aviation and Missile Command, AMSAM–RD–AS–TI, Redstone Arsenal, AL 35898, Phone 256/876–8743 or e-mail *kelly.mcguire@rdec.redstone.army.mil.*

SUPPLEMENTARY INFORMATION: Any licenses granted shall comply with 35 U.S.C. 209 and 37 CFR Part 404.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 02–23002 Filed 9–9–02; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability for Non-Exclusive, Exclusive, or Partially Exclusive Licensing of U.S. Patents and U.S. Patent Application Concerning Method for Predicting Human Cognitive Performance

AGENCY: Department of the Army, DOD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6 and 404.7, announcement is made of the availability for licensing of the following: U.S. Patent No. 6,419,629 entitled ''Method for Predicting Human Cognitive Performance,'' issued July 16, 2002; U.S. Patent No. 6,241,686 entitled ''System and Method for Predicting Human Cognitive Performance Using data from an Actigraph,'' issued June 5, 2001; and U.S. Patent Application No. 09/848,352 entitled ''Method and System for Predicting Human Cognitive Performance'', filed May 4, 2001. The United States Government, as represented by the Secretary of the Army has rights in these inventions.

ADDRESSES: Commander, U.S. Army Medical Research and Materiel Command, ATTN: Command Judge Advocate, MCMR–JR, 504 Scott Street, Fort Detrick, MD 21702–5012.

FOR FURTHER INFORMATION CONTACT: For patent issues, Ms. Elizabeth Arwine, Patent Attorney, (301) 619–7808. For licensing issues, Dr. Paul Mele, Office of Research & Technology Assessment, (301) 619–6664, both at telefax (301) 619–5034.

SUPPLEMENTARY INFORMATION: An apparatus and method for predicting cognitive performance of an individual based on factors including sleep history and the time of day. The method facilities the creation of predicted cognitive performance curves that allow an individual to set his/her sleep times to produce higher levels of cognitive performance. The method also facilities

the reconstruction of past cognitive performance levels based on sleep history.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 02–23003 Filed 9–9–02; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability of Non-Exclusive, Exclusive License or Partially Exclusive Licensing of U.S. Patent Concerning Set of Human Torso Manikins

AGENCY: Department of the Army, DoD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR part 404.6, announcement is made of the availability for licensing of U.S. Patent No. US 6,438,853 B1 entitled ''Set of Human Torso Manikins for Use in Fabrication and Evaluation of Body Wear for a Group of Human Beings'' issued August 27, 2002. This patent has been assigned to the United States Government as represented by the Secretary of the Army.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Rosenkrans at U.S. Army Soldier and Biological Chemical Command, Kansas Street, Natick, MA 01760; Phone: (508) 233–4928 or e-mail: *Robert.Rosenkrans@natick.army.mil.*

SUPPLEMENTARY INFORMATION: Any licenses granted shall comply with 35 U.S.C. 209 and 37 CFR part 404.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 02–23001 Filed 9–9–02; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare a Draft Programmatic Environmental Impact Statement (DEIS) for the Florida Keys Water Quality Improvements Program

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The Jacksonville District, U.S. Army Corps of Engineers (Corps) intends to prepare a Draft Programmatic Environmental Impact Statement (EIS) for the Florida Keys Water Quality Improvement Program involving the planning, design and construction of wastewater treatment systems to improve water quality within the Florida Keys National Marine Sanctuary. This program is a cooperative effort between the Corps (lead Federal agency) and the South Florida Water Management District (non-Federal sponsor).

FOR FURTHER INFORMATION CONTACT: Barbara Cintron, 904–232–1692, Environmental Branch, Planning Division, P.O. Box 4970, Jacksonville, Florida 32232–0019 or e-mail at: *Barbara.B.Cintron@saj02.usace.army.mil.*

SUPPLEMENTARY INFORMATION: Under authority of Public Law 106–554, Department of Labor, Health and Human Services and Education, Related Agencies Appropriations Act of 2001, Section 109 and Conference Report H.R. 4577, the Corps is authorized to provide technical and financial assistance to carry out projects for the planning, design and construction of treatment works to improve the water quality of the Florida Keys National Marine Sanctuary. The marine ecosystem of the Florida Keys National Marine Sanctuary is dependent on acceptable water quality to maintain fragile aquatic habitats. However, as population and tourism within the Keys have increased over the years, improvements in wastewater treatment and management practices have not kept pace with this growth. Ongoing research has suggested that this trend has resulted in a significant degradation of water quality in canals and nearshore waters surrounding the Florida Keys and that nutrients from waterwater are one of the major contributors to the decline of the water quality. This, in turn, is prompting the proposal to improve sewage treatment practices throughout the Florida Keys. According to the Monroe County Sanitary Wastewater Master Plan, approximately 23,000 private onsite systems and 250 small wastewater treatment plants are currently operating throughout the Florida Keys. It is estimated that the onsite systems contribute 4.88 million gallons per day (mgd) of wastewater and the treatment plants contribute an additional 2.40 mgd of wastewater. Many of these onsite systems and treatment plants provide minimal nutrient removal. The primary objective of the Florida Keys Water Quality Improvements Program is to improve wastewater management practices throughout the Florida Keys and satisfy the existing and future needs for the community. Several wastewater master plans have been prepared for Monroe County and other municipalities within Monroe County that the Corps plans to utilize as the base for the planning component of the Florida Keys Water Quality Improvement Program. These wastewater master plans recommend that existing onsite systems located in lower density areas of the Florida Keys be upgraded or replaced with onsite wastewater nutrient reduction systems. The wastewater master plan also recommended the construction of 12 community wastewater collection and treatment systems and five regional systems. Five of the 12 community systems would feature interim treatment plants that over time would be phased into larger regional treatment systems. In addition to the new systems and extension of the existing systems, the plans recommend that 17 existing facilities continue to operate and upgrade their treatment processes to meet the best available technology/advanced wastewater treatment standards. The estimated cost to implement these master plans is approximately $500 million.

Alternatives: Alternatives to be considered include (1) no action, or continued reliance on septic tanks and cesspits for wastewater treatment, or (2) the proposed action involving the implementation of wastewater master plans prepared for Monroe County and various municipalities within Monroe County.

Issues: The EIS will consider water quality impacts on the Florida Keys National Marine Sanctuary, preservation of coral reefs, impacts to protected species, shore protection, health and safety, aesthetics and recreation, fish and wildlife resources, cultural resources, socio-economic resources, and other impacts through scoping, public involvement, and interagency coordination.

Scoping: A copy of this notice will be sent to interested parties to initiate the scoping process, which will involve Federal, State, County and municipal agencies and other interested parties and organizations. All parties are invited to participate in the scoping process by identifying any additional concerns on issues, alternatives, procedures, and other matters related to the scoping process.

Public Involvement: We invite the participation of affected Federal, State, and local agencies, affected Indian tribes, and other interested private organizations and parties. The Corps plans to hold two sets of public meetings associated with the planning component of the Florida Keys Water Quality Improvements Program.

Coordination: The proposed action is being coordinated with U.S. Fish and

Wildlife Service (FWS) and the National Marine Fisheries Service under Section 7 of the Endangered Species Act, with the FWS under the Fish and Wildlife Coordination Act, and with the State Historic Preservation Officer.

Other Environmental Review and Consultation: The proposed action would involve evaluation for compliance with guidelines pursuant to Section 404(b) of the Clean Water Act; application (to the State of Florida) for Water Quality Certification pursuant to Section 401 of the Clean Water Act; certification of state lands, easements and rights-of-way; and determination of Coastal Zone Management Act consistency.

Agency Role: As the non-Federal sponsor, the South Florida Water Management District will provide extensive information and assistance coordinating local units of government and with the identification of resources to be impacted, mitigation measures, alternatives and prioritization of program components.

DEIS Preparation: It is estimated that the Draft EIS will be available to the public for review by January 2003. The Corps plans to post the Draft EIS on the environmental documents page of the Jacksonville District's Web Site (*http://www.saj.usace.army.mil/pd/env-doc.html.*)

George M. Strain,

Acting Chief, Planning Division.

[FR Doc. 02–23004 Filed 9–9–02; 8:45 am]

BILLING CODE 3710–AJ–M

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before October 10, 2002.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Karen Lee, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the e-mail address *Karen_F._Lee@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: September 4, 2002.

John D. Tressler,

Leader, Regulatory Information Management Group, Office of the Chief Information Officer.

Office of Vocational and Adult Education

Type of Review: Revision.

Title: Vocational Technical Education Annual Performance and Financial Reports.

Frequency: Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 54.

Burden Hours: 7,006.

Abstract: The information contained in the Consolidated Annual Performance Report for Vocational Technical Education is needed to monitor State performance of the activities and services funded under the Carl D. Perkins Vocational and Technical Education Act of 1998. The respondents include eligible agencies in 54 states and insular areas. This revision clarifies instructions and definitions and eliminates the collection of some data elements.

Requests for copies of the submission for OMB review; comment request may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 2072. When you access the information collection, click on ''Download Attachments '' to view. Written requests for information should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, DC 20202–4651 or to the e-mail address *vivan.reese@ed.gov.* Requests may also be electronically mailed to the e-mail address *OCIO_RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Sheila Carey at *Sheila.Carey@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 02–22905 Filed 9–9–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before October 10, 2002.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Lauren Wittenberg, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the e-mail address *Lauren_Wittenberg@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere

with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: September 5, 2002.

John D. Tressler,

Leader, Regulatory Information Management Group, Office of the Chief Information Officer.

Office of Postsecondary Education

Type of Review: New.

Title: Final Reporting Forms for FIPSE International Consortia Programs.

Frequency: Annually.

Affected Public: Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 40.

Burden Hours: 240.

Abstract: Protocols for final performance reports for the European Community-US Higher Education Program, the US-Brazil Higher Education Consortia Program and the Program for North American Mobility in Higher Education are necessary to assure the quality of program management and progress toward meeting performance objectives which include student learning, encouraging international cooperation, and partnerships among higher education institutions in the U.S. and abroad.

Requests for copies of the submission for OMB review; comment request may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 1947. When you access the information collection, click on ''Download Attachments '' to view. Written requests for information should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, DC 20202–4651 or to the e-mail address *vivan.reese@ed.gov.* Requests may also be electronically mailed to the e-mail address *OCIO_RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at *Joe.Schubart@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 02–22906 Filed 9–9–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA No.: 84.129E, 84.129F, 84.129H, 84.129L, 84.129P, 84.129Q, 84.129R]

Rehabilitation Training: Rehabilitation Long-Term Training

ACTION: Notice inviting applications for new awards for fiscal year (FY) 2003.

Purpose of Program: The Rehabilitation Long-Term Training program provides financial assistance for—

(1) Projects that provide basic or advanced training leading to an academic degree in areas of personnel shortages in rehabilitation as identified by the Assistant Secretary;

(2) Projects that provide a specified series of courses or program of study leading to award of a certificate in areas of personnel shortages in rehabilitation as identified by the Assistant Secretary; and

(3) Projects that provide support for medical residents enrolled in residency training programs in the specialty of physical medicine and rehabilitation.

Eligible Applicants: State agencies and other public or nonprofit agencies and organizations, including Indian tribes and institutions of higher education, are eligible for assistance under the Rehabilitation Long-Term Training program.

Applications Available: September 10, 2002.

Deadline for Transmittal of Applications: October 25, 2002.

Deadline for Intergovernmental Review: December 24, 2002.

Estimated Available Funds: The Administration has requested $42,629,000 for the Rehabilitation Training program for FY 2003, of which an estimated $2,725,000 would be allocated for this competition. The actual level of funding, if any, depends on final congressional action. However, we are inviting applications to allow enough time to complete the grant process if Congress appropriates funds for this program.

Note: This competition is being announced in FY 2002 for grants that will be awarded using FY 2003 funds.

Estimated Range of Awards: $75,000 to $100,000.

Estimated Average Size of Awards: $100,000.

Estimated Total Number of Awards: 31.

Maximum Number of Awards, Maximum Level of Awards, and Absolute Priorities: The maximum number of awards to be made are listed in parentheses following each priority area. We will reject any application that proposes a budget exceeding the amount listed under maximum level of award in any project year.

CFDA Nos.	Priority area (maximum number of awards in parentheses)	Maximum level of award
84.129E	Rehabilitation Technology (4)	$100,000
84.129F	Vocational Evaluation and Work Adjustment (4)	100,000
84.129H	Rehabilitation of Individuals Who Are Mentally Ill (3)	100,000
84.129L	Undergraduate Education in the Rehabilitation Services (8)	75,000
84.129P	Specialized Personnel for Rehabilitation of Individuals Who are Blind or Have Vision Impairment (7).	100,000
84.129Q	Rehabilitation of Individuals Who Are Deaf or Hard of Hearing (5)	100,000
84.129R	Job Development and Job Placement Services to Individuals With Disabilities (5)	100,000

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

Page Limit: Part III of the application, the application narrative, is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit Part III to the equivalent of no more than 35 pages, using the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12-point or larger or no smaller than 10 pitch (characters per inch).

The page limit does not apply to Part I, the cover sheet, Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, you must include all of the application narrative in Part III.

We will reject your application if—

- You apply these standards and exceed the page limit; or
- You apply other standards and exceed the equivalent of the page limit.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, 86, and 99. (b) The regulations in 34 CFR parts 385 and 386.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

Selection Criteria: In evaluating an application for a new grant under this competition, we use the selection criteria in 34 CFR 385.31 and 386.20. The selection criteria to be used for this competition will be provided in the application package for this competition.

Priorities: This competition focuses on projects designed to meet the priorities in the regulations for this program (34 CFR 386.1). The priority areas of personnel shortage are listed in the chart published in this notice.

Under 34 CFR 75.105(c)(3) and 34 CFR 386.1, we consider only applications that provide training in the areas of personnel shortage listed in the chart.

Application Procedures:

Note: Some of the procedures in these instructions for transmitting applications differ from those in the Education Department General Administrative Regulations (EDGAR) (74 CFR 75.102). Under the Administrative Procedure Act (5 U.S.C. 553), the Department generally offers interested parties the opportunity to comment on proposed regulations. However, these amendments make procedural changes only and do not establish new substantive policy. Therefore, under 5 U.S.C. 553(b)(A), the Secretary has determined that proposed rulemaking is not required.

Pilot Project for Electronic Submission of Applications

The U.S. Department of Education is continuing to expand its pilot project of electronic submission of applications to include additional formula grant programs and additional discretionary grant competitions. The Rehabilitation Training: Rehabilitation Long-Term Training program, CFDA 84.129, is one of the programs included in the pilot project. If you are an applicant under the Rehabilitation Training: Rehabilitation Long-Term Training program, you may submit your application to us in either electronic or paper format.

The pilot project involves the use of the Electronic Grant Application System (e-APPLICATION, formerly e-GAPS) portion of the Grant Administration and Payment System (GAPS). We request your participation in this pilot project. We shall continue to evaluate its success and solicit suggestions for improvement.

If you participate in this e-APPLICATION pilot, please note the following:

- Your participation is voluntary.
- You will not receive any additional point value or penalty because you submit a grant application in electronic or paper format.
- You can submit all documents electronically, including the Application for Federal Assistance (ED 424), Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- Within 3 working days of submitting your electronic application, fax a signed copy of the Application for Federal Assistance (ED 424) to the Application Control Center following these steps:

1. Print ED 424 from the e-APPLICATION system.
2. Make sure that the institution's Authorizing Representative signs this form.
3. Before faxing this form, submit your electronic application via the e-APPLICATION system. You will receive an automatic acknowledgement, which will include a PR/Award number (an identifying number unique to your application).
4. Place the PR/Award number in the upper right corner of ED 424.
5. Fax ED 424 to the Application Control Center at (202) 260–1349.

- We may request that you give us original signatures on all other forms at a later date.

You may access the electronic grant application for the Rehabilitation Training: Rehabilitation Long-Term Training program at: *http://e-grants.ed.gov.*

We have included additional information about the e-APPLICATION pilot project (*see Parity Guidelines between Paper and Electronic Applications*) in the application package.

Please note that due to the Department's end of the fiscal year close out activities, the e-APPLICATION system will be unavailable from October 1 through October 5. It will become available for users again on Monday, October 7.

For Applications Contact: Education Publications Center (ED Pubs), P.O. Box 1398, Jessup, MD 20794–1398. Telephone (toll free): 1–877–433–7827. FAX: (301) 470–1244. If you use a telecommunications device for the deaf (TDD), you may call (toll free): 1–877–576–7734.

You may also contact ED Pubs via its Web site: *http://www.ed.gov/pubs/edpubs.html.*

Or you may contact ED Pubs at its e-mail address: *edpubs@inet.ed.gov.*

If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA number 84.129E, F, H, L, P, Q, or R.

FOR FURTHER INFORMATION CONTACT: Ellen Chesley, U.S. Department of Education, 400 Maryland Avenue, SW., (Room 3318, Switzer Building), Washington, DC 20202–2649. Telephone (202) 205–9481 or via Internet: *Ellen.Chesley@ed.gov.*

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT.**

Individuals with disabilities may obtain a copy of the application package in an alternative format by contacting

the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3317, Switzer Building, Washington, DC 20202–2550. Telephone: (202) 205–8207. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339. However, the Department is not able to reproduce in an alternative format the standard forms included in the application package.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *www.ed.gov/legislation/FedRegister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.access.gpo.gov/nara/index.html.*

Program Authority: 29 U.S.C. 774.

Dated: September 4, 2002.

Loretta Petty Chittum,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 02–22870 Filed 9–9–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Electricity Advisory Board; Notice of Open Meeting

AGENCY: Department of Energy.

SUMMARY: This notice announces an open meeting of the Department of Energy's Electricity Advisory Board. The Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770), requires that agencies publish these notices in the **Federal Register** to allow for public participation. The purpose of the meeting is to review and discuss Draft Reports by the Electricity Advisory Board's Subcommittee on Transmission Grid Solutions and the Subcommittee on Electricity Resources Capitalization Concerns. **Note:** Copies of the two subcommittee's draft reports may be obtained from the following internet address *http://www.eab.energy.gov* or by contacting the Office of the Secretary of Energy Advisory Board at (202) 586–7092.

NAME: Electricity Advisory Board.

DATES AND TIMES: Friday, September 20, 2002, 9 a.m.–4 p.m. Eastern.

ADDRESSES: The second public meeting of the Electricity Advisory Board (EAB) will be held at the Regent Wall Street Hotel, 55 Wall Street, New York, New York 10005. The meeting will be held in the hotel's Mezzanine of the Ballroom from 9 a.m. until 4 p.m.

FOR FURTHER INFORMATION CONTACT: Dr. Craig R. Reed, Executive Director, Secretary of Energy Advisory Board (AB–1), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–7092 or (202) 586–6279 (fax).

SUPPLEMENTARY INFORMATION: The Electricity Advisory Board was chartered to provide the Secretary of Energy with essential independent advice and recommendations on electricity policy issues of importance to the Department of Energy. The Electricity Advisory Board is to provide timely, balanced, and authoritative advice to the Secretary of Energy on the Department's electricity programs; current and future capacity of the electricity system; issues related to production, reliability and utility restructuring; and coordination between the Department of Energy and state and regional officials and the private sector on matters affecting electricity supply and reliability.

Tentative Agenda

The agenda for the September 20, 2002 meeting has not been finalized. The following is a tentative agenda:

Morning Session

9–9:15 Introduction/Welcome
9:15–10:45 Transmission Grid Solutions Subcommittee Draft Report
*Brief presentation, public comments, and Board discussion
10:45–12 Electric Resources Capitalization Concerns Subcommittee Draft Report
*Brief presentation, public comments, and Board discussion
12–1:15 Luncheon Break

Afternoon Session

1:15–1:30 Formation of Subcommittee on Corporate Governance and Practices
1:30–2:40 Guest Panelists on Corporate Governance and Practices
2:40–3:25 Board Discussion on Corporate Governance and Practices
3:25–4 Member Final Observations and Wrap-Up

Public Participation: During its meeting in New York City, the Electricity Advisory Board welcomes public comment. In keeping with procedures, members of the public may observe the business of the Electricity Advisory Board and submit written comments or comment in person during the scheduled public comment period. Members of the public wishing to comment on the two Draft Reports at the Electricity Advisory Board meeting are required to preregister by submitting a request by e-mail, fax, or mail. Preregistration will help to determine how much time to allot each speaker in light of the time constraints of this meeting of the Electricity Advisory Board. Members of the public will be heard in the order in which they preregister. All requests for public comment preregistration must be received no later than Monday, September 16th at 5 p.m. Eastern Daylight Savings Time and should include (1) the name of the person who will make public comments, (2) his/her association or business, if any; and (3) if possible, a summary of the proposed comments. Please send preregistration requests to one of the following locations:

1. E-Mail to *samuel.lahood@hq.doe.gov*;
2. Facsimile to (202) 586–6279 as a fax; or
3. Mail to Dr. Craig R. Reed, Executive Director, Secretary of Energy Advisory Board (AB–1), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. **Note:** Due to mail delays, persons wishing to pre-register for public comment are encouraged to fax or e-mail their requests.

Persons who fail to preregister for public comments may sign up at the meeting, but such later requests will only be allotted a portion of whatever time remains following the preregistered public comments. The Chairman of the Electricity Advisory Board is empowered to conduct the meeting in a fashion that will, in the Chairman's judgment, facilitate the orderly conduct of business. The Electricity Advisory Board will make every effort to hear the views of all interested parties.

Written comments on either of the Subcommittee's Draft Reports may be submitted to one of the following locations:

4. E-Mail to *samuel.lahood@hq.doe.gov;*
5. Facsimile to (202) 586–6279; or
6. Mail to Dr. Craig R. Reed, Executive Director, Secretary of Energy Advisory

Board (AB–1), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. **Note:** Due to mail delays, persons wishing to submit public comment on the draft reports are encouraged to fax or e-mail their comments.

Please advise Lisa Epifani, staff director for the Electricity Advisory Board, at least seven days before the meeting if special assistance is required to make the meeting accessible by persons with vision, hearing, or mobility disabilities. Ms. Epifani may be reached at (202) 586–5450 or (202) 586–6279 (fax). This notice is being published less than 15 days before the date of the meeting due to the late resolution of programmatic issues.

Minutes: A copy of the minutes and a transcript of the meeting will be made available for public review and copying approximately 30 days following the meeting at the Freedom of Information Public Reading Room, 1E–190 Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday except Federal holidays.

Issued at Washington, DC, on September 4, 2002.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 02–22907 Filed 9–9–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Science; High Energy Physics Advisory Panel

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the High Energy Physics Advisory Panel (HEPAP). Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Thursday, November 7, 2002; 9 a.m. to 6 p.m. and Friday, November 8, 2002; 8:30 a.m. to 4 p.m.

ADDRESSES: Hamilton Crowne Plaza Hotel, 14th & K Streets, NW., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Glen Crawford, Executive Secretary; High Energy Physics Advisory Panel; U.S. Department of Energy; 19901 Germantown Road; Germantown, Maryland 20874–1290; Telephone: 301–903–9458.

SUPPLEMENTARY INFORMATION: *Purpose of Meeting:* To provide advice and guidance on a continuing basis with respect to the high energy physics research program.

Tentative Agenda: Agenda will include discussions of the following:

Thursday, November 7, 2002, and Friday, November 8, 2002:

- Discussion of Department of Energy High Energy Physics Programs
- Discussion of National Science Foundation Elementary Particle Physics Program
- Discussion of High Energy Physics University Programs
- Reports on and Discussion of U.S. Large Hadron Collider Activities
- Reports on and Discussions of Topics of General Interest in High Energy Physics
- Public Comment (10-minute rule)

Public Participation: The meeting is open to the public. If you would like to file a written statement with the Panel, you may do so either before or after the meeting. If you would like to make oral statements regarding any of these items on the agenda, you should contact Glen Crawford, 301–903–9458 or *Glen.Crawford@science.doe.gov* (e-mail). You must make your request for an oral statement at least 5 business days before the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Chairperson of the Panel will conduct the meeting to facilitate the orderly conduct of business. Public comment will follow the 10-minute rule.

Minutes: The minutes of the meeting will be available for public review and copying within 30 days at the Freedom of Information Public Reading Room; Room 1E–190; Forrestal Building; 1000 Independence Avenue, SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on September 4, 2002.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 02–22910 Filed 9–9–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[FE Docket No. PP–235–1]

Office of Fossil Energy; Application To Rescind Presidential Permit; Joint Application for Presidential Permit Sempra Energy Resources and Termoeléctrica U.S., LLC

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: Sempra Energy Resources (SER) and Termoelectrica U.S., LLC (T–US) jointly applied to rescind Presidential Permit PP–235 held by SER and to issue a Presidential permit to T–US covering the same international transmission facilities. In addition, SER and T–US are requesting expedited consideration of their joint application.

DATES: Comments, protests, or requests to intervene must be submitted on or before September 25, 2002.

ADDRESSES: Comments, protests, or requests to intervene should be addressed as follows: Office of Coal & Power Import/Export, FE–27/Forrestal Building, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Ellen Russell (Program Office) 202–586–9624 or Michael T. Skinker (Program Attorney) 202–586–2793.

SUPPLEMENTARY INFORMATION: The construction, operation, maintenance, and connection of facilities at the international border of the United States for the transmission of electric energy between the United States and a foreign country is prohibited in the absence of a Presidential permit issued pursuant to Executive Order (EO) 10485, as amended by EO 12038. Existing Presidential permits are not transferable or assignable. However, in the event of a proposed voluntary transfer of facilities, in accordance with the regulations at 10 CFR 205.323, the existing permit holder and the transferee are required to file a joint application with DOE that includes a statement of reasons for the transfer.

On August 29, 2002, SER and T–US jointly filed an application with the Office of Fossil Energy (FE) of the Department of Energy (DOE) for a transfer from SER to T–US of the facilities authorized by Presidential Permit PP–235. These facilities include the following facilities and all supporting structures within the right-of-way occupied by such facilities:

Two 230,000-volt electric transmission circuits installed on a single set of steel lattice towers and extending from San Diego Gas & Electric Company's Imperial Valley Substation approximately 6 miles south to the U.S. international border with Mexico.

At the border these transmission facilities connect to similar facilities owned by Termoelectrica de Mexicali (TDM) and continue south 3 miles to the 500-megawatt natural gas fired powerplant currently being developed by TDM west of the town of Mexicali, Baja California, Mexico.

SER is a California corporation engaged in the development, ownership, and operation of non-regulated electric generating facilities and the wholesale sale of electric power. T–US, a Delaware limited liability corporation, will own and operate the U.S. portion of the transmission facility. Both SER and T–US are indirect wholly owned subsidiaries of Sempra Energy, a California corporation. SER and T–US request the recession of PP–235, issued to SER on December 5, 2001, and the simultaneous issuance of a Presidential permit to T–US for the same facilities enabling the parties to effectuate an internal corporate reorganization that will result in T–US owning, operating, and maintaining the transmission facility as an exempt wholesale generator (EWG).

The proposed transfer of these facilities has no effect on the proceeding currently before FE in Docket EA–235, SER's application to export a maximum of 12 MW of electric energy to the TDM powerplant using these same transmission facilities. In the EA–235 proceeding, SER proposes to export electric energy for the purpose of providing ''black start'' capability to the TDM powerplant and for providing ancillary equipment power when the facility's electrical generating equipment is not in operation. These transmission facilities are not interconnected with the electrical distribution system of Mexico owned and operated by Comision Federal de Electricidad, the national electric utility of Mexico.

Construction of the international transmission facilities that are the subject of this application was completed by SER earlier this year; however, the transmission line has not yet been energized. SER and T–US plan to energize the facility in October 2002 and, therefore, have requested expedited consideration of this joint application. Accordingly, DOE has shortened the public comment period to 15 days in order to allow completion of this proceeding within the applicants' time period.

Since restructuring of the electric power industry began, resulting in the introduction of different types of competitive entities into the marketplace, DOE has consistently expressed its policy that cross-border trade in electric energy should be subject to the same principles of comparable open access and non-discrimination that apply to transmission in interstate commerce. DOE has stated that policy in export authorizations granted to entities requesting authority to export over international transmission facilities. Specifically, DOE expects transmitting utilities owning border facilities to provide access across the border in accordance with the principles of comparable open access and non-discrimination contained in the FPA and articulated in Federal Energy Regulatory Commission Order No. 888 (Promotion Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public utilities; FERC Stats. & Regs. ¶31,036 (1996)), as amended. In furtherance of this policy, on July 27, 1999, (64 FR 40586) DOE initiated a proceeding in which it noticed its intention to condition existing and future Presidential permits, appropriate for third party transmission, on compliance with a requirement to provide non-discriminatory open access transmission service. That proceeding is not yet complete. However, in this docket DOE specifically requests comment on the appropriateness of applying the open access requirement on facilities proposed to be transferred to T–US.

Procedural Matters: Any person desiring to become a party to this proceeding or to be heard by filing comments or protests to this application should file a petition to intervene, comment or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the FERC's Rules of Practice and Procedures (18 CFR 385.211, 385.214). Fifteen copies of each petition and protest should be filed with the DOE on or before the date listed above.

Additional copies of such petitions to intervene or protests also should be filed directly with: Alberto Abreu, Director, Permitting and Licensing, Sempra Energy Resources, 101 Ash Street, P.O. Box 1831, San Diego, CA 92112–4150.

Before a Presidential permit may be issued or amended, the DOE must determine that the proposed action will not adversely impact on the reliability of the U.S. electric power supply system. In addition, DOE must consider the environmental impacts of the proposed action (*i.e.*, granting the Presidential permit, with any conditions and limitations, or denying the permit) pursuant to the National Environmental Policy Act of 1969. DOE also must obtain the concurrence of the Secretary of State and the Secretary of Defense before taking final action on a Presidential permit application.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above. In addition, the application may be reviewed or downloaded from the Fossil Energy Home Page at: *http://www.fe.doe.gov.* Upon reaching the Fossil Energy Home page, select ''Electricity Regulation'' from the options menu, and then ''Pending Proceedings.''

Issued in Washington, DC, on September 4, 2002.

Anthony J. Como,

Deputy Director, Electric Power Regulation, Office of Coal & Power Systems, Office of Coal & Power Import/Export, Office of Fossil Energy.

[FR Doc. 02–22916 Filed 9–9–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Department of Energy's Fleet Alternative Fuel Vehicle Acquisition

AGENCY: Office of Energy Efficiency and Renewable Energy, DOE.

ACTION: Notice of availability of the Department of Energy's annual report on its alternative fuel vehicle acquisitions for fiscal years 1999 and 2000.

SUMMARY: In compliance with the Energy Policy Act of 1992 and Executive Order 13149, this notice announces the availability of the 1999 and 2000 reports which summarize the U.S. Department of Energy's (DOE) compliance with the annual alternative fuel vehicle acquisition requirement for its fleet. Additionally, the reports include data relative to the agency's effort in reducing petroleum consumption.

ADDRESSES: U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Office of FreedomCAR and Vehicle Technologies, EE–2G, 1000 Independence Avenue, SW., Washington, DC 20585–0121.

FOR FURTHER INFORMATION CONTACT: Shabnam Fardanesh on (202) 586–9171 or *shabnam.fardanesh@ee.doe.gov.*

SUPPLEMENTARY INFORMATION: The Energy Policy Act of 1992 (42 U.S.C. 13211–13219) as amended by the Energy Conservation and Reauthorization Act of 1998 (Pub. L. 105–388, Section 310(b)(3)(b)) and Executive Order 13149 (April 2000) were intended to decrease the country's dependence on petroleum for transportation purposes. The Energy Policy Act of 1992 requires Federal fleets to acquire 75 percent of their new covered vehicles acquisitions as alternative fuel vehicles. In fiscal year 1999, DOE acquired 112 percent of its new covered vehicles as alternative fuel

vehicles, and in fiscal year 2000, 96 percent of its new covered vehicles were alternative fuel vehicles. The Department exceeded its alternative fuel vehicles acquisition requirements for fiscal years 1999 and 2000, and expects a similarly high level of compliance for fiscal years 2001 and 2002.

Pursuant to 42 U.S.C. 13218 of the Energy Policy Act, DOE and other covered agencies are required annually to submit to Congress reports on their Energy Policy Act's alternative fuel vehicle acquisition requirements. These reports must also be placed on an available Web site and their availability, including the Web site address, must be published in the **Federal Register**.

DOE reports for 1999 and 2000 may be accessed on the Vehicle Technology's Federal Fleet Web site at *www.ott.doe.gov/epact/fed_fleet_prog.shtml.*

Issued in Washington, DC, on September 4, 2002.

David K. Garman,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 02–22909 Filed 9–9–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–2169–001]

Baconton Power LLC; Notice of Filing

September 4, 2002.

Take notice that on August 29, 2002, Baconton Power LLC tendered for filing with the Federal Energy Regulatory Commission (Commission) a revision to its June 26, 2002 filing clarifying its requested effective date.

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's web site at *http://www.ferc.gov*, using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number filed to access the document. For assistance, call (202) 502–8222 or TTY, (202) 208–1659. Protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Comment Date: September 11, 2002.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–22871 Filed 9–9–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–514–000]

Colorado Interstate Gas Company; Notice of Proposed Changes in FERC Gas Tariff

September 4, 2002.

Take notice that on August 29, 2002, Colorado Interstate Gas Company (CIG) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets to become effective October 1, 2002:

Fourth Revised Sheet No. 155
Fifth Revised Sheet No. 156

CIG states that these tariff sheets clarify the calculation of the maximum and minimum service charge for interruptible gas parking and lending service provided under CIG's Rate Schedule PAL–1.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202) 502–8222 or for TTY, (202) 208–1659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–22882 Filed 9–9–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 184–065, California]

El Dorado Irrigation District; Notice of Public Meetings

September 4, 2002.

The Federal Energy Regulatory Commission (Commission) is reviewing the application for a new license for the El Dorado Project (FERC No. 184), filed on February 22, 2000. The El Dorado Project, licensed to the El Dorado Irrigation District (EID), is located on the South Fork American River, in El Dorado, Alpine, and Amador Counties, California. The project occupies lands of the Eldorado National Forest.

The EID, several state and federal agencies, and several non-governmental agencies are working collaboratively with a facilitator to resolve certain issues relevant to this proceeding. These meetings are a part of that collaborative process. Meetings will be held as follows:

Date	Group	Time
September 9	Aquatics Workgroup	9 a.m.–4 p.m.
September 10	Recreation Workgroup	9 a.m.–12 noon.
September 10	Plenary Meeting	1 p.m.–4 p.m.
September 11	Terrestrial Workgroup	9 a.m.–12 noon.

Date	Group	Time
September 11	Economics Workgroup	1 p.m.–4 p.m.

We invite the participation of all interested governmental agencies, non-governmental organizations, and the general public in these meetings.

All meetings will be held in the Rancho Cordova Holiday Inn, located at 11131 Folsom Blvd, Rancho Cordova, California.

For further information, please contact Elizabeth Molloy at (202) 502–8771 or John Mudre at (202) 502–8902.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–22872 Filed 9–9–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–513–000]

Florida Gas Transmission Company; Notice of Proposed Changes in FERC Tariff

September 4, 2002.

Take notice that on August 29, 2002, Florida Gas Transmission Company (FGT) tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, to become effective October 1, 2002:

Fifty-Fourth Revised Sheet No. 8A
Forty-Sixth Revised Sheet No. 8A.01
Forty-Sixth Revised Sheet No. 8A.02
Fourth Revised Sheet No. 8A.04
Forty-Ninth Revised Sheet No. 8B
Forty-Second Revised Sheet No. 8B.01

FGT states that the tariff sheets listed above are being filed pursuant to Section 27 of the General Terms and Conditions (GTC) of FGT's Tariff which provides for the recovery by FGT of gas used in the operation of its system and gas lost from the system or otherwise unaccounted for. The fuel reimbursement charges pursuant to Section 27 consist of the Fuel Reimbursement Charge Percentage (FRCP), designed to recover current fuel usage on an in-kind basis, and the Unit Fuel Surcharge (UFS), designed to recover or refund previous under or overcollections on a cash basis. Both the FRCP and the UFS are applicable to Market Area deliveries and are effective for seasonal periods, changing effective each April 1 (for the Summer Period) and each October 1 (for the Winter Period).

FGT states that it is filing herein to establish an FRCP of 3.01% to become effective October 1, 2002 based on the actual company fuel use, lost and unaccounted for volumes and Market Area deliveries for the period from October 1, 2001 through March 31, 2002. The proposed FRCP of 3.01%, to become effective October 1, 2002, is a decrease of 0.30 % from the currently effective FRCP of 3.31%. FGT is also filing herein to establish a Summer Period UFS of $0.0097 per MMBtu to become effective October 1, 2002, a decrease of $0.0057 per MMBtu from the currently effective UFS of $0.0154.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202) 502–8222 or for TTY, (202) 208–1659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–22881 Filed 9–9–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER99–3450–001 and ER99–2769–002]

Foote Creek II and Foote Creek III; Notice of Filing

September 3, 2002.

Take notice that on August 9, 2002, Foote Creek II and Foote Creek III tendered for filing a Three-Year Market Analysis Update. Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's web site at *http://www.ferc.gov*, using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number filed to access the document. For assistance, call (202) 502–8222 or TTY, (202) 208–1659. Protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Comment Date: September 13, 2002.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–22883 Filed 9–9–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–511–000]

Gulf South Pipeline Company, LP; Notice of Proposed Changes to FERC Gas Tariff

September 4, 2002.

Take notice that on August 29, 2002, Gulf South Pipeline Company, LP (Gulf South) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, Fifth Revised Sheet No. 20, Third Revised Sheet No. 21,Third Revised Sheet No. 22, Third Revised Sheet No. 23, and Third Revised Sheet No. 24, to become effective October 1, 2002.

Gulf South states that the purpose of this filing is to update Gulf South's tariff to reflect the Annual Charge Adjustment (ACA) factor to be effective for the twelve-month period beginning October 1, 2002.

Gulf South states that copies of this filing have been served upon Gulf South's customers, state commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202) 502–8222 or for TTY, (202) 208–1659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–22880 Filed 9–9–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–507–000]

Midwestern Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

September 4, 2002.

Take notice that on August 29, 2002, Midwestern Gas Transmission Company (Midwestern) tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, Third Revised Sheet No. 5, to become effective October 1, 2002.

Midwestern states that the purpose of this filing is to update Midwestern's tariff to reflect the Annual Charge Adjustment (ACA) factor effective for the twelve-month period beginning October 1, 2002 pursuant to Section 154.402 of the Commission's regulations and Section 18 of the General Terms and Conditions of Midwestern's tariff. Midwestern states that its new ACA factor will be $0.0022 per Dth. This new factor was specified by the Commission at the time the Commission calculated the annual charge bill for fiscal year 2002, and is an increase from its current ACA factor of $0.0001 per Dth.

Midwestern states that copies of this filing have been sent to all of Midwestern's contracted shippers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202) 502–8222 or for TTY, (202) 208–1659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–22876 Filed 9–9–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2816–017]

North Hartland, LLC; Notice of Petition for Declaratory Order

September 3, 2002.

On August 15, 2002, North Hartland, LLC (NHL), filed a petition for a declaratory order to resolve matters relating to the transfer of the license for the North Hartland Project No. 2816, located at the U.S. Army Corps of Engineers' North Hartland Dam, on the Ottauquechee River, in Windsor County, Vermont. The Commission, in June 2000, approved the transfer of the license to NHL from Vermont Electric Generation & Transmission Cooperative (VEGT), through the trustee of VEGT's bankruptcy estate. According to the petition, the bankruptcy trustee has been discharged from his duties, and the project assets are now in the custody and control of the U.S. Government, specifically the Department of Justice, representing the Rural Utilities Service of the Department of Agriculture.

The petition states that, under Title 30 of the Vermont Statutes Annotated, section 109, a corporation subject to the Vermont Public Service Board (board) shall not make a sale, lease, or series of sales or leases in any one calendar year constituting ten percent or more of the company's property located within Vermont and actually used for public service operations, except after opportunity for hearing by the board and a finding by the board that such a sale or lease will promote the general good of the state. Section 109 provides that a certificate of consent of the board shall be filed with the secretary of state. Section 231 of the same statute provides that a person, partnership, or association desiring to own or operate a business over which the board has jurisdiction must first petition the board to determine whether the operation of such business will promote the general good of the state.

The petition states that the board has asserted authority under Title 30 over the transfer of the project property to NHL and over NHL's operation of the

project, and that, over a period of two years, the board has failed either to issue approvals of those actions or to agree that such approvals are unnecessary. NHL requests that the Commission issue a declaratory order finding that action or approval by the board is not required to consummate the transactions approved in the Commission's license transfer order, by which NHL means the transfer of the project property and the ownership and operation of the project by NHL. NHL asks the Commission to determine that the Commission has exclusive jurisdiction over the project, including its sale, transfer, ownership, and operation, to the exclusion of Title 30, the application of which conflicts with Federal law.

Any person desiring to be heard or to protest the petition should file comments, a protest, or a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 385.210, 385.211 and 385.214. In determining the appropriate action to take, the Commission will consider all protests and other comments, but only those who file a motion to intervene may become parties to the proceeding. Comments, protests, or motions to intervene must be filed within 15 days of publication of this notice in the **Federal Register** and must bear in all capital letters the title ''COMMENTS,'' ''PROTEST,'' or ''MOTION TO INTERVENE,'' as applicable, and Project No. 2816–017.

Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-filing'' link.

Send the filings (original and 8 copies) to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. The Petition for Declaratory Order is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202) 502–8222 or for TTY, (202) 208–1659.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–22885 Filed 9–9–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–506–000]

Northern Border Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

September 4, 2002.

Take notice that on August 29, 2002, Northern Border Pipeline Company (Northern Border) tendered for filing to become part of Northern Border Pipeline Company's FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheet to become effective October 1, 2002:

Second Revised Sheet Number 99

Northern Border states that the purpose of this filing is to update Northern Border's tariff to reflect the Annual Charge Adjustment (ACA) factor effective for the twelve-month period beginning October 1, 2002 pursuant to Section 154.402 of the Commission's regulations and Section 16 of the General Terms and Conditions of Northern Border's tariff. Northern Border states that its new ACA factor will be $0.0022 per Dth. This new factor was specified by the Commission at the time the Commission calculated the annual charge bill for fiscal year 2002, and is an increase from its current ACA factor of $0.0001 per Dth.

Northern Border states that copies of this filing have been sent to all of Northern Border's contracted shippers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202) 502–8222 or for TTY, (202) 208–1659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–22875 Filed 9–9–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–510–000]

Questar Pipeline Company; Notice of Tarrif Filing

September 4, 2002.

Take notice that on August 29, 2002, Questar Pipeline Company (Questar), tendered for filing FERC Gas Tariff, the following tariff sheets, to be effective October 1, 2002:

First Revised Volume No.1

Twenty-Fifth Revised Sheet No. 5
Fourteenth Revised Sheet No. 6

Original Volume No. 3

Thirty-Third Revised Sheet No. 8

Questar states that this filing incorporates into its storage and transportation rates the annual charge adjustment (ACA) unit rate of $0.00212 per Dth..

Questar states that copies of this filing were served upon Questar's customers, the Public Service Commission of Utah and the Public Service Commission of Wyoming.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the

last three digits in the docket number field to access the document. For Assistance, call (202)502–8222 or for TTY, (202) 208–1659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–22879 Filed 9–9–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–502–000]

Southern Natural Gas Company; Notice of Termination of Gathering Service

September 4, 2002.

Take notice that on August 16, 2002, Southern Natural Gas Company (Southern) tendered for filing, pursuant to Section 4 of the Natural Gas Act, a notice of termination of gathering service provided on Southern's LF–49, LF–50, LF–51 and LF–52 Lines and appurtenant facilities in the Logansport Field, Desoto Parish, Louisiana. Southern plans to abandon these facilities as it is no longer economic for it to maintain them. Southern proposes the effective date of October 1, 2002.

Southern states that it has served copies of the filing upon each of Southern's customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 11, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202) 502–8222 or for TTY, (202) 208–1659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–22874 Filed 9–9–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–508–000]

Sumas International Pipeline Inc.; Notice of Rate Filing

September 4, 2002.

Take notice that on August 27, 2002, Sumas International Pipeline Inc. (SIPI), tendered for filing as part of its FERC Gas Tariff, Original Volume No. 2, Tenth Revised Sheet No. 4, with a proposed effective date of October 1, 2002.

SIPI states that the above tariff sheet reflects the new ACA unit surcharge rate of $0.0022 per Dth. As the new ACA rate is an increase, SIPI has sought a waiver to allow the collection of the new rate effective 1 October 2002.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202) 502–8222 or for TTY, (202) 208–1659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–22877 Filed 9–9–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–509–000]

TransColorado Gas Transmission Company; Notice of Tariff Filing

September 4, 2002.

Take notice that on August 29, 2002, TransColorado Gas Transmission Company (TransColorado), tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Seventh Revised Sheet No. 20 to be effective October 1, 2002.

TransColorado states that this filing incorporates into its transportation rates the revised annual charge adjustment unit rate of $0.0021 per Dth.

TransColorado states that copies of this filing were served upon TransColorado's customers, the Colorado Public Utilities Commission and the New Mexico Public Utilities Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202) 502–8222 or for TTY, (202) 208–1659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly

encourages electronic filings. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–22878 Filed 9–9–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

[Project Nos. 135–016 & 2195–008—Oregon]

Portland General Electric Company; Notice of Availability of Environmental Assessment

September 3, 2002.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) Regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed the application for amendment of license for the Oak Grove Project No. 135 and North Fork Project No. 2195, located on the Oak Grove and Clackamas Rivers, in Clackamas County, Oregon, and has prepared an Environmental Assessment (EA) for the project. The project occupies Federal lands under the administration of the U.S. Forest Service and Bureau of Land Management.

The EA contains the staff's analysis of the potential environmental effects of Portland General Electric Company's proposed license amendment, and various alternatives, including no-action, and concludes that approving the amendment of license, with appropriate environmental measures, would not constitute a major Federal action that would significantly affect the quality of the human environment.

Any comments should be filed within 30 days from the date of this notice and should be addressed to Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Room 1-A, Washington, DC 20426. Please affix ''Project No. 135 and 2195'' to all comments. The EA is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202)502–8222 or for TTY, (202) 208–1659. Comments, protests and interventions may be filed electronically via the internet in lieu of paper. *See*, 18 CFR 385.2002(a)(1)(iii) and the instructions on the Commission's web site under the ''e-filing'' link. The Commission strongly encourages electronic filings.

For further information, contact William Guey-Lee at (202) 219–2808.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–22884 Filed 9–9–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 516–319, –321, –326, –329, –330, –331, –332, –333, –354, –355, –356, –357, 358 and –359]

South Carolina Electric & Gas Company; Notice of Environamental Assessment

September 4, 2002.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, the Office of Energy Projects has reviewed the applications dated March 20, June 26 and November 27, 2000, and August 22, 2001, requesting the Commission's approval to sell project land for future private development at the Saluda Project, located on the Saluda River in Lexington, Saluda and Newberry Counties, South Carolina, and has prepared an Environmental Assessment (EA) for the proposed action.

Copies of the EA can be viewed at the Commission's Public Reference Room, Room 2A, 888 First Street, NE., Washington, DC 20426, or by calling (202) 502–8371. The EA may also be viewed on the Commission's web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202) 502–8222 or for TTY, (202) 208–1659.

Any comments on the EA should be filed within 60 days from the date of this notice and should be addressed to: Magalie Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC, 20426. Please affix ''Saluda Project No. 516–319.etc.'' to the first page of your comments. All timely filed comments will be considered in the Commission order addressing the proposed sale of project land for future private development. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-filing'' link.

For further information, please contact Jack Hannula at (202) 219–0116.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–22873 Filed 9–9–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Regulations Governing Off-the-Record Communications; Public Notice

September 3, 2002.

This constitutes notice, in accordance with 18 CFR 385.2201(h), of the receipt of exempt and prohibited off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive an exempt or a prohibited off-the-record communication relevant to the merits of a contested on-the-record proceeding, to deliver a copy of the communication, if written, or a summary of the substance of any oral communication, to the Secretary.

Prohibited communications will be included in a public, non-decisional file associated with, but not part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such requests only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication should serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications will be included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of exempt and prohibited off-the-record communications recently received in the Office of the Secretary. These filings are available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202) 502–8222 or for TTY, (202) 208–1659.

EXEMPT

Docket No.	Date filed	Presenter or requester
1. Project No. 2030–036.	8–28–02	Greg Moore.
2. CP01–415–000.	8–28–02	David Brady.
3. CP01–415–000.	8–28–02	Ron Meadows.
4. CP00–415–000.	8–28–02	David Carroll.
5. CP01–415–000.	8–28–02	Jason L. Brown.
6. CP01–415–000.	8–28–02	Ron Meadows, Jeff Clark, *et al.*[1]
7. CP01–415–000.	8–28–02	Judy Barnard.
8. CP01–415–000.	8–29–02	Shirley Holland.[2]
9. CP01–415–000.	8–29–02	Vickie Holland Collins.
10. CP01–415–000.	8–29–02	Jerry F. Somers.

[1] Summary of Discussion Items for 8/22/02 Meeting with Blue Ridge Coalition.

[2] Five separate submittals for Ms. Shirley Holland in CP01–415–000 on 8/29/02.

Magalie R. Salas,

Secretary.

[FR Doc. 02–22886 Filed 9–9–02; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7373–7]

Access to Confidential Business Information by Enrollees Under the Senior Environmental Employment Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized grantee organizations under the Senior Environmental Employment (SEE) Program, and their enrollees; access to information which has been submitted to EPA under the environmental statutes administered by the Agency. Some of this information may be claimed or determined to be confidential business information (CBI).

DATES: Comments concerning CBI access will be accepted on or before September 16, 2002.

ADDRESSES: Comments should be submitted to: Susan Street, National Program Director, Senior Environmental Employment Program (MC 3650A), U.S. Environmental Protection Agency; Ariel Rios Building, 1200 Pennsylvania Ave., NW., Washington, DC 20460. (Telephone (202) 564–0410).

SUPPLEMENTARY INFORMATION: The Senior Environmental Employment (SEE) program is authorized by the Environmental Programs Assistance Act of 1984 (Pub. L. 98–313), which provides that the Administrator may ''make grants or enter into cooperative agreements'' for the purpose of ''providing technical assistance to: Federal, State, and local environmental agencies for projects of pollution prevention, abatement, and control.'' Cooperative agreements under the SEE program provide support for many functions in the Agency, including clerical support, staffing hot lines, providing support to Agency enforcement activities, providing library services, compiling data, and support in scientific, engineering, financial, and other areas.

In performing these tasks, grantees and cooperators under the SEE program and their enrollees may have access to potentially all documents submitted under the Resource Conservation and Recovery Act, Clean Air Act, Clean Water Act, Safe Drinking Water Act, Federal Insecticide, Fungicide and Rodenticide Act, and Comprehensive Environmental Response, Compensation, and Liability Act, to the extent that these statutes allow disclosure of confidential information to authorized representatives of the United States (or to ''contractors'' under the Federal Insecticide, Fungicide, and Rodenticide Act). Some of these documents may contain information claimed as confidential.

EPA provides confidential information to enrollees working under the following cooperative agreements:

Cooperative agreement No.	Organization
National Association for Hispanic Elderly	
CQ–830339	NAHE
National Asian Pacific Center on Aging	
CQ–828126	NAPCA
National Caucus and Center on Black Aged, Inc.	
CQ–829752	NCBA
CQ–829753	NCBA
CQ–829754	NCBA
CQ–829755	NCBA
CQ–829756	NCBA
CQ–829757	NCBA
National Council On the Aging, Inc.	
CQ–828243	NCOA
CQ–829502	NCOA
CQ–829575	NCOA
CQ–829652	NCOA
CQ–829685	NCOA
National Senior Citizens Education and Research Center	
CQ–829684	NSCERC
CQ–830383	NSCERC

Among the procedures established by EPA confidentiality regulations for granting access is notification to the submitters of confidential data that SEE grantee organizations and their enrollees will have access. 40 CFR 2.201(h)(2)(iii). This document is intended to fulfill that requirement.

The grantee organizations are required by the cooperative agreements to protect confidential information. SEE enrollees are required to sign confidentiality agreements and to adhere to the same security procedures as Federal employees.

Dated: September 4, 2002.

Donald W. Sadler,

Director, Human Resources Staff #1.

[FR Doc. 02–22987 Filed 9–9–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7373–4]

Proposed Second Administrative Cashout Settlement Under Section 122(g) of the Comprehensive Environmental Response, Compensation, and Liability Act; In Re: Beede Waste Oil Superfund Site, Plaistow, NH

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed second administrative settlement and request for public comment.

SUMMARY: In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. 9622(i), notice is hereby given of a proposed second administrative settlement for recovery of past and projected future response costs concerning the Beede Waste Oil Superfund Site in Plaistow, New Hampshire with the settling parties listed in the Supplementary Information portion of this notice. The U.S. Environmental Protection Agency—Region I (EPA) is proposing to enter into a second *de minimis* settlement agreement to address claims under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (''CERCLA''), 42 U.S.C. 9601 *et seq.* Notice is being published to inform the public of the proposed second settlement and of the opportunity to comment. This second settlement, embodied in a CERCLA section 122(g) Administrative Order on Consent (''AOC''), is designed to resolve each settling party's liability at the Site for past work, past response costs and specified future work and response costs through covenants under sections 106 and 107 of CERCLA, 42 U.S.C. 9606 and 9607, as well as to resolve each such settling party's liability at the Site for past response costs and estimated future response costs by the State of New Hampshire, through its Department of Environmental Services. The proposed AOC requires the settling parties listed in the Supplementary Information section below to pay an aggregate total of approximately $4,765,118.10. For thirty (30) days following the date of publication of this notice, the EPA will receive written comments relating to the settlement. The EPA will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. The EPA's response to any comments received will be available for public inspection at the EPA Records Center, 1 Congress Street, Boston, MA 02114–2023 (Telephone Number: 617–918–1440).

DATES: Comments must be submitted on or before October 10, 2002.

ADDRESSES: The proposed second settlement is available for public inspection at the EPA Records Center, 1 Congress Street, Boston, MA 02114–2023. Please call 617–918–1440 to schedule an appointment. A copy of the proposed second settlement may be obtained from Kristin Balzano, U.S. Environmental Protection Agency, Region I, 1 Congress Street, Suite 1100 (SES), Boston, MA 02114–2023 (Telephone Number: 617–918–1772). Comments should reference the Beede Waste Oil Superfund Site in Plaistow, New Hampshire and EPA Docket No. CERCLA–01–2002–0025 and should be addressed to Kristin Balzano, U.S. Environmental Protection Agency, Region I, 1 Congress Street, Suite 1100 (SES), Boston, MA 02114–2023.

FOR FURTHER INFORMATION CONTACT: Cindy Lewis, U.S. Environmental Protection Agency, Region I, 1 Congress Street, Suite 1100 (SES), Boston, MA 02114–2023 (Telephone Number: 617–918–1889).

SUPPLEMENTARY INFORMATION: This section contains a list of the approximately 415 settling parties. Each party name is listed as it appears on the current EPA list of potentially responsible parties (PRPs) and many of the names are followed by a parenthetical which refers to the name the party listed on the AOC signature page. The following is a list of the settling parties, including settling federal agencies, to the proposed second settlement: AEP Industries, Inc., Agawam Service Center, Inc., Al & Paul's Auto Sales, Inc., All-Rite Auto, Inc., Altieri Service, Inc., A.M.A. Transportation Company, Inc., Anchor Motor Freight, Inc. (Penske Truck Leasing Company, LP), Andover Auto & Truck Service, Inc., Andover Street Motor Sports LP (d/b/a Acura of Peabody), Andy's Auto Service, Anton's Cleaners, Inc., ARAMARK Uniform and Career Apparel, Inc., Arlex Oil Corporation, Army & Air Force Exchange Service, Arrington Services, Inc., Arsenal Auto Service, Atlantic Broom Service, Auburndale Service Center LLC, Auto Body & Tire Center, Inc. (d/b/a Cape Auto Body), Auto Craft Enterprises, Auto Hospital, Bailey Motor Sales, Inc., Baker-Wright Auto Electric Service, Bancroft Motors, Inc., Barbas Trucking Company, Inc., Beacon Hill Sunoco, Beaulieu Trucking, Belmont Springs Water Company, Inc., Berardi Automotive, Inc., Berardi Bros Auto Body, Berman Repair & Sales, Inc., Betley Chevrolet Buick, Inc., Bettencourt Machine Company, Inc., Bill's Auto Repair, BJ's Wholesale Club, Inc., Blakeslee Sales, Blount Marine Corporation, BME Engineering, Inc., Bob & Jim's Service Station, Inc., Bob Pion Pontiac-Buick-GMC, Inc., Borden Foods Corporation, Boro Sand & Stone Corporation, Bouchard & Son, Inc., Bresnahan Ice Company, Brian Egan and Gregory Egan, Brian's Auto Service, Inc., Broadway Foreign Auto Repairs, Broadway Rental, Inc. (d/b/a Taylor Rental Center), Broadway Tire & Auto Company, Inc., Brockton Rental Service, Inc., Brodie, Inc., Brooks School, Brownie's Texaco Service, Inc., Brown's Service Station, Bruce's Tremont Street Garage, Bubbles, Inc., Burke Distributing Corporation, Cabot Cabot & Forbes, Callan Automotive Service, CambridgeSide Galleria, Inc., Campello Coal Company, Inc., Carlson's Motor Sales, Inc., Casoli Sand & Gravel, Inc., Cedarview Filling Station, Inc., Central Motors, Inc., Centre Trucking Services, Inc., Century Trailer Sales, Inc., Charles Doucette (d/b/a Charlie's Garage), Charles M. Rollins Company, Inc., Charlie's Auto Service, Chicos Sunoco, Chute Fuel, City of Attleboro, MA, City of Beverly, MA, City of Brockton, MA, City of Cambridge, MA, City of Manchester, NH, City of New Bedford, MA, City of Pawtucket, RI, City of Portsmouth, NH, City of Somerville, MA, City of Taunton, MA, City of Waltham, MA, Clarence H. Knight, Inc., Clark Motor Company, Inc., Clay Chevrolet, Inc., Cleghorn Oil, Inc., Coan, Inc., Compaq Computer Corporation (wholly-owned by Hewlett-Packard Company), Conley Group, Inc., Contemporary Chrysler Plymouth Dodge, Inc., CPC Division US Filter Wastewater Group, Crystal Motor Express, Inc., Crystal Transport, Inc., D. DiMartino Construction Corporation, D J Basile Jr., Inc., Damon Pontiac, Inc., Dana Hall School, Dan's Auto Service, Inc., Dan's Service Center, Dave Gove Auto Repair, Inc., David J. Coomber (d/b/a Dave's Garage), Davis & Tripp, Inc., Davis Exxon, Davis Motor Service Corporation, Davis Towing, Inc., DCM Liquidation Corporation (f/k/a DiaCom Corporation), Dead River Company, Delongchamp Auto Company, Inc., Demoulas Supermarket, Inc. (Retail Management & Development, Inc. (RMD)), Denaults Auto Repair, Diamond Crystal Specialty Foods, Inc. (a subsidiary of Imperial Sugar Company), D.L. Maher Company, Domenick Zanni Sons, Inc., Dom's Motor Service (d/b/a Riverside Kawasaki-Yamaha), Don's Garage, Inc., Douglas D. Andersen, Down East Drilling, Dracut Tire Shop, Inc., Drew's Service Station, Drum Hill Construction Corporation, Duston Oil Company, Inc., E & S Mobile Service, Inc., Eagle Flight Center, Inc., Early & Sons, Inc., East Coast Petroleum Corporation, Eastham Auto Sales, Inc., Edgcomb Metals Company (and current successor, Edgcomb Metals Company, LLC), Edgemont Oil Company, Energy Machinery, Inc., Essex Gas Company, Exit 4 Service Corporation (d/b/a Super Shell Foodmart), Falmouth Toyota, Inc.,

Fenway Mutual/George Pagounis, Fernandes & Sons Construction Company, Inc., Fiori's Depot Motors, Inc., Fireside Nissan, Inc., First Realty Trust, Fishery Products International, Foss Motors, Inc., Foundry Street Garage, Fowler's Express, Inc., Frank C. Dunlap, Inc., Frank's Auto Repair, Inc., Frank's Garage, Fred W. Smith, Inc., Frederick M. Shaw, Inc. (d/b/a Shaw Saab), Fred's Repair Service, G & G Cycle Sales of Salisbury, Inc., G & G Enterprises, Inc., G & S Management Corporation (successor of Tolpin Marketing, d/b/a Franklin Ford/Tilton Chrysler), G. Conway, Inc., George Cullen's Garage, Godin Bros, Inc., Gonthier's Service Station, GoodNews Garage, Grant Plastics, Inc., Great Neck Saw Manufacturers, Inc./Buck Brothers, Greater Lawrence Sanitary District, Groton-Dunstable Regional School District, GTE Sylvania Corporation (GTE Operations Support Incorporated, Successor), Guill Tool & Engineering Company, Inc., Hamel Brothers Service, Inc., Hammond Park Trust, Handy & Harman Electronics Materials, Hans' Foreign Auto Repair, Harbro Auto Service, Harold P. Hansen (d/b/a Miller Auto Service), Harrington Paving, Hathaway Transmission Service, Inc., Heating Oil Partners LP, Heidimarie Service Corporation, HEJ Corporation, Hendrix Wire & Cable (Thomas & Betts Corporation), Heritage Operating LP (f/k/a Kingston Propane, Inc.), Hogan Tire Centers, Inc., Holden Heating Company (n/k/a Agway Energy Products LLC), Hollingsworth & Vose Company, Holmes Products Corporation (n/k/a The Holmes Group, Inc.), Honda Cars of Boston (Atala Corporation), Honeywell, Inc. (Honeywell International, Inc., Bull HN Information Systems, Inc.), Hub Starters & Alternators, Inc., Huggard & Ewing, Inc., Hyannis Nissan, Inc., Imported Cars of Worcester, Inc., Interstate Brands Corporation (f/k/a Nissen Bakeries), Interstate Brands Corporation, Interstate Brands Corporation (f/k/a Sunbeam Bakers), Interstate Gas & Oil Corporation, Irving Oil Corporation, Irving's Service Center, Inc., J.J. O'Brien & Sons, Inc., J.L. Hammett Company, J.M. Cashman, Inc., James A. Mahoney & Sons, Inc., Jefferson Smurfit Corporation (U.S.), Jefferson Smurfit Corporation (U.S.)(f/k/a Container Corp of America), Joan Fabrics Corporation, John H. Fuccione (d/b/a Burlington Auto Service), John C. Sarette (on behalf of Johnny's Tire & Battery d/b/a JT&B Texaco), John J. Benson, Inc., John Mento, Inc., John W. Cutter, Inc. (d/b/a AAMCO Transmissions), John's Citgo, Johnson Controls, Inc. (Hoover Universal, Inc.), Jones Lang LaSalle Management Services, Inc. (Jones Lang LaSalle Americas, Inc., Successor), Joseph J. Miliano, Joseph R. Morin, Inc., Keller Company, Inc., Kevin King Enterprises Company, Inc., Knight Oil, Inc., Lake Avenue Gulf, Law Motor Freight, Inc. (d/b/a Heavy Duty Truck & Diesel Service), Lawrence-Lynch Corporation, Lewis Builders, Inc. (Successor to Lewis Equipment Company, Inc.), Leon G. Caron (d/b/a C&D Auto Glass & Repair Service), Lucchetti's Service Center, Inc., Lynn Sign, Inc., Lyons Enterprises, Inc., M/A-Com, Inc., Mackenzie Trust, Madico, Inc., Maffee's Garage, Inc., Magic Discount Muffler, Inc., Maher Bros Auto Sales & Service, Inc., Main Street Auto Sales, Mandeville Chevrolet, Inc., Marblehead Trading Company, Marken Properties, Inc., Markings, Inc., Mar-Lee Mold Company, Inc. (n/k/a Mar-Lee Companies, Inc.), Marois Brothers, Inc., Marty's, Inc., Massachusetts Adjutant General (State of Massachusetts and United States on behalf of U.S. Army), Massachusetts Turnpike Authority, Massachusetts Port Authority, Mass-Vac, Inc., Matty's Service, Max Levine and Company, Inc., McFarland Ford Sales, Inc., McGreevy Buick-Cadillac, Inc., Mears Tractors, Inc., Medford Automatic Transmission, Inc., Metech International, Inc. (f/k/a Boliden Metech, Inc.), Methuen Motor Mart, Inc., Mike's Service Station, Mine Safety Appliances Company, Minuteman Regional Vocational Technical School District, Minuteman Volkswagen, Inc., Mitch and Rogers Auto Service, Molloy's Garage, Inc., Monro/Speedy Muffler Group (Monro Muffler Brake, Inc., Successor), Monsanto (n/k/a Pharmacia Corporation by Solutia, Inc.), Montachusett Regional Vocational Technical School District, Monument Square Sunoco Service Center, Mount Auburn Hospital, Multi-State Roofing, Inc., NAI Enterprises, Inc. (d/b/a Wellesley Toyota), Nashua Corporation, Ned's H/D Towing & Service, New Hampshire Adjutant General (State of New Hampshire and United States on behalf of U.S. Army), New Penn Motor Express, Inc., Newman Ford Sales, Inc., North River Motors, Inc., North Shore Regional Vocational School District, Northeast Builders Transport, Inc., Northeast Refrigeration & Heating Company, Inc. (d/b/a Northeast Equipment), Olin Corporation (f/k/a Olin Hunt Specialty Products, Inc.), P & M Service Center, Inc., P.A. Landers, Inc., Paragios Enterprise, Inc., Patalano Chrysler Plymouth, Inc., Paul J. Tocchio (d/b/a Paul's Transmission Repair), Paul's Auto, Paul's Auto Service, Inc., PCI Group, Inc. (Scovill Fasteners, Inc., Successor), Penta Auto Body Company, Inc., Peterborough Oil Company, Inc., Phil Jr's Mobil, Phillips Exeter Academy, Plaistow Precast Corporation, Plaistow Service Center, Plant Action, Inc., Polyclad Laminates, Inc., Poulin Corporation, Power's Service Station, Inc., Prompt Construction Company, Inc., Quinn Bros Corporation, R.S. Audley, Inc., Ralph J. Scovotti (d/b/a Bradford Towing Company), Raymond's Hilltop, Inc., Ray's Auto Service, Inc., Raytheon Company, Rent-A-Tool, Inc., Rhode Island Convention Center Authority, Richard Tanning Company, Inc., Richie's Mobil, Inc., Riverside Transmission Company, Robert A. Chiacchio, Robert Fawcett & Son Company, Inc., Robert K. Sweet Jr. (d/b/a Buddy's Garage), Rochester Lincoln Mercury, Rose's Oil Service, Inc., Roy's Place, RPP Corporation, S & E Auto Service & Sales, Inc., S & L Automotive Repair, Inc. (d/b/a Dow's Gulf), Saef Lincoln Mercury, Inc., Salem State College, Salisbury Auto Salvage, San-Vel Concrete Corporation (Lone Star Industries, Inc.), Sawtelle Brothers, Inc., Sawyer Enterprises, Inc., Saxonville Realty Trust, Saybolt, Inc. (Saybolt LP), S.B.E., Inc., Schlott Company, Inc., School Administrative Unit Fifty-Six, Scott's Auto Clinic, Scotty's Service, Inc., Scott-Williams, Inc., Seacoast Auto Parts, Inc., Seacoast Volkswagen, Inc., SGS Control Services, Inc., Shaughnessy Crane Service, Inc. (Shaughnessy & Ahern Company), Showcase Isuzu, Inc., Silva Tire Depot, Inc., Skilling & Sons, Inc., Sons of Mary, Health of the Sick, Inc., Southcoast Hospitals Group, Inc. (d/b/a Saint Luke's Hospital), Spalding Construction, Inc., St. Margaret Parish, St. Mary's Rectory (The Roman Catholic Bishop of Fall River, a corporation), St. Peters Realty Trust, Standard-Thomson Corporation, Stephen Antinarelli, Inc., Stephen E. Shamban (Chapter 7 Trustee of NAIC of New Bedford, Inc.), Stephen H. Craig (d/b/a Plympton Service Center), Stephen J. Pettepit, Stroock & Stroock & Lavan LLP/Kaye, Failkow, Richmond & Rothstein), Sullivan Bros Nissan Lincoln-Mercury, Inc., Sullivan Tire Company, Inc., Sun Auto Rental Company, Inc., Tatnuck Mobil, Teknor Apex Company, The Charles Stark Draper Laboratory, Inc., The Dodge Company, Inc., The Drucker Company LTD., The Hertz Corporation, The Salvation Army, The Stop & Shop Supermarket Company (and Purity Supreme, Inc.), The Wakefield Corporation, The William Carter Company, Tom Porter's Auto Service, Inc., Tommy's Auto Service, Topsfield Fire Department (Town of Topsfield),

Tosti's Service Station, Inc., Tower Automotive, Inc., Towers of Chestnut Hill, Town of Billerica, MA, Town of Boxford, MA, Town of Brookline, MA, Town of Burlington, MA, Town of Carver, MA, Town of Chatham, MA, Town of Duxbury, MA, Town of Eastham, MA, Town of Epping, NH, Town of Hanover, MA, Town of Hanson, MA, Town of Harwich, MA, Town of Littleton, MA (Littleton Electric Light Department), Town of Mashpee, MA, Town of Milford, MA, Town of Milton, MA, Town of Natick, MA, Town of New Durham, NH, Town of Norwood, MA (Municipal Light Department & Department of Public Works), Town of Orleans, MA, Town of Plaistow, NH, Town of Plymouth, MA, Town of Reading, MA, Town of Wakefield, MA, Town of Wareham, MA, Town of Wayland, MA, Town of Wellfleet, MA, Town of West Bridgewater, MA, Town of Westford, MA, Town of Winchester, MA, Townsend Sales & Service, Inc., Tresca Brothers Sand & Gravel, Inc., Trombly Motor Coach Service, Inc., Tudor Cab, Inc., Two Twenty Two Berkeley Venture, UniFirst Corporation, United States Army Corps of Engineers, United States Army Reserve, Universal Construction, Inc., U.S. Food Service (Monarch Foods and PYA/Monarch, LLC), Varney Bros Sand & Gravel, Inc., Verizon New England, Inc., Vin's Auto Service, Inc., Volkswagen of America, Inc., Wagner & Wagner Auto Sales (d/b/a Wagner Motor Sales), Wakefield Materials Corporation, Wakefield Tune-up, Inc., Water Street Auto Body, Inc., WEACO Realty, Inc., Weber Dodge, Inc., West Lynn Service, Inc., W.A. Kraft Corporation (n/k/a Kraft Power Corporation), W.H. Bagshaw Company, Inc., Whitney's Service, William A. Miller (d/b/a Shawsheen Service), and Woods Hole Oceanographic Institution.

In accordance with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. 9601 *et seq.*, notice is hereby given of a proposed second *de minimis* settlement agreement under section 122(g) of CERCLA concerning the Beede Waste Oil Superfund Site in Plaistow, NH. The second settlement was approved by EPA Region I, subject to review by the public pursuant to this Notice.

The proposed second settlement has been approved by the United States Department of Justice and, for the State portion of the settlement, by the State of New Hampshire. EPA will receive written comments relating to this settlement for thirty (30) days from the date of publication of this Notice.

Dated: August 29, 2002.

Stanley Chin,

Acting Director, Office of Site Remediation and Restoration, EPA—Region I.

[FR Doc. 02–22988 Filed 9–9–02; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK OF THE UNITED STATES

Notice of Open Special Meeting of the Advisory Committee of the Export-Import Bank of the United States (Ex-Im Bank)

SUMMARY: The Advisory Committee was established by Public Law 98–181, November 30, 1983, to advise the Export-Import Bank on its programs and to provide comments for inclusion in the reports of the Export-Import Bank of the United States to Congress.

TIME AND PLACE: Wednesday, September 25, 2002, at 10 AM to 12:30 PM. The meeting will be held at Ex-Im Bank in Room 1143, 811 Vermont Avenue, NW., Washington, DC 20571.

AGENDA: Agenda items include reports and discussion on proposed revisions to Ex-Im Bank's Economic Impact Procedures and reports and discussion from the Advisory Committee's Sub-Committees.

PUBLIC PARTICIPATION: The meeting will be open to public participation, and the last 10 minutes will be set aside for oral questions or comments. Members of the public may also file written statement(s) before or after the meeting. If any person wishes auxiliary aids (such as a sign language interpreter) or other special accommodations, please contact, prior to September 20, 2002, Nichole Westin, Room 1257, 811 Vermont Avenue, NW., Washington, DC 20571, Voice: (202) 565–3542 or TDD (202) 565–3377.

FOR FURTHER INFORMATION CONTACT: For further information, contact Nichole Westin, Room 1257, 811 Vermont Ave., NW., Washington, DC 20571, (202) 565–3542.

Peter Saba,

General Counsel.

[FR Doc. 02–22899 Filed 9–9–02; 8:45 am]

BILLING CODE 6690–01–M

EXPORT-IMPORT BANK OF THE UNITED STATES

Sunshine Act Meeting

ACTION: Notice of an open special meeting of the board of directors of the Export-Import Bank of the United States.

TIME AND PLACE: Wednesday, September 24, 2002 at 2 p.m. The meeting will be held at Ex-Im Bank in Room 1143, 811 Vermont Avenue, NW., Washington, DC 20571.

AGENDA: Draft Revised Economic Impact Procedures.

PUBLIC PARTICIPATION: The meeting will be open to public participation.

FOR FURTHER INFORMATION CONTACT: A copy of the Draft Revised Economic Impact Procedures can be obtained at Ex-Im Bank's Web site (*http://www.exim.gov*). For further information, contact: Office of the Secretary, 811 Vermont Avenue, NW., Washington, DC 20571 (Telephone No. 202–565–3957 or 3336).

Peter B. Saba,

General Counsel.

[FR Doc. 02–23118 Filed 9–6–02; 3:24 pm]

BILLING CODE 6690–01–M

FEDERAL HOUSING FINANCE BOARD

Sunshine Act Meeting; Announcing an Open Meeting of the Board

TIME AND DATE: 10 a.m., Thursday, September 12, 2002.

PLACE: Board Room, Second Floor, Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006.

STATUS: The entire meeting will be open to the public.

MATTER TO BE CONSIDERED:

- Standards of Conduct
- Final Rule—Affordable Housing Program
- Finance Board's Fiscal Year 2003 Budget
- Office of Finance Board of Directors Appointment (Tentative)

CONTACT PERSON FOR MORE INFORMATION: Elaine L. Baker, Secretary to the Board, (202) 408–2837.

Arnold Intrater,

General Counsel.

[FR Doc. 02–23067 Filed 9–6–02; 12:12 pm]

BILLING CODE 6725–01–P

FEDERAL HOUSING FINANCE BOARD

[No. 2002–N–8]

Notice of Public Hearing on Federal Home Loan Bank Cost of Funds

AGENCY: Federal Housing Finance Board.

ACTION: Notice of public hearing.

SUMMARY: Notice is hereby given that the Federal Housing Finance Board (Finance Board) will hold the following public hearing:

TIME AND DATE OF HEARING: Immediately following 10 a.m. Board of Directors Meeting, Thursday, September 12, 2002.

PLACE: Board Room, Second Floor, Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006.

AGENDA: The purpose of this hearing is to provide an opportunity for the Finance Board to gather information on the appropriate benchmarks for measuring FHLBank System performance in borrowing money and to gather information on FHLBank System plans and strategies for cost effective borrowing.

Public testimony at the hearing will be limited to presentations by Finance Board staff, representatives from the FHLBanks and the Board of Directors of the Office of Finance. Testimony prepared by the witnesses for public delivery at the hearing should be submitted in writing to the Finance Board by 12 p.m., Tuesday, September 10, 2002.

Other individuals or organizations interested in commenting on the Cost of Funds may do so by submitting their comments in writing to the Finance Board prior to September 12, 2002.

STATUS: This hearing will be open to the public.

ADDRESSES: Send testimony and comments to Elaine L. Baker, Secretary to the Board, by electronic mail to *bakere@fhfb.gov,* or by regular mail to the Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Elaine L. Baker, Secretary to the Board, 202–408–2837 or Thomas D. Casey, Counsel to the Chairman, 202–408–2957.

Dated: September 5, 2002.

Arnold Intrater,

General Counsel.

[FR Doc. 02–23073 Filed 9–6–02; 12:52 pm]

BILLING CODE 6725–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 4, 2002.

A. Federal Reserve Bank of Atlanta (Sue Costello, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309–4470:

1. Commerce Banshares, Inc., White Castle, Louisiana; to become a bank holding company by acquiring 100 percent of the voting shares of The Bank of Commerce, White Castle, Louisiana.

B. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. SCB Bancorp, Inc., East Lansing, Michigan; to become a bank holding company by acquiring 100 percent of the voting shares of Summit Community Bank, Lansing, Michigan.

C. Federal Reserve Bank of Kansas City (Susan Zubradt, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. ADBanc, Inc., Ogallala, Nebraska; to acquire up to 100 percent of the voting shares of VBI, Inc., Colorado Springs, Colorado, and thereby indirectly acquire voting shares of Vista Bank, Colorado Springs, Colorado.

D. Federal Reserve Bank of San Francisco (Maria Villanueva, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105–1579:

1. SunFirst Corporation, St. George, Utah; to become a bank holding company by acquiring 100 percent of the voting shares of SunFirst Bank, Saint George, Utah.

Board of Governors of the Federal Reserve System, September 5, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–22928 Filed 9–9–02; 8:45 am]

BILLING CODE 6210–01–S

GENERAL SERVICES ADMINISTRATION

Interagency Committee for Medical Records (ICMR); Revision of OF 275, Medical Record—Report

AGENCY: General Services Administration.

ACTION: Notice.

SUMMARY: The General Services Administration/ICMR revised the OF 275, Medical Record—Report to add sponsor information, update the patient identification information and make the form authorized for local reproduction. You can obtain the updated form in two ways:

On the Internet. Address: *http://www.gsa.gov/forms/ or*;

From GSA, Forms–CAP, Attn.: Barbara Williams, (202) 501–0581.

DATES: Effective September 10, 2002.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Williams, General Services Administration, (202) 501–0581.

Dated: August 28, 2002.

Barbara M. Williams,

Deputy Standard and Optional Forms Management Officer, General Services Administration.

[FR Doc. 02–22893 Filed 9–9–02; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–02–77]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 498–1210.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. CDC is requesting an emergency clearance from the Office of Management and Budget (OMB) to collect data under the Public Health Security and Bioterrorism Preparedness and Response Act of 2002. Send comments to Anne O'Connor, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS D–24, Atlanta, GA 30333. Written comments should be received within 14 days of this notice. OMB is expected to act on the request of CDC within 21 days of publication of this notice.

Proposed Project: Minimum Data Elements (MDE) and System for Technical Assistance Reporting (STAR) for the National Breast and Cervical Cancer Early Detection Program (NBCCEDP)—New—The National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC). The NBCCEDP was established in response to the Congressional Breast and Cervical Cancer Mortality Prevention Act of 1990 to provide early detection, breast and cervical cancer screening services for under-served women. The CDC proposes to aggregate breast and cervical cancer screening, diagnostic and treatment data from NBCCEDP grantees at the state, territory and tribal level. These aggregated data will include demographic information about women served through funded programs. The proposed data collection will also include infrastructure data about grantee management, public education and outreach, professional education, and service delivery.

Breast cancer is a leading cause of cancer-related death among American women. The American Cancer Society estimates that 203,500 new cases will be diagnosed among women in 2002, and 39,600 women will die of this disease. Mammography is extremely valuable as an early detection tool because it can detect breast cancer well before the woman can feel the lump, when it is still in an early and more treatable stage. Women older than age 40 that receive annual mammography screening reduce their probability of breast cancer mortality and increase their treatment options.

Although early detection efforts have greatly decreased the incidence of invasive cervical cancer during the last four decades, an estimated 13,000 new cases will be diagnosed in 2002 and 4,100 women will die of this disease. Papanicolaou (Pap) tests effectively detect precancerous lesions in addition to invasive cervical cancer. The detection and treatment of precancerous lesions can prevent nearly all cervical cancer-related deaths.

Because breast and cervical cancer screening, diagnostic and treatment data are already collected and aggregated at the state, territory and tribal level, the additional burden on the grantees will be small. Implementation of this program will require grantees to report a minimum data set electronically to the CDC on a semi-annual basis. The program will require grantees to report infrastructure data to the CDC annually using a web-based system. Information collected will be used to obtain more complete breast and cervical cancer data, promote public education of cancer incidence and risk, improve the availability of screening and diagnostic services for under-served women, ensure the quality of services provided to women, and develop outreach strategies for women that are never or rarely screened for breast and cervical cancer. There are no costs to respondents.

Form	Number of respondents	Number of responses per respondent	Average burden per response (in hrs)	Total burden (in hrs)
Infrastructure report (STAR)	71	1	25	1,775
Screening and follow-up (MDE)	71	2	4	568
Total				2,343

Dated: September 3, 2002.

Nancy E. Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 02–22895 Filed 9–9–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Head Start Fellows Program.

OMB No.: 0970–0140.

Description: Public Law 103–252, the Human Services Amendments of 1994, amended the Head Start Act (the Act) to authorize the creation of a Head Start Fellows Program to support the professional development of individuals working in the fields of child development and family services. The Act was most recently reauthorized through fiscal year 2003 by the Coats Human Services Amendments of 1998, Public Law 105–285.

Head Start Fellowships are awarded on a competitive basis to individuals (other than Federal employees) selected from among applicants who are working, on the date of application, in local Head Start programs or otherwise working in the fields of child development and children and family services. The information collected from the applications is used to ensure that individuals selected to be Head Start Fellows have the appropriate experience/skills, and that the training developed for them and the work assigned to them will enhance their ability to make significant contributions to the fields of child development and family services. The information collected is used by program staff and policy makers at the Federal level to make judgments on the progress and needs of the program.

Respondents: 200.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Application	200	1	24	4,800
Estimated Total Annual Burden Hours				4,800

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above.

Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication

Dated: September 4, 2002.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 02–22852 Filed 9–9–02; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98D–0834]

Withdrawal of Guidances on Estrogen and Estrogen/Progestin-Containing Drug Products

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; withdrawal.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal of two guidances: A draft entitled''Labeling Guidance for Noncontraceptive Estrogen Drug Products—Prescibing Information for Healthcare Providers and Patient Labeling'' and a final ''Guidance for Clinical Evaluation of Combination Estrogen/Progestin-Containing Drug Products Used for Hormone Replacement Therapy of Postmenopausal Women.'' These guidances are under agency review for change.

DATES: General comments on agency guidance documents are welcome at any time.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*. Submit written requests for the guidance to the Division of Drug Information (HFD–240), Center for Drug Evaluation and Research (CDER), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. See the **SUPPLEMENTARY INFORMATION** section for electronic access to agency guidance documents.

FOR FURTHER INFORMATION CONTACT: Dan Shames, Center for Drug Evaluation and Research (HFD–580), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4260

SUPPLEMENTARY INFORMATION: FDA is announcing the withdrawal of two guidances on estrogen and estrogen/progestin drug products. The two guidances being withdrawn are the draft guidance ''Labeling Guidance for Noncontraceptive Estrogen Drug Products—Prescibing Information for Healthcare Providers and Patient Labeling'' (labeling guidance) and the final ''Guidance for Clinical Evaluation of Combination Estrogen/Progestin-Containing Drug Products Used for Hormone Replacement Therapy of Postmenopausal Women'' (combination guidance). The draft labeling guidance was made available for comment in the **Federal Register** of September 27, 1999 (64 FR 52100); the final combination guidance was made available in March 1995. Both guidances are undergoing review for change as a result of the results from the National Institutes of Health (NIH) Women's Health Initiative trial.[1]

Interested persons may submit written or electronic comments to the Dockets Management Branch (see **ADDRESSES**). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Persons with access to the Internet may obtain CDER guidance documents at *http://www.fda.gov/cder/guidance/index.htm*.

Dated: August 27, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–22900 Filed 9–9–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information collection requests under review by the Office of Management and Budget, in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). To request a copy of the clearance requests submitted to OMB for review, call the HRSA Reports Clearance Office on (301) 443–1129.

[1] The results of the NIH Women's Health Initiative trial were reported in the *Journal of the American Medical Association,* 2002;288:321–333.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

Proposed Project: Private Health Insurance Coverage of Immunosuppressive Drugs Survey—NEW

Public Law 106–310, section 2101(b) of Title XXI of the Children's Health Act of 2000, states that the Secretary of Health and Human Services shall provide for a study to determine the costs of immunosuppressive drugs provided to children pursuant to organ transplants and to determine the extent to which health plans and health insurance cover such costs.

The Health Resources and Services Administration (HRSA) has determined the extent of government insurance coverage for immunosuppressive drugs given to children pursuant to organ transplantation. However, HRSA still does not know the extent of private health insurance coverage for immunosuppressive drugs. Analysis of the Organ Procurement and Transplantation Network (OPTN) database revealed that approximately 45% of pediatric organ transplant recipients list their primary insurer as being private health insurance—this category being the largest insurer of pediatric organ transplant recipients. Little is known about co-payments, limitation on drug usage, *etc.,* in this category of patients.

In order to fulfill the requirements of Section 2101(b), the Division of Transplantation in the Office of Special Programs, HRSA, contracted with the EMMES Corporation to study the costs of immunosuppressive drugs and to conduct a survey to send to approximately 600 families of post-transplant liver and kidney patients who list private health insurance as their primary provider at the time of transplantation. Data collected and analyzed will be reported to Congress. The report will contain information about the extent to which private health insurance covers the cost of immunosuppressive drugs given pursuant to organ transplants and provide recommendations from the Secretary of Health and Human Services about the findings. Once information has been collected and the report to Congress submitted, the information will be incorporated into private databases maintained by the EMMES

Corporation which are closely protected and not available to the public. Analytical requests can be made on the data, but requests are subject to an advisory board and the release in any type of personally-identifiable data or standard analytical file will not be available to the public. The Federal government will not have access to any of the personally-identifiable data. All these measures will assure patient privacy.

ESTIMATES OF ANNUALIZED HOUR BURDEN

Respondents	Number of respondents	Responses per respondents	Hours per response	Total hour burden
Guardians patients	600	1	.75	450
Transplant Centers	143	1	2.5	357.50
Total	743			807.50

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: John Morrall, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: September 3, 2002.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 02–22901 Filed 9–9–02; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Refugee Resettlement Program; Final Notice of Availability of Formula Allocation Funding for FY 2002 Targeted Assistance Grants for Services to Refugees in Local Areas of High Need

AGENCY: Office of Refugee Resettlement (ORR), ACF, HHS.

ACTION: Final notice of availability of formula allocation funding for FY 2002 targeted assistance grants to States for services to refugees [1] in local areas of high need.

SUMMARY: This notice announces the availability of funds and award procedures for FY 2002 targeted assistance grants for services to refugees under the Refugee Resettlement Program (RRP). The purpose of these grants is to provide services in localities with large refugee populations, high refugee concentrations, and high use of public assistance by refugees, and where specific needs exist for supplementation of currently available resources.

The final notice reflects adjustments in final allocations to States as a result of additional arrival data. A notice of proposed allocations of targeted assistance funds was published for public comment in the **Federal Register** on May 28, 2002 (67 FR 36905).

DATES: The closing date for submission of applications is October 10, 2002. Refer to the section of this notice entitled Additional Information for more information on submitting applications. For more information on application procedures, States should contact their ORR State Analyst.

[1] Eligibility for targeted assistance includes refugees, asylees, Cuban and Haitian entrants, certain Amerasians from Vietnam who are admitted to the U.S. as immigrants, certain Amerasians from Vietnam who are U.S. citizens, and victims of a severe form of trafficking who receive certification or eligibility letters from ORR. (See section II of this notice on ''Authorization,'' and refer to 45 CFR 400.43 and the ORR State Letter #01–13 on the Trafficking Victims Protection Act dated May 3, 2001.) The term ''refugee,'' used in this notice for convenience, is intended to encompass such additional persons who are eligible to participate in refugee program services, including the targeted assistance program.

ADDRESSES: Address applications, in duplicate, to: Ms. Gayle Smith, Office of Refugee Resettlement, Administration for Children and Families, 370 L'Enfant Promenade, SW., Washington, DC 20447. In order to be considered timely, applications must be received in ORR by October 10, 2002.

Catalog of Federal Domestic Assistance (CFDA) Number: 93.584.

FOR FURTHER INFORMATION CONTACT: Gayle Smith, Director, Division of Refugee Self-Sufficiency, (202) 205–3590, e-mail: *gsmith@acf.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Purpose and Scope

This notice announces the availability of funds for grants for targeted assistance for services to refugees in counties where, because of factors such as unusually large refugee populations, high refugee concentrations, and high use of public assistance by refugees, there exists and can be demonstrated a specific need for supplementation of resources for services to this population.

The Office of Refugee Resettlement (ORR) has available $49,477,000 in FY 2002 funds for the targeted assistance program (TAP) as part of the FY 2002 appropriation for the Department of Health and Human Services (Pub. L. 107–116).

The Director of the Office of Refugee Resettlement (ORR) will use the $49,477,000 in targeted assistance funds as follows:

- $44,529,300 will be allocated to States under the 5-year population formula, as set forth in this notice.
- $4,947,700 (10% of the total) will be used to award discretionary grants to States under continuation grant awards.

The purpose of targeted assistance grants is to provide, through a process of local planning and implementation, direct services that would result in the economic self-sufficiency and reduced welfare dependency of refugees through job placements.

The requirements of the targeted assistance program are contained in section 412(c)(2)(B) of the Immigration and Nationality Act (INA), which provides that targeted assistance grants shall be made available ''(i) primarily for the purpose of facilitating refugee employment and achievement of self-sufficiency, (ii) in a manner that does not supplant other refugee program funds and that assures that not less than 95 percent of the amount of the grant award is made available to the county or other local entity.''

II. Authorization

Targeted assistance projects are funded under the authority of: (1) Section 412(c)(2) of the (INA), as amended by the Refugee Assistance Extension Act of 1986 (Pub. L. 99–605), 8 U.S.C. 1522(c); (2) section 501(a) of the Refugee Education Assistance Act of 1980 (Pub. L. 96–422), 8 U.S.C. 1522 note, insofar as it incorporates by reference with respect to Cuban and Haitian entrants the authorities pertaining to assistance for refugees established by section 412(c)(2) of the INA, as cited above; (3) section 584(c) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, as included in the FY 1988 Continuing Resolution (Pub. L. 100–202), insofar as it incorporates by reference with respect to certain Amerasians from Vietnam the authorities pertaining to assistance for refugees established by section 412(c)(2) of the INA, as cited above, including certain Amerasians from Vietnam who are U.S. citizens, as provided under title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Acts, 1989 (Pub. L. 100–461), 1990 (Pub. L. 101–167), and 1991 (Pub. L. 101–513); and (4) section 107(b)(1)(A) of the Victims of Trafficking and Violence Protection Act of 2000 (Pub. L. 106–386), insofar as it states that a victim of a severe form of trafficking shall be eligible for federal and certain State benefits and services to the same extent as a refugee.

III. Client and Service Priorities

Targeted assistance funding must be used to assist refugee families to achieve economic independence. To this end, States and counties are required to ensure that a coherent family self-sufficiency plan is developed for each eligible family that addresses the family's needs from time of arrival until attainment of economic independence. (See 45 CFR 400.79 and 400.156(g).) Each family self-sufficiency plan should address a family's needs for both employment-related services and other needed social services. The family self-sufficiency plan must include: (1) A determination of the income level a family would have to earn to exceed its cash grant and move into self-support without suffering a monetary penalty; (2) a strategy and timetable for obtaining that level of family income through the placement in employment of sufficient numbers of employable family members at sufficient wage levels; (3) employability plans for every employable member of the family; and (4) a plan to address the family's social services needs that may be barriers to self-sufficiency. In local jurisdictions that have both targeted assistance and refugee social services programs, one family self-sufficiency plan may be developed for a family that incorporates both targeted assistance and refugee social services.

Services funded through the targeted assistance program are required to focus primarily on those refugees who, either because of their protracted use of public assistance or difficulty in securing employment, continue to need services beyond the initial years of resettlement. However, States may not provide services funded under this notice, except for referral and interpreter services, to refugees who have been in the United States for more than 60 months (5 years).

In accordance with 45 CFR 400.314, States are required to provide targeted assistance services to refugees in the following order of priority, except in certain individual extreme circumstances: (a) Refugees who are cash assistance recipients, particularly long-term recipients; (b) unemployed refugees who are not receiving cash assistance; and (c) employed refugees in need of services to retain employment or to attain economic independence.

In addition to the statutory requirement that TAP funds be used ''primarily for the purpose of facilitating refugee employment'' (section 412(c)(2)(B)(i) of the INA), funds awarded under this program are intended to help fulfill the congressional intent that ''employable refugees should be placed in jobs as soon as possible after their arrival in the United States'' (section 412(a)(1)(B)(i) of the INA). Therefore, in accordance with 45 CFR 400.313, targeted assistance funds must be used primarily for employability services designed to enable refugees to obtain jobs with less than one year's participation in the targeted assistance program in order to achieve economic self-sufficiency as soon as possible. Targeted assistance services may continue to be provided after a refugee has entered a job to help the refugee retain employment or move to a better job. Targeted assistance funds may not be used for long-term training programs such as vocational training that last for more than a year or educational programs that are not intended to lead to employment within a year.

In accordance with 45 CFR 400.317, if targeted assistance funds are used for the provision of English language training, such training must be provided in a concurrent, rather than sequential, time period with employment or with other employment-related activities.

Reflecting section 412(a)(1)(A)(iv) of the INA, States must ''insure that women have the same opportunities as

men to participate in training and instruction.'' In addition, in accordance with 45 CFR 400.317, services must be provided to the maximum extent feasible in a manner that includes the use of bilingual/bicultural women on service agency staffs to ensure adequate service access by refugee women. The Director of ORR also strongly encourages the inclusion of refugee women in management and board positions in agencies that serve refugees. In order to facilitate refugee self-support, the Director also encourages States to implement strategies which address simultaneously the employment potential of both male and female wage earners in a family unit.

States and counties are expected to make every effort to obtain child care services, preferably subsidized child care, in order to allow caretaker family members the opportunity to participate in employment services or to accept or retain employment. To accomplish this, child care may be treated as an employment-related service under the targeted assistance program. Refugees who are participating in targeted assistance-funded or social services-funded employment services or have accepted employment are eligible for child care. States and counties are expected to use child care funding from other publicly-administered programs as a prior resource and are encouraged to work with service providers to ensure mainstream access to other publicly funded resources for child care. For an employed refugee, targeted assistance-funded child care should be limited to situations in which no other publicly funded child care funding is available. In these cases, child care services funded by targeted assistance should be limited to one year after the refugee becomes employed.

In accordance with 45 CFR 400.317, targeted assistance services must be provided in a manner that is culturally and linguistically compatible with a refugee's language and cultural background, to the maximum extent feasible. In light of the increasingly diverse population of refugees who are resettling in this country, refugee service agencies will need to develop practical ways of providing culturally and linguistically appropriate services to a changing ethnic population. Services funded under this notice must be refugee-specific services which are designed specifically to meet refugee needs and are in keeping with the rules and objectives of the refugee program. Vocational or job-skills training, on-the-job training, or English language training, however, need not be refugee-specific.

We strongly encourage States and counties when contracting for targeted assistance services, including employment services, to give consideration to the special strengths of mutual assistance associations (MAAs), whenever contract bidders are otherwise equally qualified, provided that the MAA has the capability to deliver services. We also strongly encourage MAAs to ensure that their management and board composition reflect the major target populations to be served.

ORR defines MAAs as organizations with the following qualifications:

a. The organization is legally incorporated as a nonprofit organization; and

b. Not less than 51% of the composition of the Board of Directors or governing board of the mutual assistance association is comprised of refugees or former refugees, including both refugee men and women.

Finally, in order to provide culturally and linguistically compatible services in as cost-efficient a manner as possible in a time of limited resources, ORR strongly encourages States and counties to promote and give special consideration to the provision of services through coalitions of refugee service organizations, such as coalitions of MAAs, voluntary resettlement agencies, or a variety of service providers. ORR believes it is essential for refugee-serving organizations to form close partnerships in the provision of services to refugees in order to be able to respond adequately to a changing refugee picture. Coalition-building and consolidation of providers is particularly important in communities with multiple service providers in order to ensure better coordination of services and maximum use of funding for services by minimizing the funds used for multiple administrative overhead costs.

The award of funds to States under this notice will be contingent upon the completeness of a State's application as described in the section entitled Additional Information, below.

IV. Discussion of Comments Received

Four letters of comment were received by the deadline in response to the notice of proposed availability of FY 2002 funds for targeted assistance. These comments are summarized below and in each case are followed by the Department's response. Two letters of comment were received after the published deadline and will not be considered.

Comment: Three commenters expressed concern that their counties no longer qualified for targeted assistance under the formula and requested reconsideration.

Response: In the notice of proposed allocations, we stated that if a county does not agree with ORR's population estimate for refugees and entrants or wishes to submit data on asylees or victims of a severe form of trafficking who have been served by the county, the county must submit evidence to ORR by June 27, 2002, in the form of specified data elements published in the proposed notice. We also indicated that failure to submit the required documentation within the specified time frame would result in forfeiture of consideration.

One of these three commenters submitted data as well as written comments in response to the proposed notice . Those data have been reviewed and were found to pertain to secondary migrants. As we have noted in previous years, we are not able to include secondary migrants in the population formula for targeted assistance because secondary migration data are not available at the county level.

States report on secondary migration annually on the ORR–11. This reporting is based on the first three digits of the social security number (SSN). These digits identify the State in which the SSN was issued, which, with a few exceptions, is the State of initial resettlement. This information allows ORR to both credit the State of in-migration and debit the State of out-migration in developing State population estimates. Most States and counties are not able to provide county-level secondary migration data. We cannot use secondary migration data for one county alone. It would be necessary to collect and determine both in-migration and out-migration for approximately 1,000 counties during the qualification process in order to arrive at accurate adjusted county population estimates.

ORR understands that discontinuance of funding in counties that no longer qualify will have an effect on the services in those counties. Every three years, the targeted assistance qualification process attempts to direct targeted assistance funds to those counties that are the most-impacted by recent refugee arrivals. Counties losing targeted assistance formula funds may wish to apply for ORR targeted assistance discretionary funds through their States at the next available opportunity.

ORR does not plan to consider the eligibility of additional counties for targeted assistance formula funds until FY 2005, when ORR will again review data on all counties that could

potentially qualify for targeted assistance based on the published criteria.

Comment: One commenter questioned whether Havana Parolee numbers included in the formula are accurate and represent Havana parolees who migrate north after a short stay in Florida. The same commenter also asked whether asylee numbers are included in the formula.

Response: For fiscal years 1999–2001, Havana parolee numbers included in the formula were derived from actual data. For fiscal years 1997–1998, INS provided the number of actual Havana parolees. Please refer to the response above for the discussion of secondary migration as it relates to targeted assistance. In regard to asylees, the proposed notice stated that counties that served asylees could submit specific data on each asylee served in order to have their population estimate adjusted to include those asylees whose asylum was granted within the 60-month period ending September 30, 2001. All asylee data received by close of business June 27, 2002 were reviewed for completeness and complete records were used to adjust arrival data.

Comment: Another commenter requested a redesignation of a Standard Metropolitan Statistical Area (SMSA) to include one county instead of three because new refugee arrivals have been concentrated in one of the three SMSA counties, and refugee centers in the other two counties have closed previously due to declining new arrivals and time-eligibility limitations on services for the residual county populations.

Response: ORR examined the distribution of arrivals within the three-county SMSA and found that the two counties that the commenter requested to be dropped from the SMSA had small numbers of arrivals during the 5-year period from FY 1997–FY 2001. There is an advantage to the State to retain the SMSA as a three-county SMSA, because arrivals receive double weight in the qualifying process, while concentration receives single weight, and allocations are made on the basis of arrivals. The State qualifies for targeted assistance using the SMSA population and concentration. The State is able to determine how the targeted assistance funds will be used within the SMSA and may determine to use the funds in the county with the largest number of arrivals, as it does currently. The State should include its proposal for use of funds in its targeted assistance application. Refer to the section of this notice titled ''BUDGET AND BUDGET JUSTIFICATION, CRITERIA #1 APPROACH, for required application content regarding the distribution of funds to various counties within an SMSA.

Comment: A different commenter suggested that ORR's method of determining impacted counties was unfair because it used the entire county population to determine impact instead of the population of impacted cities in which refugees resided within the county.

Response: Regarding the suggestion that ORR determine eligibility for targeted assistance at the municipality level, ORR is required by section 412(c)(2)(A) of the INA to make grants to States for assistance to counties and similar areas. Therefore, we do not consider cities, townships or municipalities as meeting the intent of section 412(c)(2)(A) of the INA.

V. Eligible Grantees

Eligible grantees are: 1. those agencies of State governments that are responsible for the refugee program under 45 CFR 400.5 in States containing counties which qualify for FY 2002 targeted assistance awards, and 2. those non-State agencies funded under the Wilson-Fish program which administer, in lieu of a State, a statewide refugee assistance program containing counties which qualify for FY 2002 targeted assistance formula funds.

The Director of ORR will determine the eligibility of counties for inclusion in the FY 2002 targeted assistance program on the basis of the method described in section VI of this notice.

The use of targeted assistance funds for services to Cuban and Haitian entrants is limited to States which have an approved State plan under the Cuban/Haitian Entrant Program (CHEP).

The State/Wilson-Fish agency will submit a single application on behalf of all county governments of the qualified counties in that State. Subsequent to the approval of the State/Wilson-Fish agency's application by ORR, local targeted assistance plans will be developed by the county government or other designated entity and submitted to the State/Wilson-Fish agency.

A State with more than one qualified county is permitted, but not required, to determine the allocation amount for each qualified county within the State. However, if a State chooses to determine county allocations differently from those set forth in the final notice, in accordance with 45 CFR 400.319, the FY 2002 allocations proposed by the State must be based on the State's population of refugees who arrived in the U.S. during the most recent 5-year period. A State may use welfare data as an additional factor in the allocation of its targeted assistance funds if it so chooses; however, a State may not assign a greater weight to welfare data than it has assigned to population data in its allocation formula. In addition, if a State chooses to allocate its FY 2002 targeted assistance funds in a manner different from the formula set forth in the final notice, the FY 2002 allocations and methodology proposed by the State must be included in the State's application for ORR review and approval.

Applications submitted in response to the final notice are not subject to review by State and area wide clearinghouses under Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

VI. Qualification and Allocation

For FY 2002, ORR will continue to use the formula that bases allocation of targeted assistance funds on the most current five-year refugee/entrant arrival data. Targeted assistance services are limited to refugees residing in qualified counties who have been in the U.S. five years or less. The Director of ORR proposes to determine the qualification of counties for targeted assistance once every three years, as stated in the FY 1999 notice of proposed availability of targeted assistance allocations to States which was published in the **Federal Register** on March 10, 1999 (64 FR 11927). The FY 1999–FY 2001 three-year project cycle expires 9/30/2002. In preparation for re-qualifying counties for FY 2002, ORR has reviewed data on all counties that could potentially qualify for TAP funds on the basis of the most current five-year refugee/entrant [2] arrival data.

A. Qualifying Counties

In order to qualify for application for FY 2002 targeted assistance funds, a county (or group of adjacent counties with the same Standard Metropolitan Statistical Area, or SMSA) will be required to either: (1) Rank above a selected cut-off point of jurisdictions for which data were reviewed, based on two criteria: (a) The number of refugee/entrant arrivals placed in the county during the most recent five-year period (FY 1997–FY 2001) and (b) the five-year refugee/entrant arrival population as a percent of the county overall population, or (2) have received 3,000 or more refugee/entrant arrivals during this same five-year period.

In regard to the first qualification criteria, each county will be ranked on the basis of its five-year arrival population and its concentration of refugees, with a relative weighting of

two to one respectively, because we believe that large numbers of refugee/entrant arrivals into a county create a significant impact, regardless of the ratio of refugees to the county general population.

Each county will then be ranked in terms of the sum of a county's rank on refugee arrivals and its rank on concentration. To qualify for targeted assistance based on rank, a county will have to rank within the top 50 counties. In addition, counties that have received at least 3,000 arrivals within the most recent five-year period will also qualify. The total number of qualifying counties is 53—the original 50 ranked counties plus three additional counties with at least 3,000 arrivals within the most recent five-year period. ORR has limited the number of qualified counties to 53 in order to cover as many counties as possible while still targeting a sufficient level of funding to the most impacted counties.

ORR decided that counties with 3,000 or more arrivals should qualify for targeted assistance after analyzing the arrival data and discovering that there were three counties which ranked high in arrival numbers (37, 28, and 39) but will not qualify for targeted assistance based solely on the sum of the ranks formula. ORR concluded that these counties which ranked high nationally in refugee population were impacted by high numbers of refugee arrivals, and thus should qualify for Targeted Assistance.

ORR has screened data on all counties that have received awards for targeted assistance since FY 1983 and on all other counties that could potentially qualify for TAP funds based on the criteria proposed in this notice. Analysis of these data indicates that: (1) 44 counties which have previously received targeted assistance will continue to qualify; (2) five counties which have previously received targeted assistance will no longer qualify; and (3) nine new counties will be qualified.

Table 1 provides a list of the counties that will remain qualified and the new counties that will qualify, the number of refugee/entrant arrivals in those counties within the past five years, the percent that the five-year arrival population represents of the overall county population, and each county's rank, based on the qualification formula described above.

Table 2 lists the counties that have previously received targeted assistance which will no longer qualify, the number of refugee/entrant arrivals in those counties within the past five years, the percent that the five-year arrival population represents of the overall county population, and each county's rank, based on the qualification formula.

The counties listed in this final notice as qualified to apply for FY 2002 TAP funding will remain qualified for TAP funding through FY 2004. ORR does not plan to consider the eligibility of additional counties for TAP funding until FY 2005, when ORR will again review data on all counties that could potentially qualify for TAP funds based on the criteria contained in this final notice. We believe that a more frequent redetermination of county qualification for targeted assistance will not provide qualifying counties a sufficient period of time within a stable funding climate to adequately address the refugee impact in their counties, while a less frequent redetermination of county qualification will pose the risk of not considering new population impacts in a timely manner.

B. Allocation Formula

Of the funds available for FY 2002 for targeted assistance, $44,529,300 will be allocated by formula to States for qualified counties based on the initial placements of refugees, Amerasians, entrants (including Havana parolees), and Kurdish asylees in these counties during the five-year period from FY 1997 through FY 2001 (October 1, 1996—September 30, 2001). These data are available in the ORR refugee data system.

For fiscal years 1999 through 2001, Havana parolees were derived from actual data. For fiscal years 1997–1998, INS provided the number of actual Havana parolees. The State of Florida supplied ORR with the actual number of these parolees which arrived in Florida. The remaining parolees were not identified with any other State of arrival. To account for these arrivals, ORR prorated the non-Florida parolee numbers to qualifying counties in other States based on the counties' proportion of the five-year entrant population in the U.S.

VII. Allocations

Table 3 lists the final qualifying counties, the number of refugee and entrant arrivals in those counties during the five-year period from October 1, 1996—September 30, 2001, the number of Havana parolee arrivals in those counties for this five-year period, the sum of the third, fourth, and fifth columns, and the final amount of each county's allocation based on its five-year arrival population.

Table 4 provides State totals for final targeted assistance allocations. Table 5 indicates the areas that each final qualifying county represents. Tables 1 through 5 follow:

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Table 1--Top 53 Final Eligible Counties

	County	State	Year Arrival Total	Concentration Percent	Sum of Ranks
	44 Targeted Assistance Counties Eligible for Continuation				
1	Dade County	FL	62,979	2.7949	4
2	City of St. Louis	MO	9,784	2.8100	23
3	Sacramento County	CA	10,719	0.8761	32
4	DeKalb County	GA	8,888	1.3348	35
5	Multnomah	OR	12,096	0.6760	37
6	Oneida County	NY	4,743	2.0143	42
7	King/Snohomish	WA	12,522	0.5344	42
8	Jefferson County	KY	6,240	0.8997	43
9	Hennepin/Ramsey	MN	10,332	0.6350	49
10	New York	NY	26,809	0.3348	53
11	Maricopa County	AZ	11,226	0.3654	58
12	Duval County	FL	5,098	0.6545	64
13	Suffolk County	MA	4,529	0.6566	67
14	Polk County	IA	3,769	1.0061	70
15	Davis/Salt Lake	UT	5,715	0.3795	74
16	Dallas/Tarrant	TX	10,595	0.2891	75
17	Ingham County	MI	3,314	1.1866	76
18	Santa Clara County	CA	5,872	0.3490	76
19	Cook/Kane	IL	14,106	0.2440	76
20	Kent County	MI	3,916	0.6819	78
21	Fulton County	GA	4334	0.5311	79
22	Harris County	TX	9,093	0.2674	87
23	Fairfax County	VA	4,470	0.3388	91
24	City of Richmond	VA	2,656	1.3430	92
25	Los Angeles County	CA	15,548	0.1633	92
26	Spokane County	WA	3,165	0.7573	93
27	Davidson County	TN	3,222	0.5654	99
28	Monroe County	NY	3,397	0.4620	102
29	Broward County	FL	4,478	0.2759	104
30	Hillsborough County	FL	3,589	0.3593	105
31	Cass County	ND	2,113	1.7160	113
32	San Diego County	CA	5,461	0.1941	113
33	Lancaster County	NE	2,314	0.9246	114
34	Philadelphia County	PA	3,967	0.2614	117
35	Denver County	CO	2,673	0.4819	118
36	San Francisco	CA	3,993	0.2306	120
37	Guilford County	NC	2,419	0.0575	122
38	Hampden County	MA	2,408	0.5278	128
39	Erie County	PA	2,087	0.7431	132
40	District of Columbia	DC	2,350	0.4107	138
41	Minnehaha County	SD	1,740	1.1734	143
42	Clark County	NV	3,552	0.2285	146
43	Orange County	CA	3,849	0.1352	151
44	Cuyahoga County	OH	3,049	0.2187	153

9 New Counties That Qualify

	County	State	Year Arrival Total	Concentration Percent	Sum of Ranks
1	Onondaga County	NY	3,072	0.6703	102
2	Palm Beach County	FL	3,557	0.3144	116
3	Erie County	NY	3,182	0.3348	118
4	Ada County	ID	2,292	0.7617	122
5	Warren County	KY	1,867	2.0179	125
6	Wayne County	MI	3,998	0.1940	128
7	Pinellas County	FL	2,990	0.3245	132
8	Blackhawk County	IA	1,794	1.4014	133
9	Kansas City	MO	2,585	0.3180	139

Table 2--Counties That No Longer Qualify

County	State	5-Year Arrival Total	Concentration Percent	Sum of Ranks
Pierce County	WA	2,006	0.2862	174
Yolo County	CA	1,249	0.7405	179
Bernalillo County	NM	1,633	0.2934	194
Hudson County	NJ	1,395	0.2291	217
Fresno County	CA	654	0.0818	379

Table 3.— Final Targeted Assistance Allocations By County: FY 2002

County	State	Refugees 1/	Havana Entrants	Havana Parolees 2/	Asylees	Total Arrivals FY97–FY01	$44,529,300 Total FY 2002 Final Allocation
Maricopa County	Arizona	10,211	618	397	0	11,226	$1,410,183
Los Angeles County	California	13,811	44	199	1,494	15,547	$1,952,977
Orange County	California	3,737	9	21	53	3,820	$479,859
Sacramento County	California	10,643		4	72	10,719	$1,346,494
San Diego County	California	5,441	3	17		5,461	$685,998
San Francisco	California	3,852	3	11	125	3,991	$501,340
Santa Clara County	California	5,418	5	8	441	5,872	$737,626
Denver County	Colorado	2,670	0	3	0	2,673	$335,776
District of Columbia	District of Columbia	2,335	4	11	0	2,350	$295,201
Broward County	Florida	585	1,529	1,351	1,013	4,478	$562,516
Dade County	Florida	6,486	13,642	40,647	2,204	62,979	$7,911,270
Duval County	Florida	4,889	25	74	110	5,098	$640,398
Hillsborough County	Florida	1,678	336	1,421	154	3,589	$450,842
Palm Beach County	Florida	493	1,541	1,272	251	3,557	$446,822
Pinellas County	Florida	2,804	20	88	78	2,990	$375,597
DeKalb County	Georgia	8,871	6	11	0	8,888	$1,116,489
Fulton County	Georgia	4,281	14	39	0	4,334	$544,427
Ada County 3/	Idaho	2,292	0	0	0	2,292	$287,916
Cook/Kane	Illinois	13,990	15	101	0	14,106	$1,771,962
Polk County	Iowa	3,767			2	3,769	$473,453
Blackhawk	Iowa	1,794	0	0	0	1,794	$225,358
Jefferson County 3/	Kentucky	3,618	1,594	1,028	0	6,240	$783,854
Warren County 3/	Kentucky	1,867	0	0	0	1,867	$234,528
Hampden County	Massachusetts	2,326	0	0	82	2,408	$302,487
Suffolk County	Massachusetts	3,880	77	66	505	4,528	$568,796
Ingham County	Michigan	2,080	752	482		3,314	$416,297
Kent County	Michigan	3,422	293	201		3,916	$491,918
Wayne County	Michigan	3,994	0	4	0	3,998	$502,219
Hennepin/Ramsey	Minnesota	10,318	5	9		10,332	$1,297,881
City of St. Louis	Missouri	9,784	0	0	0	9,784	$1,229,042
Kansas City	Missouri	2,544	9	32		2,585	$324,721
Lancaster County	Nebraska	2,306	5	3	0	2,314	$290,679
Clark County 3/	Nevada	1,916	966	670	0	3,552	$446,194
Erie County	New York	3,062	73	47	0	3,182	$399,715
Monroe County	New York	2,456	570	371	0	3,397	$426,723
New York	New York	26,233	256	320		26,809	$3,367,682
Oneida County	New York	4,743	0	0	0	4,743	$595,804
Onodaga County	New York	2,170	548	354		3,072	$385,897
Guilford County	North Carolina	2,403	2	14	0	2,419	$303,869
Cass County 3/	North Dakota	2,113	0	0	0	2,113	$265,430
Cuyahoga County	Ohio	3,042	1	6	0	3,049	$383,008
Multnomah	Oregon	11,135	584	377	0	12,096	$1,519,470
Erie County	Pennsylvania	2,087	0	0	0	2,087	$262,164
Philadelphia County	Pennsylvania	3,932	14	21		3,967	$498,325
Minnehaha County 3/	South Dakota	1,740	0	0	0	1,740	$218,575
Davidson County	Tennessee	3,202	2	18	0	3,222	$404,740
Dallas/Tarrant	Texas	10,254	171	170	0	10,595	$1,330,918
Harris County	Texas	8,080	600	413	0	9,093	$1,142,241
Davis/Salt Lake	Utah	5,699	2	3	11	5,715	$717,905
Fairfax County	Virginia	4,290	1	15	164	4,470	$561,511
City of Richmond	Virginia	2,492	16	14	134	2,656	$333,640
King/Snohomish	Washington	12,507	4	11	0	12,522	$1,572,983
Spokane County	Washington	3,164	0	1	0	3,165	$397,580
Total		272,907	24,359	50,325	6,893	354,483	44,529,300

1/ Refugees includes refugees, Kurdish asylees, Amerasian immigrants from Vietnam, and victims of trafficking.

2/ For FY 1999 - FY 2001, Havana parolees from actual data. For FY 1997 - FY 1998, actual data for Florida counties; for all other counties, parolees estimated from entrant arrivals.

3/ Allocation to be awarded to a Wilson/Fish grantee, if approved by the Director.

Table 4 - Targeted Assistance Final Allocations by State

State	$44,529,300 Total FY 2002 Allocation
Arizona	$1,410,183
California	5,704,294
Colorado	335,776
District of Columbia	295,201
Florida	10,387,445
Georgia	1,660,916
Idaho	287,916
Illinois	1,771,962
Iowa	698,811
Kentucky	1,018,382
Massachusetts	871,283
Michigan	1,410,434
Minnesota	1,297,881
Missouri	1,553,763
Nebraska	290,679
Nevada	446,194
New York	5,175,821
North Carolina	303,869
North Dakota	265,430
Ohio	383,008
Oregon	1,519,470
Pennsylvania	760,489
South Dakota	218,575
Tennesee	404,740
Texas	2,473,159
Utah	717,905
Virginia	895,151
Washington	1,970,563
Total	$44,529,300

Table 5 - Targeted Assistance Areas

State	Targeted Assistance Area	Definition
Arizona	Maricopa County	
California	Los Angeles County	
	Orange County	
	Sacramento County	
	San Diego	
	San Francisco	Marin, San Francisco, and San Mateo Counties
	Santa Clara County	
Colorado	Denver	
District of Columbia		
Florida	Broward County	
	Dade County	
	Duval County	
	Hillsborough County	
	Palm Beach County	
	Pinellas County	
Georgia	DeKalb County	
	Fulton County	
Idaho	Ada County	
Illinois	Cook and Kane Counties	
Iowa	Polk County	
	Blackhawk County	
Kentucky	Jefferson County	
	Warren County	
Massachusetts	Hampden County	
	Suffolk County	
Michigan	Ingham County	
	Kent County	
	Wayne County	
Minnesota	Hennepin/Ramsey	
Missouri	City of St. Louis	
	Kansas City	Jackson County, Missouri and Wyandotte County, Kansas
Nebraska	Lancaster County	
Nevada	Clark County	
New York	Erie County	
	Monroe County	
	New York	Bronx, Kings, Queens, New York, and Richmond Counties
	Oneida County	
	Onondaga County	
North Carolina	Cuilford County	
North Dakota	Cass County	
Ohio	Cuyahoga County	
Oregon	Multnomah	Clackamas, Multnomah, and Washington Counties, Oregon, and Clark County, Washington
Pennsylvania	Erie	
	Philadelphia	
South Dakota	Minnehaha County	
Tennesee	Davidson County	
Texas	Dallas/Tarrant	
	Harris County	
Utah	Davis/Salt Lake	Davis, Salt Lake, and Utah Counties
Virginia	Fairfax	Arlington and Fairfax Counties and the cities of Falls Church, Fairfax, and Alexandria
	City of Richmond	
Washington	King/Snohomish	
	Spokane County	

BILLING CODE 4184–01–M

VIII. Application and Implementation Process

Under the FY 2002 targeted assistance program, States and Wilson/Fish agencies may apply for and receive grant awards on behalf of qualified counties in the State. A single allocation will be made to each State by ORR on the basis of an approved State application. The State or Wilson/Fish agency will, in turn, receive, review, and determine the acceptability of individual county targeted assistance plans.

Pursuant to 45 CFR 400.210(b), FY 2002 targeted assistance funds must be obligated by the State agency no later than one year after the end of the Federal fiscal year in which the Department awarded the grant. Funds must be liquidated within two years after the end of the Federal fiscal year in which the Department awarded the grant. A State's final financial report on targeted assistance expenditures must be received no later than 90 days after the end of the two-year expenditure period. If final reports are not received on time, the Department will deobligate any unexpended funds, including any unliquidated obligations, on the basis of the State's last filed report.

The requirements regarding the discretionary portion of the targeted assistance program will be addressed under separate continuation grant awards. Continuation applications for these funds, therefore, are not subject to provisions contained in this notice but to other requirements which will be published separately.

IX. Required Assurances

A. Assurance that targeted assistance funds will be used in accordance with the requirements in 45 CFR Part 400.

B. Assurance that targeted assistance funds will be used primarily for the provision of services which are designed to enable refugees to obtain jobs with less than one year's participation in the targeted assistance program. States must indicate what percentage of FY 2002 targeted assistance formula allocation funds that are used for services will be allocated for employment services.

C. Assurance that targeted assistance funds will not be used to offset funding otherwise available to counties or local jurisdictions from the State agency in its administration of other programs, *e.g.* social services, cash and medical assistance.

The Project Description Overview

Purpose

The project description provides a major means by which an application is evaluated and ranked to compete with other applications for available assistance. The project description should be concise and complete and should address the activity for which Federal funds are being requested. Supporting documents should be included where they can present information clearly and succinctly. In preparing your project description, all information requested through each specific evaluation criteria should be provided. Awarding offices use this and other information in making their funding recommendations. It is important, therefore, that this information be included in the application.

General Instructions

ACF is particularly interested in specific factual information and statements of measurable goals in quantitative terms. Project descriptions are evaluated on the basis of substance, not length. Extensive exhibits are not required. Cross referencing should be used rather than repetition. Supporting information concerning activities that will not be directly funded by the grant or information that does not directly pertain to an integral part of the grant funded activity should be placed in an appendix.

Pages should be numbered and a table of contents should be included for easy reference

Approach

Outline a plan of action which describes the scope and detail of how the proposed work will be accomplished. Account for all functions or activities identified in the application. Cite factors which might accelerate or decelerate the work and state your reason for taking the proposed approach rather than others. Describe any unusual features of the project such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvement.

Provide quantitative monthly or quarterly projections of the accomplishments to be achieved for each function or activity in such terms as the number of people to be served and the number of activities accomplished. When accomplishments cannot be quantified by activity or function, list them in chronological order to show the schedule of accomplishments and their target dates.

If any data is to be collected, maintained, and/or disseminated, clearance may be required from the U.S. Office of Management and Budget (OMB). This clearance pertains to any ''collection of information that is conducted or sponsored by ACF.''

List organizations, cooperating entities, consultants, or other key individuals who will work on the project along with a short description of the nature of their effort or contribution.

Additional Information

Following are requests for additional information that need to be included in the application:

Objectives and Need for Assistance

Clearly identify the physical, economic, social, financial, institutional, and/or other problem(s) requiring a solution. The need for assistance must be demonstrated and the principal and subordinate objectives of the project must be clearly stated; supporting documentation, such as letters of support and testimonials from concerned interests other than the applicant, may be included. Any relevant data based on planning studies should be included or referred to in the endnotes/footnotes. Incorporate demographic data and participant/beneficiary information, as needed. In developing the project description, the applicant may volunteer or be requested to provide information on the total range of projects currently being conducted and supported (or to be initiated), some of which may be outside the scope of the program announcement.

Budget and Budget Justification

Criteria #1: Approach

- If administered locally, the name of the local agency administering the funds, and the name and telephone number of the responsible person.
- The amount of funds to be awarded to the targeted county or counties. In instances where a State receives targeted assistance funding for impacted counties contained in a standard metropolitan statistical area (SMSA), the State must indicate in its application the proposed allocation plan for the counties contained in the SMSA and the rationale for the proposed allocations. In instances in which a State receives targeted assistance funding for impacted counties contained in an SMSA that includes a county or counties located in a neighboring State, the State receiving those funds must provide a description of coordination and planning activities undertaken with the State Refugee

Coordinator of the neighboring State in which the impacted county or counties are located. These planning and coordination activities should result in a proposed allocation plan for the equitable distribution of targeted assistance funds by county based on the distribution of the eligible population by county within the SMSA. The proposed allocation plan must be included in the State's application to ORR.

• Assurance that county targeted assistance plans will include:

1. A description of the local planning process for determining targeted assistance priorities and services, taking into consideration all other ORR-funded services available to the refugee population, including formula social services.

2. Identification of refugee/entrant populations to be served by targeted assistance projects, including approximate numbers of clients to be served, and a description of characteristics and needs of targeted populations. (As per 45 CFR 400.314)

3. Description of specific strategies and services to meet the needs of targeted populations.

4. The relationship of targeted assistance services to other services available to refugees/entrants in the county including formula allocated ORR social services to States/Wilson-Fish agencies.

5. Analysis of available employment opportunities in the local community. Examples of acceptable analyses of employment opportunities might include surveys of employers or potential employers of refugee clients, surveys of presently effective employment service providers, and review of studies on employment opportunities/forecasts which will be appropriate to the refugee populations.

6. Description of the monitoring and oversight responsibilities to be carried out by the county or qualifying local jurisdiction.

7. Assurance that the local administrative budget will not exceed 15% of the local allocation. Targeted assistance grants are cost-based awards. Neither a State nor a county is entitled to a certain amount for administrative costs. Rather, administrative cost requests should be based on projections of actual needs. All TAP counties will be allowed to spend up to 15% of their allocation on TAP administrative costs, as need requires. However, States and counties are strongly encouraged to limit administrative costs to the extent possible to maximize available funding for services to refugees.

8. For any State that administers the program directly or otherwise provides direct service to the refugee/entrant population in a qualified county (with the concurrence of the county), the State must have the same information contained in a county plan prior to issuing a Request for Proposals (RFP) for services. States that administer programs directly may spend no more than 5% of their total allocation, and up to 10% of the county's allocation, on administrative costs that are reasonable, allocable, and necessary.

9. Assurance that the State will make available to the county or designated local entity not less than 95% of the amount of its formula allocation for purposes of implementing the activities proposed in its plan, except in the case of a State that administers the program locally as described in item H above. Allocable costs for State contracting and monitoring for targeted assistance, if charged, must be charged to the targeted assistance grant and not to general State administration.

Criteria #2: Additional Information

• A description of the State's plan for conducting fiscal and programmatic monitoring and evaluations of the targeted assistance program, including frequency of on-site monitoring.

Criteria #3: Objectives and Need for Assistance

Identify the results and benefits to be derived.

All applicants will be required to establish proposed targeted assistance performance goals for each of the six ORR performance outcome measures for each impacted county's proposed service contract(s) or sub-grants for the next contracting cycle. Proposed performance goals must be included in the application for each performance measure. The six ORR performance measures are: entered employments, cash assistance reductions due to employment, cash assistance terminations due to employment, 90-day employment retentions, average wage at placement, and entered employments with available health benefits. Targeted assistance program activity and progress achieved toward meeting performance outcome goals are to be reported quarterly on the ORR–6, the ''Quarterly Performance Report.''

States that are currently grantees for targeted assistance funds should base projected annual outcome goals on past performance. Current grantees should have adequate baseline data for all of the six ORR performance outcome measures based on a history of targeted assistance program experience.

States identified as new eligible targeted assistance grantees are also required to set proposed outcome goals for each of the six ORR performance outcome measures. New grantees may use baseline data, as available, and current data as reported on the ORR–6 for social services program activity to assist them in the goal-setting process.

New qualifying counties within States that are current grantees are also required to set proposed outcome goals for each of the six ORR performance outcome measures. New counties may use baseline data, as available, and current data as reported on the ORR–6 for social services program activity to assist them in the goal-setting process.

Proposed targeted assistance outcome goals should reflect improvement over past performance and strive for continuous improvement during the project period from one year to another.

Final targeted assistance outcome goals are due November 15, 2002, in conjunction with the ORR Government Performance and Results Act (GPRA) cycle.

Criteria #4: Budget and Budget Justification

Provide line item detail and detailed calculations for each budget object class identified on the Budget Information form.

Detailed calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. The detailed budget must also include a breakout by the funding sources identified in Block 15 of the SF–424.

Provide a narrative budget justification that describes how the categorical costs are derived. Discuss the necessity, reasonableness, and allocability of the proposed costs. The Office of Refugee Resettlement is particularly interested in the following:

A line item budget and justification for State administrative costs limited to a maximum of 5% of the total award to the State. Each total budget period funding amount requested must be necessary, reasonable, and allocable to the project. States that administer the program directly in lieu of the county, through a mutual agreement with the qualifying county, States that administer programs directly may spend no more than 5% of their total award, and up to 10% of the county's allocation, on administrative costs that are reasonable, allocable, and necessary.

Forms may be obtained from the ORR Web site at: *http://www.acf.hhs.gov/programs/orr.*

X. Reporting Requirements

States are required to submit quarterly reports on the outcomes of the targeted assistance program, using Schedule A and Schedule C of the ORR–6 Quarterly Performance Report (0970–0036).

XI. The Paperwork Reduction Act of 1995 (Pub. L. 104–13)

All information collections within this program notice are approved under the following valid OMB control numbers: SF 424 (0348–0043); SF 424A (0348–0044); SF 424B (0348–0040); Disclosure of Lobbying Activities (0348–0046); Uniform Project Description (0970–0139), Expiration date 12/31/2003; Financial Status Report (SF–269) (0348–0039); and ORR Quarterly Performance Report (0970–0036).

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.

Public reporting burden for this collection of information is estimated to average 10 hours per response, including the time for reviewing instructions, gathering and maintaining the data needed, and reviewing the collection of information.

Dated: August 27, 2002.

Carmel Clay-Thompson,

Deputy Director, Office of Refugee Resettlement.

[FR Doc. 02–22851 Filed 9–9–02; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Center for Substance Abuse Prevention; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Center for Substance Abuse Prevention (CSAP) National Advisory Council in September 2002.

The agenda of the open portion of the meeting will include the Center for Substance Abuse Prevention's Director's Report, the Administrator's Report, updates on CSAP's budget and programs, and the Faith-based Initiative, and administrative matters and announcements.

The agenda will include the review, discussion, and evaluation of individual grant applications. Therefore a portion of the meeting will be closed to the public as determined by the Administrator, SAMHSA, in accordance with Title 5 U.S.C. 552b(c)(6) and 5 U.S.C. App.2, 10(d).

Public comments are welcome. If anyone needs special accommodations for persons with disabilities, please notify the contact listed below.

A summary of this meeting and roster of committee members may be obtained from Carol Watkins, Committee Management Officer, Rockwall II building, Suite 900, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–9542.

Substantive program information may be obtained from the contact person listed below.

Committee Name: Center for Substance Abuse Prevention National Advisory Council.

Meeting Dates: Monday, September 9, 2002 (Closed 9–11:30 a.m.), Monday, September 9, 2002 (Open 1–5 p.m.), Tuesday, September 10, 2002 (Open 8:30 a.m.–12 Noon).

Meeting Place: Four Points Sheraton, 8400 Wisconsin Avenue, Bethesda, Maryland, Telephone (301) 941–2719.

Contact: Carol D. Watkins, Committee Management Specialist, 5600 Fishers Lane, Rockwall II Building, Suite 900, Rockville, Maryland 20857, Telephone: (301) 443–9542.

Dated: August 23, 2002.

Toian Vaughn,

Executive Secretary/Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 02–22912 Filed 9–9–02; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Center for Substance Abuse Treatment; Notice of Meeting

Pursuant to Pubic Law 92–463, notice is hereby given that the 35th meeting of the Substance Abuse and Mental Health Service Administration's (SAMHSA) Center for Substance Abuse Treatment (CSAT) National Advisory Council will be held September 19–20, 2002.

A portion of the meeting is open and includes discussion of the Center's policy issues and current administrative, legislative, and program developments. Reports to the Council will include the National Treatment Plan; Women, Youth and Families Task Force; Seclusion and Restraint; and Buprenorphine/Methadone. Council will also hear presentations from SAMHSA's Administrator; SAMHSA/CSAT Director; Acting Director, National Institute on Alcohol Abuse and Alcoholism, NIH; Executive Director, New Freedom Commission on Mental Health; and Acting Director, SAMHSA's Center for Substance Abuse Prevention. The Council will receive input on Oral Fluid Testing in Opioid Treatment Programs.

The meeting will also include the review, discussion, and evaluation of individual grant applications. Therefore a portion of the meeting will be closed to the public as determined by the SAMHSA Administrator, in accordance with Title 5 U.S.C. 552b(c) and (6) and 5 U.S.C. App. 2, Section 10(d).

SAMHSA/CSAT welcomes the attendance of the public at its advisory committee, and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please inform the contact person at least 7 days in advance of the meeting. Substantive program information, a summary of the meeting and a roster of Council members may also be obtained from the contact person.

Committee Name: Center for Substance Abuse Treatment, National Advisory Council.

Meeting Dates: September 19, 2002—9 a.m.—5 p.m., September 20, 2002—9 a.m.—1 p.m.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, Maryland 20814.

Type: Open: September 19, 2002—9 a.m.—5 p.m., Closed: September 20, 2002—9 a.m.—9:30 a.m., Open: September 20, 2002—9:30 a.m.—1 p.m.

Contact: Cynthia Graham, SAMHSA/CSAT NAC, 5600 Fishers Lane, RW II, Ste 618, Rockville, MD 20857, (301) 443–8923, Fax: (301) 480–6077.

Dated: August 29, 2002.

Toian Vaughn,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 02–22911 Filed 9–9–02; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: The public is invited to comment on the following applications to conduct certain activities with endangered species and/or marine mammals.

DATES: Written data, comments or requests must be received by October 10, 2002.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION:

Endangered Species

The public is invited to comment on the following application(s) for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address above).

Applicant: John W. Bunting, Upper Marlboro, MD, PRT–060931.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa for the purpose of enhancement of the survival of the species.

Marine Mammals

The public is invited to comment on the following application(s) for a permit to conduct certain activities with marine mammals. The application(s) was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals (50 CFR part 18). Written data, comments, or requests for copies of the complete applications or requests for a public hearing on these applications should be submitted to the Director (address above). Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

Applicant: Hobson Reynolds, Dallas, TX, PRT–061098.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Lancaster Sound polar bear population in Canada for personal use.

Applicant: Ken Vorisek, Fairbanks, AK, PRT–061106.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Northern Beaufort Sea polar bear population in Canada for personal use.

The U.S. Fish and Wildlife Service has information collection approval from OMB through March 31, 2004, OMB Control Number 1018–0093. Federal Agencies may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a current valid OMB control number.

Dated: August 9, 2002.

Charles S. Hamilton,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 02–22902 Filed 9–9–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: The public is invited to comment on the following applications to conduct certain activities with endangered species and/or marine mammals.

DATES: Written data, comments or requests must be received by October 10, 2002.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION:

Endangered Species

The public is invited to comment on the following application(s) for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address above).

Applicant: Los Angeles Zoo, Los Angeles, CA, PRT–056734.

The applicant requests a permit to export a male Baird's tapir (*Tapirus bairdii*) to the Zoological Gardens of Yokohama, Yokohama, Japan, for the purpose of enhancement of the propagation of the species.

Applicant: William R. Chaney, Argyle, TX, PRT–061371.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa for the purpose of enhancement of the survival of the species.

Applicant: Hollywood Animals and Animal Rentals Unlimited, Inc., Los Angeles, CA, PRT–059922 and 059924.

The applicant requests a permit to export, re-export, and re-import African leopards (*Panthera pardus*) to/from worldwide locations to enhance the survival of the species through conservation education. This notification covers activities conducted by the applicant over a three year period.

The U.S. Fish and Wildlife Service has information collection approval from OMB through March 31, 2004, OMB Control Number 1018–0093. Federal Agencies may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a current valid OMB control number.

Dated: August 16, 2002.

Monica Farris,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 02–22904 Filed 9–9–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Issuance of Permit for Marine Mammals

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of issuance of permit for marine mammals.

SUMMARY: The following permits were issued.

ADDRESSES: Documents and other information submitted for these applications are available for review by

any party who submits a written request to the U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax (703) 358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION: On May 30, 2002, a notice was published in the **Federal Register** (67 FR 37854), that an application had been filed with the Fish and Wildlife Service by Mike J. Goodart for a permit (PRT–056915) to import one polar bear (*Ursus maritimus*) taken from the Lancaster Sound population, Canada, for personal use.

Notice is hereby given that on July 31, 2002, as authorized by the provisions of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service issued the requested permit subject to certain conditions set forth therein.

On May 30, 2002, a notice was published in the **Federal Register** (67 FR 37852), that an application had been filed with the Fish and Wildlife Service by Winston Stalcup for a permit (PRT–056309) to import one polar bear (*Ursus maritimus*) taken from the Northern Beaufort Sea population, Canada, for personal use.

Notice is hereby given that on August 6, 2002, as authorized by the provisions of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service issued the requested permit subject to certain conditions set forth therein.

On May 30, 2002, a notice was published in the **Federal Register** (67 FR 37853), that an application had been filed with the Fish and Wildlife Service by David Hussey for a permit (PRT–056485) to import one polar bear (*Ursus maritimus*) taken from the Southern Beaufort Sea population, Canada, for personal use.

Notice is hereby given that on August 6, 2002, as authorized by the provisions of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service issued the requested permit subject to certain conditions set forth therein.

On June 4, 2002, a notice was published in the **Federal Register** (67 FR 38516), that an application had been filed with the Fish and Wildlife Service by Lanny S. Rominger for a permit (PRT–057343) to import one polar bear (*Ursus maritimus*) taken from the Lancaster Sound population, Canada, for personal use.

Notice is hereby given that on August 6, 2002, as authorized by the provisions of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service issued the requested permit subject to certain conditions set forth therein.

On June 25, 2002, a notice was published in the **Federal Register** (67 FR 42791), that an application had been filed with the Fish and Wildlife Service by Robert Talley for a permit (PRT–057708) to import one polar bear (*Ursus maritimus*) taken from the Lancaster Sound population, Canada, for personal use.

Notice is hereby given that on August 5, 2002, as authorized by the provisions of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service issued the requested permit subject to certain conditions set forth therein.

On June 28, 2002, a notice was published in the **Federal Register** (67 FR 43676), that an application had been filed with the Fish and Wildlife Service by Remo Pizzagalli for a permit (PRT–058335) to import one polar bear (*Ursus maritimus*) taken from the Lancaster Sound population, Canada, for personal use.

Notice is hereby given that on August 6, 2002, as authorized by the provisions of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service issued the requested permit subject to certain conditions set forth therein.

On July 9, 2002, a notice was published in the **Federal Register** (67 FR 45530), that an application had been filed with the Fish and Wildlife Service by the U.S. Fish and Wildlife Service, Marine Mammal Management Office, Anchorage, AK, to amend a permit (PRT–046081) to authorize the paint marking of individual polar bears (*Ursus maritimus*) for scientific research purposes.

Notice is hereby given that on August 8, 2002, as authorized by the provisions of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service issued the requested permit subject to certain conditions set forth therein.

Dated: August 9, 2002.

Charles S. Hamilton,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 02–22903 Filed 9–9–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZA–32028]

Arizona; Initial Classification of Public Lands for State Indemnity Selection

1. Pursuant to Title 43 Code of Federal Regulations, subpart 2400; and section 7 of the Act of June 28, 1934 (48 Stat. 1269); and the provisions granted to the State in the Act of June 20, 1910 (36 Stat. 557, 568–579), the public lands described below are hereby classified by State Indemnity Selection. The State of Arizona has filed an application to acquire the described lands in lieu of certain school lands that were encumbered by other rights or reservations before the State's title could attach. This application was assigned serial number AZA–32028.

2. The notice of proposed classification of these lands was published Friday, July 26, 2002, in the **Federal Register** Volume 67, Number 144, pages 48939–48941 and, was widely publicized. No written comments have been received concerning the proposed classification. The State of Arizona relinquished the following described parcel from their application: Gila and Salt River Meridian, Arizona. T. 12 N., R. 28 E., Section 10, NW¼SE¼, containing 40.00 acres, more or less.

The following parcels are classified as mineral in character for oil and gas and have been dropped from further consideration of transfer:

Gila and Salt River Meridian, Arizona

T. 10 N., R. 30 E.
Sec. 14 All;
Sec. 23 All;
Sec. 25 NW¼, NW¼NE¼.

The areas described contain approximately 1,480.00 acres, more or less.

3. The lands included in this classification are located near St. Johns, Arizona, in Apache County, Arizona and are described as follows:

Group I—For Oil and Gas Only

Gila and Salt River Meridian, Arizona

T. 9 N., R. 30 E.
Sec. 13, SW¼SW¼;
Sec. 24, NE¼.
T. 9 N., R. 31 E.
Sec. 3, Lots 1–3, inclusive, Lots 5–7, inclusive, SW¼NE¼, SE¼NW¼;
Sec. 10, Lots 1–4, inclusive, W½E½, E½W½;
Sec. 15, Lots 1–4, inclusive, W½NE¼;
Sec. 22, Lots 3 and 4, SW¼SE¼, SE¼SW¼;
Sec. 27, Lots 1–3, inclusive, W½NE¼, NE¼NW¼, NW¼SE¼.

T. 10 N., R. 30 E.
Sec. 25, NE¼NE¼, S½NE¼, S½.

The areas described contain approximately 1,652.98 acres, more or less.

Group II—For All Minerals, Including Oil and Gas

Gila and Salt River Meridian, Arizona

T. 10 N., R. 30 E.
Sec. 11, SE¼, SE¼SW¼;
Sec. 33, W½NE¼, W½, NW¼SE¼, S½SE¼.
T. 11 N., R. 29 E.
Sec. 21, E½SE¼;
Sec. 22, NW¼SW¼;
Sec. 23, NW¼SW¼.
T. 11 N., R. 31 E.
Sec. 30, Lots 1–4, inclusive, E½, E½W½.
T. 12 N., R. 29 E.
Sec. 24, All.
T. 12 N., R. 30 E.
Sec. 19, Lots 2–4, inclusive, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 20, S½N½, S½;
Sec. 24, All;
Sec. 25, All;
Sec. 27, W½, SE¼.
T. 12 N., R. 31 E.
Sec. 18, Lots 1–4, inclusive, E½, E½W½;
Sec. 19, Lots 1–4, inclusive, E½, E½W½;
Sec. 20, All;
Sec. 29, All;
Sec. 30, Lots 1–4, inclusive, E½, E½W½;
Sec. 31, Lots 1–4, inclusive, E½, E½W½.

The areas described contain approximately 8,683.62 acres, more or less.

Group III–For All Surface and Subsurface (Including Oil and Gas)

Gila and Salt River Meridian, Arizona

T. 12 N., R. 29 E.
Sec. 32, E½E½.
T. 12 N., R. 30 E.
Sec. 8, S½S½;
Sec. 21, All;
Sec. 28, All;
Sec. 29, All;
Sec. 34, All;
Sec. 35, NW¼, S½.

The areas described contain approximately 3,360.00 acres, more or less.

Group IV–For Surface Only

Gila and Salt River Meridian, Arizona

T. 12 N., R. 28 E.
Sec. 14, E½NE¼, NW¼NE¼, W½NW¼, NW¼SW¼, W½SE¼, SE¼SE¼.
T. 12 N., R. 29 E.
Sec. 12, N½NE¼, SW¼NE¼, W½NW¼;
Sec. 18, Lots 2–4, inclusive, SW¼NE¼, E½SW¼, SE¼;
Sec. 20, SE¼SE¼;
Sec. 21, NE¼, N½NW¼, SE¼NW¼, S½;
Sec. 27, All;
Sec. 28, All.
T. 12 N., R. 30 E.
Sec. 1, Lots 1–16, inclusive, SW¼;
Sec. 3, Lots 1–12, inclusive;
Sec. 4, Lots 1–12, inclusive;
Sec. 5, Lots 1 & 2, Lots 5–8, inclusive;
Sec. 9, E½;
Sec. 10, All;
Sec. 11, Lots 1–16, inclusive;
Sec. 12, NW¼;
Sec. 13, S½;
Sec. 14, NE¼, SW¼NW¼, W½SW¼, SE¼SW¼, E½SE¼;
Sec. 17, N½N½;
Sec. 23, E½NE¼, SW¼NE¼, NW¼NW¼, S½SW¼, SE¼;
Sec. 26, NE¼, N½NW¼, S½SW¼.
T. 12 N., R. 31 E.
Sec. 21, All;
Sec. 22, Lots 1–4, inclusive, W½E½, W½;
Sec. 27, Lots 1–4, inclusive, W½E½, W½;
Sec. 28, All;
Sec. 33, All;
Sec. 34, Lots 1–4, inclusive, W½E½, W½.

The areas described contain approximately 11,870.55 acres, more or less.

Group V—For Surface and/or Subsurface (Minerals and/or Oil and Gas)

Gila and Salt River Meridian, Arizona

T. 10 N., R. 29 E.
Sec. 18, E½.
T. 11 N., R. 28 E.
Sec. 14, E½E½, NW¼NE¼, SW¼SE¼.
T. 12 N., R. 28 E.
Sec. 12, NW¼NE¼, NE¼NW¼, W½SW¼;
T. 12 N., R. 31 E.
Sec. 15, Lots 1–4, inclusive, W½E½, W½.

The areas described contain approximately 1,265.82 acres, more or less.

4. This classification decision is based on the following disposal criteria set forth in Title 43, Code of Federal Regulations, Subpart 2400.

Transfer of the lands to the State will fulfill the Federal Government's common school land grant to the State, and constitute a public purpose use of the land. Lands found to be valuable for a public purpose use will be considered chiefly valuable for public purposes (43 CFR 2430.2b).

5. The subject lands are under grazing leases with the following individuals or corporations.

Royden & Jack Brown, 4343 E. Keim Drive, Paradise Valley, Arizona 85253, Allotment Number 06033

Clifford A. Thorn, P.O. Box 1091, St. Johns, Arizona 85936, Allotment Number 06061

Johnson Cattle Company, 1132 W. McLellen Road, Mesa, Arizona 85201, Allotment Number 06069

JCK, LLC, 1601 E. McKellips Road, Mesa, Arizona 85203, Allotment Number 06158

James Datrice, 17120 Iron Mountain Drive, Poway, California 92064, Allotment Number 06159

Dale G. & Pamela J. Deratany, HC 62, Box 235, Reserve, New Mexico 87830, Allotment Number 06224

Barbara Garcia, 5796 Hollyridge Drive, Camarillo, California 93010, Allotment Number 06253

The following individuals or corporations have range improvements:

Royden & Jack Brown, 4343 E. Keim Drive, Paradise Valley, Arizona 85253, Project Number 1039

Clifford A. Thorn, P.O. Box 1091, St. Johns, Arizona 85936, Project Number 0981, 0988

JCK, LLC, 1601 E. McKellips Road, Mesa, Arizona 85203, Project Number 2398

James Datrice, 17120 Iron Mountain Drive, Poway, California 92064, Project Number 2322, 2402

If these lands are transferred to the State of Arizona, and a grazing waiver has been received, the grazing leases will be terminated at the time title is transferred to the State. If no waiver has been received, grazing use will be continued under the existing federal grazing lease for a period of two years and, will be listed as ''subject to'' in the transfer document. At the end of the two year period, the grazing authority for leasing will transfer to the State of Arizona. The State shall recognize the federal lessee's interest in federally approved range improvements. Ownership of federally owned improvements shall pass to the State.

Threatened and Endangered Species and Cultural Resources Evaluations have been performed and approved for subject classification. Any cultural resources will be managed by the Arizona State Land Department under the Arizona State Historic Preservation Act and other applicable statutes.

If and when the selection is approved and certified to the State, the certification will contain the following:

(1) Excepting and reserving to the United States a right-of-way for ditches and canals constructed by the authority of the United States. Act of August 30, 1890 (26 Stat. 361; 43 U.S.C. 945).

(2) As to the lands described above in Group IV, excepting and reserving to the United States, all minerals, including oil and gas, in the lands so granted, together with the right to prospect for, mine and remove the same. Act of July 17, 1941 (38 Stat. 509).

(3) Excepting and reserving to the United States for the duration of oil and gas leases and any renewals thereof all the oil and gas in the lands described subject to the rights of prior permitees and lessees to use so much of the surface of said lands as is required for mining operations without compensation to the State for damages resulting from proper operations, in accordance with Section 29 of the Act

of February 25, 1920 (41 Stat. 437, as amended), and the Act of March 4, 1933 (47 Stat. 1570, as amended). In accordance with 43 U.S.C. 852(a)(4), 90% of the revenues from said leases shall be paid to the State by the United States annually as to the clearlisted lands.

(4) Subject to those rights for a power line right-of-way granted to Navopache Electric Cooperative, Inc., its successors or assigns, by right-of-way number AZAR–17703, pursuant to the Act of February 15, 1901 (43 U.S.C. 959) as to S½S½, sec. 8 and NE¼NE¼, sec.17, T. 12 N., R. 30 E., Gila and Salt River Meridian, Arizona.

(5) Subject to those rights for buried communications cables, access roads, and repeater sites, granted to American Telephone and Telegraph Company, its successors or assigns, by right-of-way number AZAR–33064, pursuant to the Act of March 4, 1911 (43 U.S.C. 961) as to SW¼SW¼, SW¼–SE¼, sec. 8; Lots 9, 10, 13, 14 and 15, sec. 11; S½NW¼, sec. 12; N½N½, sec. 17, T. 12 N., R. 30 E., Gila and Salt River Meridian, Arizona.

(6) Those rights for electric distribution lines granted to Navopache Electric Cooperative, Inc., its successors or assigns, by right-of-way number AZA–6016, pursuant to the Act of February 15, 1901 (43 U.S.C. 959) as to N½SW¼, sec. 13; NE¼SE¼, NW¼SW¼, NW¼SW¼SW¼, sec. 14, T. 12 N., R. 30 E., Gila and Salt River Meridian, Arizona.

(7) Subject to those rights for a road right-of-way granted to Apache County Board of Supervisors, its successors or assigns, by right-of-way number AZA–18952, pursuant to the Act of July 26, 1866 (43 U.S.C. 932) as to S½S½, sec. 8; Lots 9, 14, 15 and 16, Sec. 11; SW¼NW¼, sec. 12; NE¼NE¼NE¼, sec. 17, T. 12 N., R. 30 E., Gila and Salt River Meridian, Arizona.

(8) Subject to those rights for a buried fiber optic communication cable granted to American Telephone and Telegraph Company, its successors or assigns, by right-of-way number AZA–23608, pursuant to the Act of October 21, 1976 (43 U.S.C. 1761) as to SW¼SW¼, sec. 8; Lots 9, 10, 13, 14 and 15, sec. 11; S½NW¼, sec. 12; N½N½, sec. 17, T. 12 N., R. 30 E., Gila and Salt River Meridian, Arizona.

(9) Those rights for an overhead electric distribution line granted to Navopache Electric Cooperative, Inc., its successors or assigns, by right-of-way number AZA–23995, pursuant to the Act of October 21, 1976 (43 U.S.C. 1761) as to SE¼NW¼, sec. 12, T. 12 N ., R. 30 E., Gila and Salt River Meridian, Arizona.

(10) Those rights for irrigation facility granted to Lyman Water Company, its successors or assigns, by right-of way number AZPHX–14912, pursuant to the Act of March 3, 1891 (43 U.S.C. 946–951), as to NW¼NE¼, SE¼NE¼, NE¼SE¼, SW¼SE¼, sec. 14, T. 11 N., R. 28 E., Gila and Salt River Meridian, Arizona.

(11) Those rights for irrigation facility granted to Lyman Water Company, its successors or assigns, by right-of way number AZPHX–86671, pursuant to the Act of March 3, 1891 (43 U.S.C. 946–951), as to E½E½, NW¼NE¼, SW¼SE¼, sec. 14, T. 11 N., R. 28 E., Gila and Salt River Meridian, Arizona.

A study has been conducted to assess the mineral character of the area selected for transfer.

None of the parcels described above contain known mineral values, nor are they valuable for minerals potentially locatable under the General Mining Laws, as amended (30 U.S.C. 21, *et seq.*) or salable under the Materials Act, as amended (30 U.S.C. 601, *et seq*). None of the parcels are encumbered with mining claims, and they encompass no mineral material contract or permit areas. None of the parcels are valuable for coal, phosphate, nitrate, potash, asphaltic minerals, oil shale, sodium, and sulphur nor are they encumbered by any leases for these minerals.

All of the parcels described above with federal mineral interests are classified as prospectively valuable for oil and gas. Issued oil and gas leases will remain in effect for the duration of the lease term. None of the oil and gas leases are producing, nor are they in a producible status.

The following parcels are classified as mineral in character for oil and gas and have been dropped from further consideration of transfer:

Gila and Salt River Meridian, Arizona

T. 10 N., R. 30 E.
Sec. 14, All;
Sec. 23, All;
Sec. 25, NW¼, NW¼NE¼.

The areas described contain approximately 1,480.00 acres, more or less.

6. The public lands classified by this notice are shown on maps on file and available for inspection in the Arizona State Office, 222 N. Central Avenue, Phoenix, Arizona 85004.

7. For a period of 30 days from the date of publication in the **Federal Register**, this classification shall be subject to exercise of administrative review and modification by the Secretary of the Interior as provided for in 43 CFR 2461.3 and 2462.3. Interested parties may submit comments to the Secretary of the Interior, 1849 C Street NW. (M.S. 7229), Washington, DC 20240.

Carl Rountree,
Acting State Director.

[FR Doc. 02–23066 Filed 9–9–02; 8:45 am]
BILLING CODE 4310–AG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR110–5880–PB; HAG02–0258]

Notice of Public Meeting, Medford District Resource Advisory Committee Meeting

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM), Medford District Resource Advisory Committee (RAC), will meet as indicated below.

DATES: The meeting will be held October 10, 2002, at the Medford District Office, Medford, OR beginning at 10 a.m. The public comment period will begin at approximately 2 p.m. and the meeting will adjourn at approximately 4 p.m.

SUPPLEMENTARY INFORMATION: The 21-member Committee advises the Secretary of the Interior, through the Bureau of Land Management, on a variety of planning and management issues associated with public land management in Medford. At this meeting, topics we plan to discuss include: final approval of 2003 projects, the potential role of the RAC as it relates to management of the Cascade Siskiyou National Monument, and the overall goals of the RAC.

All meetings are open to the public. The public may present written comments to the Committee. Each formal Committee meeting will also have time allocated for hearing public comments. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited. Individuals who plan to attend and need special assistance, such sign language interpretation, tour transportation or other reasonable accommodations, should contact the BLM as provided below.

FOR FURTHER INFORMATION CONTACT: Karen Gillespie, Public Affairs Officer, 3040 Biddle Road, Medford, OR, Telephone (541) 618–2424.

Dated: August 30, 2002.

Mary Smelcer,

Acting District Manager.

[FR Doc. 02–22797 Filed 9–9–02; 8:45 am]

BILLING CODE 4310–33–M

DEPARTMENT OF THE INTERIOR

National Park Service

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Meeting of the National Parks Overflights Advisory Group

ACTION: Notice of meeting.

SUMMARY: The National Park Service (NPS) and Federal Aviation Administration (FAA), in accordance with the National Parks Air Tour Management Act of 2000, announce the next meeting of the National Parks Overflight Advisory Group (NPOAG). The meeting will take place October 4–5, 2002, in Tusayan, Arizona. This notice informs the public of the dates, location, and agenda for the meeting.

DATES: The NPOAG will meet October 4–5, 2002, at the Best Western Grand Canyon Squire Inn, Highway 64, Tusayan, Arizona 86023 (telephone 1–800–622–6966). The meeting will begin at 8:00 a.m. on Friday, October 4, and end at approximately 3:00 p.m. October 5.

FOR FURTHER INFORMATION CONTACT: Barry Brayer, Manager, Executive Resource Staff, Western Pacific Region, Federal Aviation Administration, 15000 Aviation Blvd., Hawthorne, CA 90250, telephone: (310) 725–3800, or *Barry.Brayer@faa.gov* or Marvin Jensen, Soundscapes Office, National Park Service, 1201 Oak Ridge Drive, Suite 200, Ft. Collins, Colorado, 80525, telephone: (970) 225–3563, or *Marv_Jensen@nps.gov*

SUPPLEMENTARY INFORMATION:

Background

The National Parks Air Tour Management Act of 2000, enacted on April 5, 2000, as Public Law 106–181 (Pub. L. 106–181), required the establishment of a National Parks Overflights Advisory Group within 1 year after its enactment. The NPOAG was to be a balanced group representative of general aviation, commercial air tour operations, environmental concerns, and Indian tribes. The duties of the NPOAG included providing advice, information, and recommendations to the Director, NPS, and to the Administrator, FAA, on the implementation of Public Law 106–181, on quiet aircraft technology, on other measures that might accommodate interests to visitors to national parks, and, at the request of the Director and Administrator, on safety, environmental, and other issues related to commercial air tour operations over national parks or tribal lands.

On March 12, 2001, the FAA and NPS announced the establishment of the NPOAG (48 FR 14429). Current members of the NPOAG are Andy Cebula (general aviation), David Kennedy, Joe Currao, and Alan Stephens (commercial air tour operations), Chip Dennerlein, Charles Maynard, Boyd Evison, and Susan Gunn (environmental interests), and Germaine White and Richard Deertrack (Indian tribes).

The first meeting of the advisory group was held August 28–29, 2001, in Las Vegas, Nevada.

Agenda for the October 2002 Meeting

The meeting on October 5, 2002, will include a review of the status of documents pertaining to development of air tour management plans, discussion noise analysis, new development in quiet aircraft technology, issues of historical and cultural preservation in the national parks, and a review of plans for noise data collection in national parks in Hawaii. On Saturday, October 6, the NPOAG will visit a Grand Canyon air tour operator and possibly travel to the Grand Canyon rim to observe air tour overflights.

Attendance at the Meeting

Although this is not a public meeting, interested persons may attend. Because seating is limited, if you plan to attend, please contact one of the persons listed under **FOR FURTHER INFORMATION CONTACT** so that meeting space may accommodate your attendance.

Record of the Meeting

If you cannot attend the meeting, a summary record of the meeting will be made available by the Office of Rulemaking (ARM), 800 Independence Ave., SW., Washington, DC 20591. Contact is Linda Williams, (202) 267–9685, or *linda.l.williams@faa.gov.*

Issued in Washington, DC, on September 4, 2002.

Louis C. Cusimano,

Acting Director, Flight Standards Service.

[FR Doc. 02–22945 Filed 9–9–02; 8:45 am]

BILLING CODE 4910–13–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–447]

Advice Concerning Possible Modifications to the U.S. Generalized System of Preferences (GSP)

AGENCY: International Trade Commission.

ACTION: Institution of investigation and scheduling of hearing.

SUMMARY: Following receipt on August 22, 2002, of a request from the United States Trade Representative (USTR) under section 332(b) of the Tariff Act of 1930 (19 U.S.C. 1332 (g)), the Commission instituted investigation No. 332–447, Advice Concerning Possible Modifications to the U.S. Generalized System of Preferences.

Background: As requested by the USTR, in accordance with sections 503(a)(1)(A) 503(e), and 131(a) of the Trade Act of 1974 (1974 Act), and under section 332(g) of the Tariff Act of 1930, the Commission will provide advice as to the probable economic effort on U.S. industries producing like or directly competitive articles and on consumers of the elimination of U.S. import duties for all beneficiary countries under the GSP for the following HTS subheadings: 0406.90.41, 1202.10.40, 1202.20.40, 1901.90.42, 2008.11.25, 2008.11.45, 2009.41.20, 2009.49.20, 2009.60.00, 2009.69.00, 2204.30.00, 3806.90.00, 7202.99.50, 8482.10.10, 8482.10.50, and 8482.20.00.

In providing its advice on these articles, the USTR asked that the Commission assume that the benefits of the GSP would not apply to imports that would be excluded from receiving from receiving such benefits by virtue of the competitive need limits specified in section 503(c)(2)(A) of the 1974 Act.

As requested under section 332(g) of the Tariff Act of 1930 and in accordance with section 503(d)(1)(A) of the 1974 Act, the Commission will provide advice on whether any industry in the United States is likely to be adversely affected by a waiver of the competitive need limits specified in section 503(c)(2)(A) of the 1974 Act for Argentina for the following HTS subheadings: 1202.20.40, 2008.11.25, 2009.61.00, 2009.69.00; for the Philippines or HTS subheading 2009.49.20; and for Turkey for HTS subheading 7113.19.50.

With respect to the competitive need limit in section 503(c)(2)(A)(i)(I) of the 1974 Act, the Commission, as requested, will use the dollar value limit of $100,000,000.

As requested by the USTR, the Commission will seek to provide its advice not later than December 4, 2002.

EFFECTIVE DATE: September 4, 2002.

FOR FURTHER INFORMATION CONTACT:
(1) Project Manager, Cynthia B. Foreso (202–205–3348)
(2) Deputy Project Manager, Judith-Anne Webster (202–205–3489)
(3) Deputy Project Manager, Eric Land (202–205–3349)

The above persons are in the Commission's Office of Industries. For information on legal aspects of the investigation, contact William Gearhart of the Commission's Office of the General Counsel at 202–205–3091.

Public Hearing: A public hearing in connection with this investigation is scheduled to begin at 9:30 a.m. on October 17, 2002, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. All persons have the right to appear by counsel or in person, to present information, and to be heard. Persons wishing to appear at the public hearing should file a letter with the Secretary, United States International Trade Commission, 500 E St., SW., Washington, DC 20436, not later than the close of business (5:15 p.m.) on September 20, 2002. In addition, persons appearing should file prehearing briefs (original and 14 copies) with the Secretary by the close of business on September 24, 2002. Posthearing briefs should be filed with the Secretary by the close of business on October 22, 2002. In the event that no requests to appear at the hearing are received by the close of business on September 21, 2002, the hearing will be canceled. Any person interested in attending the hearing as an observer or non-participant may call the Secretary to the Commission (202–205–1816) after September 22, 2002 to determine whether the hearing will be held.

Written Submissions: In lieu of or in addition to appearing at the public hearing, interested persons are invited to submit written statements concerning the investigation. Written statements should be received by the close of business on October 22, 2002. Commercial or financial information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked ''Confidential Business Information'' at the top. All submissions requesting confidential treatment must conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. The Commission may include such confidential business information in the report it sends to USTR. All submissions should be addressed to the Secretary at the Commission's office in Washington, DC. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. Hearing-impaired individuals are advised that information on this matter can be obtained by contracting our TDD terminal on (202) 205–1810.

Issued: September 5, 2002.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 02–22920 Filed 9–09–02; 8:45 am]

BILLING CODE 7020–02–M

JUDICIAL CONFERENCE OF THE UNITED STATES

Meeting of the Judicial Conference Advisory Committee on Rules of Evidence

AGENCY: Judicial Conference of the United States, Advisory Committee on Rules of Evidence.

ACTION: Change of time for open meeting on October 18, 2002, in Seattle, Washington.

SUMMARY: The time for the open meeting of the Advisory Committee on Rules of Evidence has been changed. The new time for the meeting is from 7:30 a.m. to 5 p.m. The meeting will be held at the original location: Renaissance Madison Hotel, 515 Madison Street, Seattle, Washington.

[Original notice of meeting appeared in the **Federal Register** of July 19, 2002.]

FOR FURTHER INFORMATION CONTACT: John K. Rabiej, Chief, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502–1820.

Dated: September 4, 2002.

John K. Rabiej,

Chief, Rules Committee Support Office.

[FR Doc. 02–22869 Filed 9–9–02; 8:45 am]

BILLING CODE 2210–55–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP(OJP)–1362]

Meeting of the Global Justice Information Network Federal Advisory Committee

AGENCY: Office of Justice Programs (OJP), Bureau of Justice Assistance (BJA), Justice.

ACTION: Notice of meeting.

SUMMARY: Announcement of a meeting of the Global Justice Information Network (Global) Federal Advisory Committee (GAC) to discuss the Global Initiative, as described in Initiative A07 ''Access America: Re-Engineering Through Information Technology.''

DATES: The meeting will take place on Tuesday, October 15, 2002, from 9 a.m. to 5:30 p.m. E.D.T.

ADDRESSES: The meeting will take place at the J.W. Marriott Hotel, 1331 Pennsylvania Avenue, NW., Washington, DC 20004; Phone: (202) 393–2000. All attendees will be required to sign in at the meeting registration desk. Please bring photo identification and allow extra time prior to the meeting.

FOR FURTHER INFORMATION CONTACT: This meeting is open to the public. However, due to security measures, members of the public who wish to attend the meeting must register with Mr. Patrick McCreary, Global Designated Federal Employee (DFE), at least (7) days in advance of the meeting. Access to the meeting will not be allowed without registration.

Mr. McCreary may be contacted as follows: Address: Patrick McCreary—Global DFE, Bureau of Justice Assistance, Office of Justice Programs, 810 7th Street, NW., Fourth Floor, Washington, DC 20531; Phone: (202) 616–0532 (**Note:** this not a toll free number); e-mail: *mccrearj@ojp.usdoj.gov.*

Anyone requiring special accommodations should contact Mr. McCreary at least seven (7) days in advance of the meeting.

SUPPLEMENTARY INFORMATION:

Authority

The GAC was established pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended.

Purpose

The GAC will act as the focal point for justice information systems integration activities in order to facilitate the

coordination of technical, funding, and legislative strategies in support of the Administration's justice priorities.

The GAC will guide and monitor the development of the Global information sharing concept. It will advise the Assistant Attorney General, OJP; the Attorney General; the President (through the Attorney General); and local, state, tribal, and federal policymakers in the executive, legislative, and judicial branches. The GAC will also advocate strategies for accomplishing a Global information sharing capability.

This meeting will be open to the public and registrations will be accepted on a space available basis. Interested persons whose registrations have been accepted may be permitted to participate in the discussions at the discretion of the meeting chairman and with the approval of the Designated Federal Employee (DFE). Further information about this meeting can be obtained from Patrick McCreary, DFE, at (202) 616–0532.

Dated: September 5, 2002.

Patrick McCreary,

Global DFE, Bureau of Justice Assistance, Office of Justice Programs.

[FR Doc. 02–22954 Filed 9–9–02; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of August, 2002.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or sub-division have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–41,040; Chambersburg Engineering Co., Chambersburg, PA

TA–W–41,403; Tyco Electronics Corp., Lickdale Plant, Jonestown, PA

TA–W–41,555; Usibelli Coal Mine, Inc., Healy, AK

TA–W–41,604; Benchmark electronics (AVEX), Pulaski, TN

TA–W–41,536; Solectron Texas, Inc., A Subsidiary of Solectron Corp., Austin, TX

TA–W–41,602; Diversified Tool Corp., Cambridge Springs, PA

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–41,603; Tredegar Film Products, A Division of Tredegar Corp, Tacoma, WA

TA–W–41,653; La-Z-Boy East, Florence, SC

TA–W–41,619; UBE Automotive North America Mason Plant, Inc., Mason, OH

TA–W–41,432; Lucent Technologies, OFS Fitel, Sturbridge, MA

TA–W–41,683; International Comfort Products Corp (USA), Lewisburg, TN

TA–W–41,607; Deer and Co Construction and Forestry Div., John Deere Commercial Worksite Products, Loudon, TN

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–41,737; Severn Trent Services, Inc., Environmental Service Group, Fieldale, VA

TA–W–41,693; Great Lakes Fleet, Inc. a Wholly Owned Subsidiary of Great Lakes Transportation, LLC, Duluth, MN

TA–W–41,518; United Electric Co., Virginia, MN

TA–W–41,634; Ansell Protective Products A Subsidiary of Ansell Healthcare Int'l Science and Technology Dept, Coshocton, OH

TA–W–41,626; Sitel Corp., Longview, TS

The investigation revealed that criteria (2) has not been met. Sales of production did not decline during the relevant period as required for certification.

TA–W–41,969; New River Energetics Alliant Techsystems, Inc., Radford, VA

The investigation revealed that criteria (2) and criteria (3) have not been met. Sales of production did not decline during the relevant period as required for certification.

TA–W–41,704; LTV Tubular Product Co., Marion, OH

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determination.

TA–W–41,499; Sanford, North America, LP, Newell Rubbermaid Corp., Santa Monica, CA: April 18, 2001.

TA–W–41,417; Flexprint, A Subsidiary of Flexpaq, Moorestown, NJ: March 29, 2001.

TA–W–41,390; Sumitomo Mitsubishi Silicon Corp., a/k/a Sumco USA, Salem, OR: March 16, 2001.

TA–W–41,552; Southtech, Inc., Tappahannock, VA: April 29, 2001.

TA–W–41,612; J.R. Simplot Co., Food Group, Heyburn, ID: May 9, 2001.

TA–W–41,690; Peterson-Kruse, Inc., Rockford, IL: June 4, 2001.

TA–W–41,697; Silver Furniture Manufacturing Co., Inc., A Wholly Owned Subsidiary of Silver Furniture Co., Inc., A Wholly Owned Subsidiary of Chromcraft Revington Co., Inc., Knoxville, TN: June 6, 2001.

TA–W–41,698; Volant Ski Co., LLC, a/k/a Volant Sports, LLC, Wheat Ridge, CO: June 24, 2001.

TA–W–41,685; Dana Corp., Coupled Products Div., Columbia City, IN: June 10, 2001.

TA–W–41,689; Volunteer Knit Apparel, Inc., Rutledge, TN: June 11, 2001.

TA–W–41,675; Great Lakes Chemical Corp., Newport, TN: May 18, 2001.

TA–W–41,679; Newsouth Apparel, LLC, Brewton, AL: June 7, 2001.

TA–W–41,682; Canon Business Machines, Inc., A Subsidiary of Canon U.S.A., Inc., & Canon, Inc., Costa Mesa, CA: May 14, 2001.

TA–W–41,649; Calumet Steel Co., Chicago Heights, IL: May 24, 2001.

TA–W–41,659; Louisiana Uniform Industries, A Subsidiary of Superior Uniform Group, Inc., Delhi, LA: May 17, 2001

TA–W–41,662; Cerro Copper Products, Sauget, IL: May 7, 2001.
TA–W–41,620; Atofina Chemicals, Inc., Wichita, KS: May 13, 2001.
TA–W–41,627; Moltrup Steel Products Co., Beaver Falls, PA: May 17, 2001.
TA–W–41,629; Standard Steel Burnham, PA: May 22, 2001.
TA–W–40,895; Oshio Oregon, Inc., Newberg, OR: October 22, 2000.
TA–W–41,269; Victoria Vogue, Inc., Bethlehem, PA: March 7, 2001.
TA–W–41,334; Metaldyne Corp., Formerly Known as Simpson Industries, Inc., Troy, OH: December 8, 2001.
TA–W–41,469; Telect, Liberty Lake, WA: April 16, 2001.
TA–W–41,520; U.S. Manufacturing Co., Pasadena, CA: April 4, 2001.
TA–W–41,524; American Candy Co., Lebanon, TN: October 31, 2000.
TA–W–41,670; Burlington House, Burlington House Div. Office, Greensboro, NC and A; Graham Plant, Graham, NC, B; Pioneer Plant, Burlington, NC, C; Williamsburg Plant, Matkins, NC, D; Sheffield Plant, Rocky Mount, NC, E; Burlington House Div. Manufacturing Offices, Burlington, NC, F; Burlington Consumer Products Div., Reidsville, NC, G; Reidsville Drapery Plant, Reidsville, NC: May 22, 2001. and H; Stokesdale Plant, Stokesdale, NC: October 13, 2002.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with Section 250(a), Subchaper D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the months of August, 2002.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of Section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA–TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA–TAA–06060; Sumitomo Mitsubishi Silicon Corp., a/k/a Sumco USA, Salem, OR
NAFTA–TAA–06133; Dekko Engineering, Manitowoc, WI
NAFTA–TAA–06144; Monona Wire Corp., Edgewood Plant, Edgewood, IA
NAFTA–TAA–06155; Tyco Electronics Corp., Lickdale Plant, Jonestown, PA
NAFTA–TAA–06213; Diversified Tool Corp., Cambridge Springs, PA
NAFTA–TAA–05464; Harvard Industries, Inc., Jackson, MI
NAFTA–TAA–06075; Lockheed Martin, Distribution Technologies, Inc., Tulsa, OK
NAFTA–TAA–06162; Ponderosa Pulp Products, Oshkosh, WI
NAFTA–TAA–06203; Specialty Minerals (Michigan), Inc., SMI-Plainwell Div., Plainwell, MI
NAFTA–TAA–06233; Moltrup Steel Products Co., Beaver Falls, PA
NAFTA–TAA–06280; Intermix Distributors, Inc. (d/ba Intermix Foods, El Paso, TX
NAFTA–TAA–06281; Agrilink Foods, Pickle Plant, Tacoma, WA
NAFTA–TAA–06287; Olson Technologies, Inc., Allentown, PA
NAFTA–TAA–06318; UBE Automotive North America Mason Plant, Inc., Mason, OH
NAFTA–TAA–06326; Schneider Electric/Square D Company, Monroe, NC

The investigation revealed that the criteria for eligibility have not been met for the reasons specified.

The investigation revealed that workers of the subject firm did not produce an article within the meaning of Section 250(a) of the Trade Act, as amended.

NAFTA–TAA–06368; Penske Truck Leasing, St. Louis Administration Center, Chesterfield, MO
NAFTA–TAA–06339; Maxxim Medical, Inc., Asheville NC Div., Asheville, NC
NAFTA–TAA–06296; Great Lakes Fleet, Inc., A Wholly Owned Subsidiary of Great Lakes Transportation, LLC, Duluth, MN
NAFTA–TAA–06154; Enterasys Networks, Inc., Salt Lake City, UT
NAFTA–TAA–06147; Electronic Data Systems (EDS), Winchester, KY

The investigation revealed that criteria (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

NAFTA–TAA–06476; New River Energetics, Alliant Techsystems, Inc. (ATK), Radford, VA

Affirmative Determinations NAFTA–TAA

NAFTA–TAA–06130; Corning, Inc., Photonic Technologies/Monroe Photonic Park, West Henrietta, NY: November 15, 2000.
NAFTA–TAA–06190; Sanford, North America, LP, Newwell Rubbermaid Corp., Santa Monica, CA: April 18, 2001.
NAFTA–TAA–06215; J.R. Simplot Co., Food Group, Heyburn, ID: May 15, 2001.
NAFTA–TAA–06316; Andrew Corp., Formerly Micro Pulse, Inc., Wireless Products Div., Camarillo, CA: June 18, 2001.
NAFTA–TAA–06319; General Cable Industries, Inc., Monticello, IL: June 18, 2001.
NAFTA–TAA–06328; A.O. Smith, Electrical Products Co., Upper Sandusky, OH: April 9, 2001.
NAFTA–TAA–06180; Jay Manufacturing, Div. Of Sunrise Medical, Inc., including Leased Workers of Staffing Solutions and Corestaff, Longmont, CO: "All workers engaged in the production of gel-filled cushions for wheelchairs who became totally or partially separated from employment on or after May 13, 2001.
NAFTA–TAA–06234; Scotty's Fashions of Lehighton, Inc., Lehighton, PA: May 25, 2001.
NAFTA–TAA–06239; Square D Co., Schneider Electric, Oxford, OH: April 29, 2001.
NAFTA–TAA–06253; Calumet Steel Co., Chicago Heights, IL: May 24, 2001.

NAFTA–TAA–06268; Ilsco Corp., Kentucky Connector Corp., Glasgow, KY: May 20, 2001.
NAFTA–TAA–06282; Glen Oaks Industries, Inc., Marietta Sportswear Mfg Co., Inc., Dallas, TX: June 13, 2001.
NAFTA–TAA–06355; Donaldson Co., Inc., Baldwin, WI: July 15, 2001.
NAFTA–TAA–06236; Burlington House, Burlington House Div. Offices, Greensboro, NC, A; Graham Plant, Graham, NC, B; Pioneer Plant, Burlington, NC, C: Williamsburg Plant, Matkins, NC, D; Sheffield Plant, Rock Mount, NC, E; Burlington House Div. Manufacturing Offices, Burlington, NC, F; Burlington Consumer Products Div., Reidsville, NC, G; Reidsville Drapery Plant, Reidsville, NC: May 31, 2001 and H; Stokesdale Plant, Stokesdale, NC: October 31, 2002.
NAFTA–TAA–06315; Kenworth Truck Co., A Div, of PACCAR, Inc., Fabrication Department, Seattle, WA: April 9, 2001.
NAFTA–TAA–06358; Dana Corp., Coupled Products Div., Columbia City, IN: June 6, 2001.

I hereby certify that the aforementioned determinations were issued during the months of August, 2002. Copies of these determinations are available for inspection in Room C–5311, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: August 28, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 02–22966 Filed 9–9–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of August, 2002.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or sub-division have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–40,752; Cooper Standard Automotive, North America Fluid Systems Div., Fairview, MI
TA–W–41,389; Triton Service, Inc., Electron Technology Div., Easton, PA

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–41,281; Kimberly Clark Technical Papers, East Ryegate, VT
TA–W–41,288; International Truck and Engine Corp. A Subsidiary of Navistar International Corp., Springfield, OH
TA–W–41,487; CCS Ceramic Technologies, Ltd, a Subdivision of Benchmark Structural Ceramics, Inc., Cheektowaga, NY
TA–W–41,500; Bombardier Aerospace Learjet, Inc., Wichita, KS
TA–W–41,541; GD Resource, Inc., Sparks, NV

The investigation revealed that criteria (1) has not been met. A significant number or proportion of the workers did not become totally or parqtially separated from employment as required for certification.

TA–W–41,507; Atlas Copco Compressors, Inc., Holyoke, MA

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determination.

TA–W–41,532; Seton Company, Leather Div., Saxton, PA: July 12, 2002
TA–W–41,551; Wabash Alloys, LLC, Syracuse, NY: March 1, 2001
TA–W–41,593; Seco/Warwick Corp., Meadville, PA: December 8, 2001.
TA–W–41,488; Terry Products, Inc., Kannapolis, NC: March 28, 2002.
TA–W–41,412; York International, Unitary Products Group, Elyria, OH: April 18, 2001.
TA–W–41,305; Cummins Diesel Recon, Charleston, SC: March 13, 2001.
TA–W–40,966 & A; Munro and Company, Inc., Dewitt Footwear, Dewitt, AR and Clarendon Footwear, Clarendon, AR: February 8, 2001.
TA–W–41,110; Advance Transformer, Div. Of Philips Lighting, Boscobel, WI: February 12, 2001.
TA–W–41,458; Ameripol Synpol Corp., Odessa, TX: March 25, 2001.
TA–W–41,650; Gerber Childrenswear, Inc., Ballinger, TX: June 3, 2001.
TA–W–41,665 & A; Scotty's Fashions, Inc., Lewistown, PA and Lehighton, PA: May 25, 2001.
TA–W–41,714; J.R. Simplot Co., Agribusiness Group, Mining and Manufacturing Div., Don Plant, Pocatello, ID: May 17, 2001.
TA–W–41,762; Valeo Climate Control, Decatur, IL: June 3, 2001.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with Section 250(a), Subchaper D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the months of August, 2002.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of Section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA–TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA–TAA–06104; International Truck and Engine Corp., A Subsidiary of Navistar International Corp., Springfield, OH

NAFTA–TAA–06103; Bombardier Aerospace, Learjet, Inc., Wichita, KS

NAFTA–TAA–06275 &A; Scotty's Fashions, Inc., Lewistown, PA and Lehighton, PA

NAFTA–TAA–06069; Flexprint, a Subsidiary of Flexpaq, Moorestown, NJ

The investigation revealed that the criteria for eligibility have not been met for the reasons specified.

The investigation revealed that workers of the subject firm did not produce an article within the meaning of Section 250(a) of the Trade Act, as amended.

NAFTA–TAA–06153; Holiday Products, a Subsidiary of Rauch Industries, El Paso, TX

NAFTA–TAA–06374; IBM Global Services, AMS Div., Jacksonville, FL

Affirmative Determinations NAFTA–TAA

NAFTA–TAA–06291; Sulzer Pumps (US), Inc., Portland, OR: June 20, 2001.

NAFTA–TAA–06271; Industrial Coils, Baraboo, WI: June 12, 2001.

NAFTA–TAA–06189; Essilor of America, Manufacturing Operations, St. Petersburg, FL, Including Leased Workers of Tempmates, Adecco, Personnel One and Universal, St. Petersburg, FL, Ranstad, Pinellas Park, FL and TRC Staffing, Largo, FL

NAFTA–TAA–06240 & A; Price-Pfister, Machine Shop, Pacoima, CA and Fabrication Department, Pacoima, CA: May 15, 2001

NAFTA–TAA–06172; U.S. Manufacturing Co., Pasadena, CA: April 17, 2001.

I hereby certify that the aforementioned determinations were issued during the months of August, 2002. Copies of these determinations are available for inspection in Room C–5311, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: August 16, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

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DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of August, 2002.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) that sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–41,484; Crossroad Knitting, Inc., Claudville, VA

TA–W–41,646; Trinity Industries, Beaumont, TX

TA–W–41,447; Midway Machine and Tool Co., Plant #146, a Div. Of Crown Cork and Seal Co., Wilkes-Barre, PA

TA–W–41,615; Aftermarket Technologies, Aaron's Automotive Products, Inc., Joplin, MO

TA–W–41,647; DuPont Co., Lycra-Terathane Div., Niagara Falls, NY

TA–W–41,661; Soilmec Branham, Inc., Conroe, TX

TA–W–41,700; Flextronics International USA, Longmont, CO

TA–W–41,718; Grafx Packaging, Canal Winchester, OH

TA–W–41,726; Parker Dayco, Eldora Plant, Eldora, IA

TA–W–41,751; Gilbert Manufacturing Co., Div. Of Larsdale Corp., South Hill, VA

TA–W–41,752; Super Steel Schenectady, Inc., a Div. Of Super Steel Products Corp.

TA–W–41,756; H and L Tool Co., Erie, PA

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–41,570; FMC Corp., Green River, WY

TA–W–41,695; P.C.C. Airfoils, Inc. Minerva, OH

TA–W–41,703; E.I. DuPont, Sabine River Works, Orange, TX

TA–W–41,710; Lander Co., Inc., Camarillo, CA Sturbridge, MA

TA–W–41,725; Nu-Gro Technologies, Inc., Gloversville, NY

TA–W–41,727; Solectron Oregon, A Subsidiary of Solectron Corp., Hillsboro, OR

TA–W–41,728; Wesbar Corp., A Div. Of Trimas Corp., Peru, IN

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–41,746; Kelly Technical Service, A Contractor for LTV Steel, Independence, OH

TA–W–41,748; CDI Information Technology Services, A Contractor for IBM, Morrisville, NC

TA–W–41,518; United Electric Co., Virginia, MN

TA–W–41,753; Gerber Technology, Inc., Richardson, TX

TA–W–41,626; Sitel Corp., Longview, TX
TA–W–41,903; Penske Truck Leasing, St. Louis Administration Center, Chesterfield, MO
TA–W–41,923; Phelps Dodge Hidalgo, Inc., Playas, NM
TA–W–41,448; Ocwen Technology Xchange, Carlsbad, CA
TA–W–41,637; Jones Apparel Group, Raw Materials Div., Rural Hall, NC
TA–W–41,640; Halmode Apparel, Inc., Roanoke, VA
TA–W–41,625; Insystem Technologies Ltd, Roanoke, VA

The investigation revealed that criterion (1) and criterion (2) have not been met. A significant number or proportion of the workers did not become totally or partially separated from employment as required for certification. Sales or production did not decline during the relevant period as required for certification.

TA–W–41,631; Smith Aerospace Electric Systems, Malven, PA

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determination.

TA–W–41,416; Siemens VDO Automotive, Auburn IN: March 29, 2001.
TA–W–41,606; Whatman, Inc., Ann Arbor, MI: May 20, 2001.
TA–W–41,628; Darco Kentucky, A Subsidiary of Darco International Louisville, KY: May 20, 2001.
TA–W–41,643; J.D. Holding Company and Subsidiary, Inc., DC Products, Inc., Springport, MI: May 29, 2001.
TA–W–41,645 & A, B, C; Deckerville Wire Co., Subsidiary of Clements Manufacturing LLC, Deckerville, MI, Brown City Wire Co., Subsidiary of Clements Manufacturing LLC, Deckerville, MI, Deckerville Wire Co., Subsidiary of Clements Manufacturing LLC, Harbor Beach, MI and Brown City Wire Co., Subsidiary of Clements Manufacturing LLC, Harbor Beach, MI: May 15, 2001.
TA–W–41,696; eMag Solutions, LLC, Graham, TX: July 1, 2002.
TA–W–41,709; Elbeco, Inc., Meyersdale Manufacturing, Meyersdale, PA: May 29, 2001.
TA–W–41,713; Emerson Electric Co., Wiegand Appliance Div., Vernon, AL: June 10, 2001.
TA–W–41,669; Hankinson International, Washington, PA; May 24, 2001.
TA–W–41,666; PSM Fastener Corp., St. Louis, MO: May 24, 2001.
TA–W–41,736; Therm-O-Disc, Inc., Midwest Components Product Group, Muskegon, MI: June 18, 2001.
TA–W–41,731; ABB Automation, Inc., Columbus, OH: May 30, 2001.
TA–W–41,547; Church and Dwight Co., Inc., Lambert-Kay Div., Winsted, CT: April 25, 2001.
TA–W–41,068; Ansewn Footwear, Bangor, ME: February 4, 2001.
TA–W–41,715; Superior Essex, Communications Group, Elizabethtown, KY: May 17, 2001.
TA–W–41,699; Liberty Sportswear, Inc., A Div. of Jean Michael's, Inc., Willingboro, NJ: June 3, 2001.
TA–W–41,663; Gold Toe Brands, Inc., Burlington, NC: May 30, 2001.
TA–W–41,648; Breeze Industrial Products Corp., Saltsburg, PA: May 13, 2001.
TA–W–41,638 & A; Glenn Enterprises, Sulligent, AL and Detroit Distribution, Detroit, AL: July 10, 2001.
TA–W–41,724; Lake City Manufacturing Co., Inc., Lake City, SC: May 29, 2001.
TA–W–41,722; Murice Silvera, Inc., New York, NY: May 28, 2001.
TA–W–41,760; Industrial Coils, Inc., Baraboo, WI: June 12, 2001.
TA–W–41,754; T.C. Timber Habermass Corp., Skaneateles, NY: June 13, 2001.
TA–W–41,745; Angelica Image Apparel, A Subdivision of Angelica Corp., Collinwood, TN: May 23, 2001.
TA–W–41,772; Fisher Products Group, A Div. of Fisher Scientific International, Pittsburgh, PA: June 17, 2001.
TA–W–41,768; Bridal Originals, DuQuoin Manufacturing Plant, a Subsidiary of S.A.S.I. Corp., DuQuoin, IL: June 7, 2001.
TA–W–41,910; Buffalo Color Corp., a Subsidiary of Lanesborough Corp., Buffalo, NY: November 6, 2001.
TA–W–41,878; Doncasters, Inc., Turbo Products Div., a Subsidiary of Doncasters, LLC, Ivoryton, CT: June 7, 2001.
TA–W–41,781; Turfer Sportswear, Inc., Woonsocket, RI: June 28, 2001.
TA–W–41,779; Robert Bosch Corp., A Subsidiary of Robert Bosch GMBH & Robert Bosch Internationale Beleiligungen AG, Lithia Springs, GA: April 26, 2001.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (P.L. 103–182 concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the months of August, 2002.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of Sections 250 of the Trade Act must be met:

(1) That a significant number of proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) that sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) that imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) that there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determination NAFTA–TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period

NAFTA–TAA–06132; Midway Machine and Tool Co., Plant #146, a Division of Crown Cork and Seal Co., Inc., Wilkes-Barre, PA
NAFTA–TAA–06212; Aftermarket Technologies, Aaron's Automotive Products, Inc., Joplin, MO
NAFTA–TAA–06225; Breeze Industrial Products Corp., Saltsburg, PA
NAFTA–TAA–06247; DuPont Co., Lycra Terathane Div., Niagara Falls, NY
NAFTA–TAA–06276; Solectron Oregon, a Subsidiary of Solectron Corp., Hillsboro, OR
NAFTA–TAA–06313; H and L Tool Co., Erie, PA
NAFTA–TAA–06341; Flextronics International USA, Inc., Longmont, CO

The investigation revealed that the criteria for eligibility have not been met for the reasons specified.

The investigation revealed that workers of the subject firm did not produce an article within the meaning of Section 250(a) of the Trade Act, as amended.

NAFTA–TAA–06376; Tellabs Operations, Inc., Optical Networking Group, Hawthorne, NY

NAFTA–TAA–06284; Severn Trent Services, Inc., Environmental Services Group, Fieldale, VA

NAFTA–TAA–06258; Jones Apparel Group, Raw Materials Div., Rural Hall, NC

NAFTA–TAA–06299; Educa Corp., a Subsidiary of 3M, El Paso, TX, Including Temporary Workers of The Following Firms: Manpower, Inc., El Paso, TX, Randstadt, El Paso, TX and Southwest Staffing, El Paso, TX

NAFTA–TAA–06388; IBM Rochester, Server Group, Server Development, a Subsidiary of IBM Corp., Rochester, MN and A; IBM Rochester, Server Group, Enterprise Services, a Subsidiary of IBM Corp., Rochester, MN and B; IBM Rochester, Global Services, a Subsidiary of IBM Corp., Rochester, MN

The investigation revealed that criterion (1) and criterion (2) have not been met. A significant number or proportion of the workers in such workers' firm or an appropriate subdivision (including workers in any agricultural firm or appropriate subdivision thereof) did not become totally or partially separated from employment as required for certification. Sales or production did not decline during the relevant period as required for certification.

NAFTA–TAA–06210; Smith Aerospace Electric Systems, Malvern, PA

Affirmative Determinations NAFTA–TAA

NAFTA–TAA–06036; Siemens VDO Automotive, Auburn, IN: April 5, 2001.

NAFTA–TAA–06289; Tecknit, Inc., Cranford, NJ: April 29, 2001.

NAFTA–TAA–06408; Emerson Electric Co., Wiegand Appliance Div., Vernon, AL: July 8, 2001.

NAFTA–TAA–06131; Cimworks, Div. of GE Fanuc, Kirkland, WA: April 5, 2001.

NAFTA–TAA–06161; Superior Essex, Communications Group, Elizabethtown, KY: May 6, 2001.

NAFTA–TAA–06223; Gold Toe Brands, Inc., Burlington, NC: May 20, 2001.

NAFTA–TAA–06242; Nu-Gro Technologies, Inc., Gloversville, NY: May 31, 2001.

NAFTA–TAA–06266; Lander Co., Inc., Camarillo, A: May 30, 2001.

NAFTA–TAA–06267; Wesbar Corp., A Div. of Trimas Corp., Peru, IN: May 29, 2001.

NAFTA–TAA–06290; Therm-O-Disc, Inc., Midwest Components Product Group, Muskegon, MI: June 18, 2001.

NAFTA–TAA–06309; Brooks-Pri Automation, Inc., Controls Div., Hillsboro, OR: June 12, 2001.

NAFTA–TAA–06208; Deckerville Wire Co., Subsidiary of Clements Manufacturing LLC, Deckerville, MI A; Brown City Wire Co., Subsidiary of Clements Manufacturing LLC, Deckerville, MI B; Deckerville Wire Co., Subsidiary of Clements Manufacturing LLC, Harbor Beach, MI and C; Brown City Wire Co., Subsidiary of Clements Manufacturing LLC, Harbor Beach, MI: May 15, 2001.

NAFTA–TAA–06391; Krone, Inc., El Paso Distribution Center, El Paso, TX: July 10, 2001.

NAFTA–TAA–06346; Buffalo Color Corp., a Subsidiary of Lanesborough Corp., Buffalo, NY: July 24, 2001.

NAFTA–TAA–06466; Welcast Plastics—Harris Welco, a Div. of J.W. Harris Co., Barberton, OH: June 24, 2001.

I hereby certify that the aforementioned determinations were issued during the months of August, 2002. Copies of these determinations are available for inspection in Room C–5311, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: September 3, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 02–22955 Filed 9–9–02; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–41,564]

Domtar A.W., Port Edwards, WI; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on May 20, 2002 in response to a petition filed by a company official on May 3, 2002 on behalf of workers at Domtar A.W., Port Edwards, Wisconsin.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 19th day of August, 2002

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–22956 Filed 9–9–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–41,701]

FCI Electronics, Etters, PA; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on June 24, 2002, in response to a petition filed on behalf of workers at FCI Electronics, Etters, Pennsylvania. The workers assembled fiber optic cables and circuit boards.

The petition has been deemed invalid. The petitioning group of workers were separated from the subject firm more than one year prior to the date of the petition. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 27th day of August 2002.

Elliott S. Kushner,

Certifying Officer, Division Of Trade Adjustment Assistance.

[FR Doc. 02–22969 Filed 9–9–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–41,608]

G & L Trucking, Inc., Hanceville, AL; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on June 3, 2002 in response to a worker petition filed on May 3, 2002 on behalf of workers at G & L Trucking, Inc., Hanceville, Alabama.

All workers were separated from the subject firm more than one year prior to the date of the petition. Section 223 of the Act specifies that no certification

may apply to any worker whose last separation occurred more than one year before the date of the petition. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 23rd day of August 2002

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–22957 Filed 9–9–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–41,747]

G & T Industrial Sheet Metal, Bend, OR; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on July 1, 2002 in response to a worker petition, which was filed by the company on behalf of workers at G & T Industrial Sheet Metal, Bend, Oregon.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 26th day of August, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–22971 Filed 9–9–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–41,778]

Robert Bosch Corporation, Automotive Group, Braking Systems Division, Ashland, OH; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated in response to a petition received July 8, 2002 by the company on behalf of workers at Robert Bosch Corporation, Automotive Group, Braking Systems Division, Ashland, Ohio.

An active certification covering the petitioning group of workers remains in effect (TA–W–39,534, expires August 8, 2003). Consequently, further investigation in this case would serve no purpose and the investigation has been terminated.

Signed in Washington, DC, this 28th day of August, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–22973 Filed 9–9–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–41,636]

Invensys, Inc., The Foxboro Company, Foxboro, MA; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on June 10, 2002, in response to a petition filed by a company official on behalf of workers at Invensys, Inc., The Foxboro Company, Foxboro, Massachusetts.

The company official submitting the petition has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 21st day of August, 2002.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–22959 Filed 9–9–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–41,733]

Lenox China, Oxford, NC; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on July 1, 2002, in response to a worker petition filed by a company official on behalf of workers at Lenox China, Oxford, North Carolina.

The petitioner has requested that the petition be withdrawn. Consequently further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 29th day of August 2002.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–22970 Filed 9–9–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–41,613]

Nordic Gear, Inc. Millersburg, PA; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on June 3, 2002 in response to a worker petition, which was filed on behalf of workers at Nordic Gear, Inc., Millersburg, Pennsylvania.

The petitioners have requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 21st day of August, 2002.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–22958 Filed 9–9–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–41,783]

Oxford Industries, Inc. Women's Wear New York, NY; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on July 8, 2002 in response to a worker petition which was filed on behalf of workers at Oxford Industries, Inc., Women's Wear, New York, New York.

The petitioning group of workers are subject to an investigation for which a certification has been issued (TA–W–39,764A). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 30th day of August, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–22974 Filed 9–9–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–41,879]

Scotty Fashions #6, Lehighton, PA; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on July 22, 2002, in response to a petition filed on behalf of workers at Scotty Fashions #6, Lehighton, Pennsylvania.

The investigation revealed that there is an existing petition (TA–41,665A) for the subject firm that has been assigned to another investigator.

Consequently further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 23rd day of August, 2002.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–22962 Filed 9–9–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–41,771]

Standard Container Company, Badger Basket Division, Edgar, WI; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on July 1, 2002, in response to a worker petition which was filed by the company on behalf of workers at Standard Container Company, Badger Basket Division, Edgar, Wisconsin.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 22nd day of August, 2002.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–22961 Filed 9–9–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–41,684]

Supreme Tool and Die Company, Fenton, MO; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on June 17, 2002 in response to a worker petition which was filed on behalf of workers at Supreme Tool and Die Company, Fenton, Missouri.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation is terminated.

Signed in Washington, DC this 28th day of August, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–22960 Filed 9–9–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–41,635]

T & J Personal Services, Clearfield, PA; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on June 10, 2002, in response to a petition filed by a company official on behalf of workers at T & J Personal Services, Clearfield, Pennsylvania.

The petitioner submitting the petition has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 28th day of August 2002.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–22967 Filed 9–9–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–41,651]

Tyco Electronics Corporation, Carlisle, PA; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on June 17, 2002, in response to a petition filed on behalf of workers at Tyco Electronics, Corporation, Carlisle, Pennsylvania.

An active certification covering the petitioning group of workers remains in effect (TA–W–39,972). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 28th day of August 2002.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–22968 Filed 9–9–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–41,759]

United Chair, First Source Furniture Group, Leeds, AL; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on June 24, 2002 in response to a petition filed by the company on behalf of workers at United Chair, First Source Furniture Group, Leeds, Alabama.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 27th day of August, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–22972 Filed 9–9–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA—006194]

Domtar A.W., Port Edwards, WI; Notice of Termination

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–1) concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2331), an investigation was initiated on May 8, 2002, in response to a petition filed on behalf of workers at Domtar A.W., Port Edwards, Wisconsin. Workers produced uncoated freesheet paper.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 19th day of August, 2002

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–22964 Filed 9–9–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA—5833]

Tyco Electronics, Carlisle, PA; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), subchapter D, chapter 2, title II, of the Trade Act of 1974, as amended (19 U.S.C. 2331), an investigation was initiated on February 4, 2002, in response to a worker petition which was filed by on behalf of workers at Tyco Electronics, Carlisle, Pennsylvania.

Currently, an active certification covering the petitioning group of workers remains in effect (NAFTA–5317). Consequently further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 19th day of August, 2002.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–22963 Filed 9–9–02; 8:45 am]

BILLING CODE 4510–30–P

LEGAL SERVICES CORPORATION

Notice of Intent To Award—Grant Awards for the Establishment of a Pro Bono Program To Provide Legal Services to Eligible Veteran Appellants before the U.S. Court of Appeals For Veterans Claims Beginning January 1, 2003

AGENCY: Legal Services Corporation.

ACTION: Announcement of intention to make FY 2003 Competitive Veterans Grant Awards.

SUMMARY: The Legal Services Corporation (LSC) hereby announces its intention to award grants and contracts to provide economical and effective delivery of high quality legal services to veterans, beginning January 1, 2003.

DATES: All comments and recommendations must be received on or before the close of business on October 10, 2002.

ADDRESSES: Legal Services Corporation—Veterans Grant Competition, Legal Services Corporation, 750 First Street NE., 10th Floor, Washington, DC 20002–4250.

FOR FURTHER INFORMATION CONTACT: Jennifer Bateman, Grants Coordinator, Office of Program Performance, (202) 336–8835.

SUPPLEMENTARY INFORMATION: Pursuant to LSC's announcement of funding availability on May 15, 2002, LSC received a qualified application from the following organization to provide legal services to veterans:

Applicant	Grant amount
Veterans Consortium Pro Bono Program	$1,000,000.00

An award will be made so that low income veteran appellants to the U.S. Court of Appeals for Veterans Claims will be represented. The listed organization is not guaranteed an award or contract. LSC requests comments and recommendations concerning the potential grantee within a period of thirty (30) days from the date of publication of this notice. Grants will become effective and grant funds will be distributed on or about January 1, 2003.

* * * *Funding for this proposed service area is subject to the final Congressional appropriation for this purpose. There is no guarantee that funding for this service area will be available.*

Dated: September 5, 2002.

Michael A. Genz,

Director, Office of Program Performance.

[FR Doc. 02–23005 Filed 9–9–02; 8:45 am]

BILLING CODE 7050–01–P

NATIONAL SCIENCE FOUNDATION

Proposal Review; Notice of Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces its intent to hold proposal review meetings throughout the year. The purpose of these meetings is to provide advice and recommendations concerning proposals submitted to the NSF for financial support. The agenda for each of these meetings is to review and evaluate proposals as part of the selection process for awards. The majority of these meetings will take place at NSF, 4201 Wilson Blvd., Arlington, Virginia 22230.

All of these meetings will be closed to the public. The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act. NSF will continue to review the agenda and merits of each meeting for overall compliance of the Federal Advisory Committee Act.

These closed proposal review meetings will no longer be announced on an individual basis in the **Federal Register**. NSF intends to publish a notice similar to this on a quarterly basis. For an advance listing of the closed proposal review meetings that include the names of the proposal review panel and the time, date, place, and any information on changes, corrections, or cancellations, please visit the NSF Web site: *http://www.nsf.gov/home/pubinfo/advisory.htm.* This information may also be requested by telephoning 703/292–8182.

Dated: September 4, 2002.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 02–22914 Filed 9–9–02; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

Sunshine Act Meeting Notice

TIME AND DATE: 9:30 a.m., Tuesday, September 17, 2002.

PLACE: NTSB Conference Center, 429 L'Enfant Plaza SW., Washington, DC 20594.

STATUS: The three items are Open to the Public.

MATTERS TO BE CONSIDERED:

7493—Marine Accident Report—Grounding of the Small Passenger Vessel Finest, Sandy Hook, New Jersey, January 4, 2001.

7494—Marine Accident Report—Fire On Board the Small Passenger Vessel Seastreak New York, Sandy Hook, New Jersey, September 28, 2001.

7371A—Hazardous Materials Accident Report—Release and Ignition of Hydrogen Following the Collision Between a Tractor/Semitrailer with Horizontally Mounted Cylinders and a Pickup Truck near Ramona, Oklahoma, May 1, 2001.

News Media Contact: Telephone: (202) 314–6100.

Individuals requesting specific accommodations should contact Ms. Carolyn Dargan at (202) 314–6305 by Friday, September 13, 2002.

FOR MORE INFORMATION CONTACT: Vicky D'Onofrio, (202) 314–6410.

Dated: September 6, 2002.

Vicky D'Onofrio,

Federal Register Liaison Officer.

[FR Doc. 02–23082 Filed 9–6–02; 2:25 pm]

BILLING CODE 7533–10–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–339]

Virginia Electric and Power Company, North Anna Power Station, Unit 2; Exemption

1.0 Background

The Virginia Electric and Power Company (the licensee) is the holder of Facility Operating License No. NPF–7, which authorizes operation of the North Anna Power Station, Unit 2. The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

The facility consists of a one pressurized-water reactor located in Louisa County in the Commonwealth of Virginia.

2.0 Request/Action

Title 10 of the Code of Federal Regulations (10 CFR), part 50, Section 50.44 requires reactors fueled with Zircaloy or ZIRLO cladding to control any hydrogen gas that may be generated after a postulated loss-of-coolant accident (LOCA). 10 CFR 50.46 identifies design requirements for calculating the performance of the emergency core cooling system (ECCS) for reactors containing fuel with Zircaloy or ZIRLO cladding. Finally, Appendix K to 10 CFR part 50 requires the Baker-Just equation, which is only applicable for fuels using Zircaloy cladding, be used to predict the rates of energy release, hydrogen concentration, and cladding oxidation from the metal water reaction.

By letter dated February 11, 2002, as supplemented by letter dated May 16, 2002, the licensee submitted a request for a license amendment to irradiate a Framatome lead test assembly during Cycle 16 at North Anna, Unit 2. The lead test assembly to be used is one of four lead test assemblies that have been used for the past three operating cycles at North Anna, Unit 1. Included in this proposed license amendment was a request for an exemption from the requirements of 10 CFR 50.44, 50.46, and Appendix K to 10 CFR part 50 that would allow the licensee to use a lead test assembly that consisted of two advanced zirconium-based alloys, M4 and M5, for the fuel rod cladding. The licensee included the following license condition in its submittal:

Virginia Electric and Power Company may operate one lead test assembly containing advanced zirconium-based alloys for one cycle, to a lead rod burnup not exceeding 75,000 MWD/MTU.

3.0 Discussion

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 50 when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present. In accordance with 10 CFR 50.12(a)(2)(ii), special circumstances exist whenever an application of a particular regulation under the circumstances is not necessary to achieve the underlying purpose of the rule.

The underlying purpose of 10 CFR 50.44 is to ensure that means are provided for the control of hydrogen gas that may be generated following a LOCA. The licensee has provided means for controlling hydrogen gas and has previously considered the potential for hydrogen gas generation stemming from a metal-water reaction. The chemical similarity of the lead test assembly containing advanced zirconium-based cladding with that of the Zircaloy cladding ensures that previous calculations of hydrogen production resulting from a metal-water reaction would not be significantly changed. As such, the licensee has achieved the underlying purpose of 10 CFR 50.44.

The underlying purpose of 10 CFR 50.46 and 10 CFR part 50, Appendix K, is to establish requirements for the calculation of ECCS performance. The licensee has performed a calculation demonstrating adequate ECCS performance for North Anna, Unit 2, and has shown that the lead test assembly does not have a significant impact upon the calculation. The peak cladding temperature of the lead test assembly was significantly lower than the resident Westinghouse fuel. Using the Baker-Just equation, the result conservatively predicted local cladding oxidation of the lead test assembly of only a few percent. Also, the maximum hydrogen generation was unchanged with the inclusion of the lead test assembly. Therefore, the coolable geometry was maintained following a LOCA.

Paragraph I.A.5 of Appendix K to 10 CFR part 50 states that the rates of energy, hydrogen concentration, and cladding oxidation from the metal-water reaction shall be calculated using the Baker-Just equation. Since the Baker-Just equation presumes the use of Zircaloy clad fuel, strict application of the rule would not permit use of the equation for advanced zirconium-based alloys for determining acceptable fuel performance. The underlying intent of this portion of the Appendix, however, is to ensure that analysis of fuel response to LOCAs is conservatively calculated. Due to the similarities in the chemical composition of the advanced zirconium-based alloys and Zircaloy, the application of the Baker-Just equation in the analysis of advanced zirconium-based clad fuel is justified and will conservatively bound all post-LOCA scenarios. Thus the underlying purpose of the rule will be met, and special circumstances exist, allowing the staff to grant an exemption from Appendix K to 10 CFR Part 50 that would allow the licensee to apply the Baker-Just equation to advanced zirconium-based alloys.

The staff confirmed that the licensee used approved LOCA methods to

perform the calculations that demonstrated adequate safety performance of ECCS systems. These methods include: (1) RSG LOCA–BWNT LOCA evaluation model (BAW–10168, Rev. 3), (2) RELAP5/MOD2–B&W code (BAW–10164, Rev. 3), (3) the BEACH implementation of RELAP5 (BAW–10166, Rev. 4), and (4) REFLOD3B (BAW–10171–PA, Rev. 3). The licensee documented calculations based on these models to demonstrate that existing North Anna calculations based on the current fuel design conservatively bound the LOCA performance of the lead test assembly as calculated by the NRC-approved methods. Results of comparative LOCA calculations with the same plant operating parameters demonstrated that the LOCA calculational methods used are acceptable for the lead test assembly at North Anna, Unit 2. Therefore, the licensee has achieved the underlying purpose of 10 CFR 50.46 and 10 CFR Part 50, Appendix K.

The lead test assembly meets the same design bases and requirements as the resident Westinghouse fuel for the North Anna, Unit 2, Cycle 16 core. No safety limits or setpoints have been altered as a result of the use of the lead test assembly. The lead test assembly will be placed in a core location that will not experience the most limiting power peaking during the aforementioned operating cycle. The advanced cladding has been irradiated and tested for corrosion resistance, tensile and burst strength, and creep characteristics. The results indicate that the advanced cladding should be acceptable for reactor service. Therefore, granting the exemption requests will not present an undue risk to public health and safety or be inconsistent with the common defense and security.

Based on the previously acceptable performance of the four lead test assemblies at North Anna, Unit 1, and the subsequent approval of the advanced cladding material M5, the staff concludes that the licensee has demonstrated that the lead test assembly will perform adequately under LOCA conditions, and thus the lead test assembly is acceptable for operation in North Anna, Unit 2, Cycle 16. In addition, based on the special circumstances described above, the staff approves of an exemption from the requirements of 10 CFR 50.44, 10 CFR 50.46, and 10 CFR Part 50 Appendix K for the lead test assembly in North Anna, Unit 2.

4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Also, special circumstances are present. Therefore, the Commission hereby grants the licensee an exemption from the requirements of 10 CFR 50.44, 10 CFR 50.46, and Appendix K to 10 CFR Part 50, for North Anna Power Station, Unit 2. This exemption only applies to the one lead test assembly containing advanced zirconium-based alloys for the one operating cycle, with a lead rod burnup not exceeding 75,000 MWD/MTU.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (67 FR 53813).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 4th day of September 2002.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 02–22915 Filed 9–9–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATES: Weeks of September 9, 16, 23, 30, October 7, 14, 2002.

PLACE: Commissioner's Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of September 9, 2002

There are no meetings scheduled for the Week of September 9, 2002.

Week of September 16, 2002—Tentative

There are no meetings scheduled for the Week of September 16, 2002.

Week of September 23, 2002—Tentative

There are no meetings scheduled for the Week of September 23, 2002.

Week of September 30, 2002—Tentative

Tuesday, October 1, 2002

9:25 a.m.—Affirmation Session (Public Meeting) (If needed).

9:30 a.m.—Briefing on Decommissioning Activities and Status (Public Meeting) (Contact: John Buckley, 301–415–6607).

This meeting will be webcast live at the Web address—*www.nrc.gov*.

Wednesday, October 2, 2002

10 a.m.—Briefing on Strategic Workforce Planning and Human Capital Initiatives (Closed—Ex. 2).

Thursday, October 3, 2002

9 a.m.—Discussion of Management Issues (Closed—Ex.2).

Week of October 7, 2002—Tentative

There are no meetings scheduled for the Week of October 7, 2002.

Week of October 14, 2002—Tentative

There are no meetings scheduled for the Week of October 7, 2002.

Week of October 14, 2002—Tentative

There are no meetings scheduled for the Week of October 14, 2002.

* The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: R. Michelle Schroll (301) 415–1662.

Additional Information

By a vote of 5–0 on September 3, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that ''Affirmation of (a) Final Rule: 10 CFR Part 63: Specification of a Probability for Unlikely Features, Events, and Processes, and (b) Duke Cogema Stone & Webster (Savannah River Mixed Oxide Fuel Fabrication Facility); Board's Certified Question Regarding Procedure'' be held on September 4, and on less than one week's notice to the public.

The NRC Commission Meeting Schedule can be found on the Internet at: *www.nrc.gov/what-we-do/policy-making/schedule.html*.

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301)–415–1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to *dkw@nrc.gov*.

Dated: September 5, 2002.

R. Michelle Schroll,

Acting Technical Coordinator, Office of the Secretary.

[FR Doc. 02–23090 Filed 9–6–02; 2:37 pm]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Federal Employees Health Benefits Program: Medically Underserved Areas for 2003

AGENCY: Office of Personnel Management.

ACTION: Notice of medically underserved areas for 2003.

SUMMARY: The Office of Personnel Management (OPM) has completed its annual determination of the States that qualify as Medically Underserved Areas under the Federal Employees Health Benefits (FEHB) Program for calendar year 2003. This is necessary to comply with a provision of the FEHB law that mandates special consideration for enrollees of certain FEHB plans who receive covered health services in States with critical shortages of primary care physicians. Accordingly, for calendar year 2003, OPM's calculations show that the following states are Medically Underserved Areas under the FEHB Program: Alabama, Idaho, Kentucky, Louisiana, Maine, Mississippi, Missouri, Montana, New Mexico, North Dakota, South Carolina, South Dakota, Texas, Utah, West Virginia and Wyoming. We have removed Georgia from the list of calendar year 2003 and added the states of Louisiana, Maine, and West Virginia.

EFFECTIVE DATE: January 1, 2003.

FOR FUTHER INFORMATION CONTACT: Ingrid Burford, 202–606–0004.

SUPPLEMENTARY INFORMATION: FEHB law (5 U.S.C. 8902(m)(2)) mandates special consideration for enrollees of certain FEHB plans who receive covered health services in States with critical shortages of primary care physicians. The FEHB law also requires that a State be designated as a Medically Underserved Area if 25 percent or more of the population lives in an area designated by the Department of Health and Human Services (HHS) as a primary medical care manpower shortage area. Such States are designated as Medically Underserved Areas for purposes of the FEHB Program, and the law requires non-HMO FEHB plans to reimburse beneficiaries, subject to their contract terms, for covered services obtained from any licensed provider in these States.

FEHB regulations (5 CFR 890.701) require OPM to make an annual determination of the States that qualify as Medically Underserved Areas for the next calendar year by comparing the latest HHS State-by-State population counts on primary medical care manpower shortage areas with U.S. Census figures on State resident populations.

U.S. Office of Personnel Management.

Kay Coles James,

Director.

[FR Doc. 02–22930 Filed 9–9–02; 8:45 am]

BILLING CODE 6325–50–P

OFFICE OF PERSONNEL MANAGEMENT

Federal Salary Council

AGENCY: Office of Personnel Management.

ACTION: Notice of meeting.

SUMMARY: The Federal Salary Council will meet at the time and location shown below. The Council is an advisory body composed of representatives of Federal employee organizations and experts in the fields of labor relations or pay policy. The Council makes recommendations to the President's Pay Agent (the Secretary of Labor and the Directors of the Office of Management and Budget and the Office of Personnel Management) about the locality pay program for General Schedule employees under section 5304 of title 5, United States Code. The Council's recommendations cover the establishment or modification of locality pay areas, the coverage of salary surveys, the process of comparing Federal and non-Federal rates of pay, and the level of comparability payments that should be paid. This meeting is to formulate the Council's recommendations for locality payments in 2004. The meeting is open to the public.

DATES: October 1, 2002, at 10 a.m.

LOCATION: Office of Personnel Management, 1900 E Street NW., Room 5303 (Pendleton Room) Washington, DC.

FOR FURTHER INFORMATION CONTACT: Donald J. Winstead, Assistant Director for Compensation Administration, Office of Personnel Management, 1900 E Street NW., Room 7H31, Washington, DC 20415–8200. Phone (202) 606–2838; FAX (202) 606–0824; or e-mail at *payleave@opm.gov.*

For the President's Pay Agent.

Kay Coles James,

Director.

[FR Doc. 02–22929 Filed 9–9–02; 8:45 am]

BILLING CODE 6325–39–M

POSTAL RATE COMMISSION

Plant Tours

AGENCY: Postal Rate Commission.

ACTION: Notice of Commission tour.

SUMMARY: A Postal Rate Commissioner and staff members will tour Chicago-area mailers' facilities and United States Postal Service (USPS) facilities in mid-September. The purpose of the tours is to observe printing and mailing operations.

DATES: September 11, 2002: Quebecor World Inc. and USPS facilities.

September 12, 2002: USPS facilities.

September 13, 2002: R.R. Donnelley and Sons.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, 202–789–6818.

Steven W. Williams,

Secretary.

[FR Doc. 02–22850 Filed 9–9–02; 8:45 am]

BILLING CODE 7710–FW–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27565]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

September 4, 2002.

Notice is hereby given that the following filing has been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application/declaration for a complete statements of the proposed transaction summarized below. The application/declaration is available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application/declaration should submit their views in writing by September 30, 2002, to the Secretary, Securities and Exchange Commission, Washington, DC 20549–0609, and serve a copy on the relevant applicant/declarant at the address specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After September 30, 2002, the application/

declaration, as filed or as amended, may be granted and/or permitted to become effective.

Entergy Mississippi, Inc. (70–9757)

Entergy Mississippi, Inc. (''EMI''), 308 East Pearl Street, Jackson, Mississippi, an electric public-utility subsidiary company of Entergy Corporation (''Entergy''), a registered holding company, has filed with this Commission a post-effective amendment to its application-declaration filed under sections 6(a), 7, 9(a), 10 and 12(d) of the Act and rules 42, 44, 62 and 65 under the Act.

By order dated December 26, 2000 (HCAR No. 27317), EMI was authorized, among other things, from time to time through December 31, 2003, to issue and sell up to (i) $540 million of EMI's first mortgage bonds (''Bonds'') and/or EMI's debentures (''Debentures''); (ii) $50 million of preferred securities of a subsidiary of EMI (''Entity Interests'') and/or EMI's preferred stock (''Preferred Stock''); (iii) $46 million of tax-exempt bonds (''Tax-Exempt Bonds'') to be issued by the appropriate governmental authority, including the pledge of bonds up to $52 million as security; and (iv) $100 million of municipal securities (''Municipal Securities'') issued by the appropriate municipal entity.

Fees, commissions and expenses of the underwriters to be incurred in connection with the Bonds, Debentures, Preferred Stock and Tax-Exempt Bonds were estimated not to exceed 2% of the principal amount to be sold, and in the case of Entity Interests and Debentures issued under a subordinated debenture indenture, 3.25% of the principal amount to be sold.

EMI states that current market conditions require an increase above the 2% of principal amount of underwriters' fees, commissions and expenses to effect sales into the retail securities markets. EMI now requests authority for fees, commissions and expenses of the underwriters to be incurred in connection with the issuance and sale of Bonds, Debentures, Debentures issued under a subordinated debenture indenture, Preferred Stock, Entity Interests, Tax-Exempt Bonds and Municipal Securities not to exceed the lesser of 3.25% of the principal amount, respectively, to be sold or those generally paid at the time of pricing for sales of first mortgage bonds, debentures, debentures issued under a subordinated debenture indenture, preferred stock, subsidiary interests, tax-exempt bonds or municipal securities, respectively, having the same maturity, issued by companies of comparable credit quality and having similar terms, conditions and features.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–22913 Filed 9–9–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–25725; 812–12843]

ETF Advisors Trust, et al.; Notice of Application

September 3, 2002.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 2(a)(32), 5(a)(1), 22(d) and 24(d) of the Act and rule 22c–1 under the Act, and under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and (a)(2) of the Act.

SUMMARY OF APPLICATION: Applicants request an order that would permit (a) an open-end management investment company, whose series will be based on certain fixed-income securities indices, to issue shares of limited redeemability; (b) secondary market transactions in the shares of the series to occur at negotiated prices; (c) dealers to sell shares of the series of the Trust to purchasers in the secondary market unaccompanied by a prospectus, when prospectus delivery is not required by the Securities Act of 1933 (the ''Securities Act''); and (d) affiliated persons of the series to deposit securities into, and receive securities from, the series in connection with the purchase and redemption of aggregations of the series' shares.

APPLICANTS: ETF Advisors Trust (''Trust''), ETF Advisors, LP (''Advisor''), and ALPS Distributors, Inc. (''Distributor'').

FILING DATES: The application was filed on July 2, 2002, and amended on August 22, 2002.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on September 26, 2002, and should be accompanied by proof of service on applicants, in the form of an affidavit, or for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Applicants: Trust and Advisor, 153 East 53rd Street, 49th Floor, New York, New York 10022; Distributor, 370 17th Street, Suite 3100, Denver, Colorado 80202.

FOR FURTHER INFORMATION, CONTACT: Laura J. Riegel, Senior Counsel, at 202–942–0567, or Michael W. Mundt, Senior Special Counsel, at 202–942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549–0102 (telephone 202–942–8090).

Applicants' Representations

1. The Trust is an open-end management investment company registered under the Act and organized as a Delaware business trust. The Trust intends to offer four series (each, an ''Index Fund''). The Advisor is registered as an investment adviser under the Investment Advisers Act of 1940 and will serve as the investment adviser for the Index Funds. The Distributor, a broker-dealer registered under the Securities Exchange Act of 1934 (the ''Exchange Act''), will serve as the principal underwriter for each Index Fund.

2. Each Index Fund will invest in a portfolio of securities (''Portfolio Securities'') to provide investment results that seek to match, before fees and expenses, the total return of an underlying fixed income security index (each, an ''Underlying Index'' and together, the ''Underlying Indices'').[1] No

[1] An Index Fund will invest at least 90% of its total assets in investment grade debt securities issued or guaranteed by the U.S. Treasury (''Treasury Securities''), or by an agency or instrumentality of the U.S. government, or by a government-sponsored entity such as the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation and Fannie Mae, formerly the Federal National Mortgage Corporation. Each Index Fund will invest at least 80% of its total assets in Treasury Securities. An Index Fund may also invest up to 10% of its total assets in repurchase agreements,

entity that creates, compiles, sponsors or maintains an Underlying Index is, or will be, an affiliated person, as defined in section 2(a)(3) of the Act, or an affiliated person of an affiliated person, of any of the Trust, an investment adviser to any Index Fund, the Distributor, or a promoter of an Index Fund.

3. The Advisor will seek to achieve each Index Fund's investment objective by constructing the portfolio of an Index Fund to provide a duration and cash flow profile similar to that of the Underlying Index. Intra-day values of each Underlying Index will be disseminated every 15 seconds throughout the trading day by the American Stock Exchange, LLC (''AMEX''). Applicants expect that each Index Fund will have an annual tracking error relative to the performance of its respective Underlying Index of less than 1 percent.

4. Shares of the Index Funds (''FITRs'') will be issued in aggregations of 50,000 FITRs (such aggregations, ''Creation Unit Aggregations''), as specified in the relevant prospectus (the ''Prospectus''). The price of a Creation Unit Aggregation will range from $2,500,000 to $10,000,000. Creation Unit Aggregations may be purchased only by or through a party that has entered into an agreement with the administrator of an Index Fund and the Distributor regarding creations and redemptions of Creation Unit Aggregations (an ''Authorized Participant''). An Authorized Participant must be a participant in The Depository Trust Company (''DTC''). Creation Unit Aggregations generally will be issued in exchange for an in-kind deposit of securities and cash. An Index Fund also may sell Creation Unit Aggregations on a cash-only basis in limited circumstances. An investor wishing to make an in-kind purchase of a Creation Unit Aggregation from an Index Fund will have to transfer to the Index Fund a ''Portfolio Deposit'' consisting of: (a) A portfolio of securities that has been selected by the Advisor to closely match the total return of the relevant Underlying Index (''Deposit Securities''), and (b) a cash payment to equalize any difference between the total aggregate market value per Creation Unit Aggregation of the Deposit Securities and the net asset value (''NAV'') per Creation Unit Aggregation of the Index Fund (the ''Balancing Amount'').[2] An investor purchasing a Creation Unit Aggregation from an Index Fund will be charged a fee (''Transaction Fee'') to defray transaction expenses and prevent dilution of the interests of the remaining shareholders resulting from the Index Fund incurring costs in connection with the purchase of the Creation Unit Aggregation.[3] Each Index Fund will disclose in its Prospectus the maximum Transaction Fee charged by the Index Fund. Each Index Fund will also disclose the method of calculating the Transaction Fee in its statement of additional information (''SAI'').

5. Orders to purchase Creation Unit Aggregations will be placed with the Distributor, who will be responsible for transmitting orders to each Index Fund. The Distributor will issue, and maintain records of, confirmations of acceptance to purchasers of Creation Unit Aggregations and delivery instructions to the relevant Index Fund (to implement the delivery of Creation Unit Aggregations). The Distributor also will be responsible for delivering Prospectuses to purchasers of Creation Unit Aggregations. 6.Persons purchasing Creation Unit Aggregations from an Index Fund may hold the FITRs or sell some or all of them in the secondary market. FITRs of the Index Funds will be listed on the AMEX or on another national securities exchange as defined in section 2(a)(26) of the Act (each, including AMEX, an ''Exchange'') and traded in the secondary market in the same manner as equity securities. One or more member firms of the AMEX (''Specialists'') will maintain a market on the AMEX for the FITRs. The price of FITRs traded on an Exchange will be based on a current bid/offer market. Each FITR is expected to have a market value of between $50 and $200. Transactions involving the sale of FITRs in the secondary market will be subject to customary brokerage commissions and charges.

7. Applicants expect that purchasers of Creation Unit Aggregations will include institutional investors and arbitrageurs (which could include institutional investors). In providing for a fair and orderly secondary market for FITRs on the Exchange, the Specialist also may purchase Creation Unit Aggregations. Applicants expect that secondary market purchasers of FITRs will include both institutional and retail investors.[4] Applicants believe that arbitrageurs and other institutional investors will purchase or redeem Creation Unit Aggregations to take advantage of discrepancies between the FITRs' market price and the FITRs' underlying NAV. Applicants expect that this arbitrage activity will provide a pricing ''discipline'' that will result in a close correspondence between the price at which FITRs trade and their NAV. In other words, applicants do not expect the FITRs to trade at a significant premium or discount to their NAV.

8. Applicants will make available a FITRs product description (''Product Description'') for distribution in accordance with an AMEX rule requiring AMEX members and member organizations effecting transactions in FITRs to deliver a Product Description to investors purchasing FITRs. Applicants state that any other Exchange that applies for unlisted trading privileges in FITRs will have to adopt similar rules.[5] The Product Description for an Index Fund will provide a straightforward overview of the Index Fund, including its investment objective and strategies and the material risks and potential rewards of owning FITRs. The Product Description also will provide a clear, brief description of the essential features of the Index Fund's FITRs. The Product Description will clearly indicate that a Prospectus and the Index Fund's SAI may be obtained, without charge, from the Distributor, the investor's broker, or the Trust's website. The Product Description also will provide the website address of the Trust, and of the

futures contracts, options and other derivative instruments only in furtherance of the objective of seeking to closely match the total return, before fees and expenses, of that Index Fund's Underlying Index.

The Underlying Indices for the Index Funds are the Ryan 1 Year Adjusted Treasury Index, Ryan 2 Year Treasury Index, Ryan 5 Year Treasury Index and Ryan 10 Year Treasury Index. The Underlying Indices consist of the most recently auctioned Treasury Securities for various maturities.

[2] On each business day, prior to the opening of trading on the Exchange (as defined below), the custodian for each Index Fund will make available a list of the names and the required number of shares of each Deposit Security required for the Portfolio Deposit for each Index Fund. That Portfolio Deposit will apply to all purchases of Creation Unit Aggregations until a new Portfolio Deposit for an Index Fund is announced. Each Index Fund reserves the right to permit or require the substitution of an amount of cash to be added to the Balancing Amount to replace any Deposit Security. The AMEX will disseminate every 15 seconds throughout the trading day via the facilities of the Consolidated Tape Association an amount representing the sum of the Balancing Amount and the current value of the Deposit Securities on a per FITR basis.

[3] When an Index Fund permits a purchaser to substitute cash for Deposit Securities, the purchaser may be assessed an additional fee to offset the brokerage and other transaction costs associated with using cash to purchase the requisite Deposit Securities.

[4] FITRs will be registered in book-entry form only. DTC or its nominee will be the registered owner of all outstanding FITRs. DTC or its participants will maintain records reflecting the beneficial ownership of FITRs.

[5] Applicants expect that the number of purchases of FITRs in which an investor will not receive a Product Description will not constitute a significant portion of the market activity in FITRs.

Index Provider for the Underlying Index, so that investors who wish to learn more about FITRs and/or the Underlying Index may do so.

9. FITRs will not be individually redeemable. FITRs will only be redeemable in Creation Unit Aggregations through each Index Fund. To redeem, investors will have to accumulate enough FITRs to constitute a Creation Unit Aggregation. An investor redeeming a Creation Unit Aggregation generally will receive (a) the Portfolio Securities designated to be delivered for Creation Unit Aggregation redemptions on the date the request for redemption is made (''Redemption Securities''), which may not be identical to the Deposit Securities applicable to the purchase of Creation Unit Aggregations, and (b) a ''Cash Redemption Payment,'' consisting of an amount calculated in the same manner as the Balancing Amount, although the actual amount of the Cash Redemption Payment may differ from the Balancing Amount if the Redemption Securities are not identical to the Deposit Securities on a given day. An investor may receive the cash equivalent of a Redemption Security in certain circumstances. A redeeming investor will pay a Transaction Fee to offset transaction costs, whether the redemption proceeds are in kind or cash. When an investor redeems for cash rather than in kind, the investor may pay a higher Transaction Fee.

10. Applicants state that neither the Trust nor any Index Fund will be marketed or otherwise held out as an ''open-end investment company'' or a ''mutual fund.'' Rather, the designation of the Trust and the Index Funds in all marketing materials will be limited to the terms ''exchange-traded fund,'' ''investment company,'' ''fund'' and ''trust'' without reference to an ''open-end fund'' or ''mutual fund,'' except to compare and contrast the Trust and the Index Funds with traditional mutual funds. Any marketing materials that describe the purchase or sale of Creation Unit Aggregations, or refer to redeemability, will prominently disclose that FITRs are not individually redeemable and that owners of FITRs may tender FITRs for redemption to the Index Fund in Creation Unit Aggregations only. The same type of disclosure will be provided in each Index Fund's Prospectus, SAI and all reports to shareholders. The Trust will provide copies of its annual and semi-annual shareholder reports to DTC participants for distribution to beneficial holders of FITRs.

Applicants' Legal Analysis

1. Applicants request an order under section 6(c) of the Act granting an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 24(d) of the Act and rule 22c–1 under the Act; and under sections 6(c) and 17(b) of the Act granting an exemption from sections 17(a)(1) and (a)(2) of the Act.

2. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction, or any class of persons, securities or transactions, from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Sections 5(a)(1) and 2(a)(32) of the Act

3. Section 5(a)(1) of the Act defines an ''open-end company'' as a management company which is offering for sale or has outstanding any redeemable security of which it is the issuer. Section 2(a)(32) of the Act defines a redeemable security as any security, other than short-term paper, under the terms of which the holder, upon its presentation to the issuer, is entitled to receive approximately a proportionate share of the issuer's current net assets, or the cash equivalent. Because FITRs will not be individually redeemable, applicants request an order under section 6(c) of the Act that would permit the Trust to register as an open-end management investment company and issue FITRs that are redeemable in Creation Unit Aggregations only. Applicants state that investors may purchase Creation Unit Aggregations from each Index Fund and redeem Creation Unit Aggregations through each Index Fund. Applicants believe that because the market price of Creation Unit Aggregations will be disciplined by arbitrage opportunities, investors generally should be able to sell FITRs in the secondary market at approximately NAV.

Section 22(d) and Rule 22c–1 Under the Act

4. Section 22(d) of the Act, among other things, prohibits a dealer from selling a redeemable security that is currently being offered to the public by or through a principal underwriter, except at a current public offering price described in the prospectus. Rule 22c–1 under the Act generally requires that a dealer selling, redeeming, or repurchasing a redeemable security do so only at a price based on its NAV. Applicants state that secondary market trading in FITRs will take place at negotiated prices, not at a current offering price described in the Prospectus and not at a price based on NAV. Thus, purchases and sales of FITRs in the secondary market will not comply with section 22(d) of the Act and rule 22c–1 under the Act. Applicants request an exemption under section 6(c) of the Act from these provisions.

5. Applicants assert that the concerns sought to be addressed by section 22(d) of the Act and rule 22c–1 under the Act with respect to pricing are equally satisfied by the proposed method of pricing FITRs. Applicants maintain that while there is little legislative history regarding section 22(d), its provisions, as well as those of rule 22c–1, appear to have been designed to (a) prevent dilution caused by certain riskless-trading schemes by principal underwriters and contract dealers, (b) prevent unjust discrimination or preferential treatment among buyers resulting from sales at different prices, and (c) ensure an orderly distribution of investment company shares by eliminating price competition from non-contract dealers offering shares at less than the published sales price and repurchasing shares at more than the published redemption price.

6. Applicants believe that none of these purposes will be thwarted by permitting FITRs to trade in the secondary market at negotiated prices. Applicants state that (a) secondary market trading in FITRs would not cause dilution for owners of FITRs because such transactions do not directly involve Index Fund assets, and (b) to the extent different prices exist during a given trading day, or from day to day, such variances will occur as a result of third-party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in FITRs will not lead to discrimination or preferential treatment among purchasers. Finally, applicants contend that the proposed distribution system will be orderly because arbitrage activity will ensure that the difference between the market price of FITRs and their NAV remains narrow.

Section 24(d) of the Act

7. Section 24(d) of the Act provides, in relevant part, that the prospectus delivery exemption provided to dealer transactions by section 4(3) of the Securities Act does not apply to any transaction in a redeemable security issued by an open-end investment company. Applicants request an exemption from section 24(d) to permit dealers selling FITRs to rely on the

prospectus delivery exemption provided by section 4(3) of the Securities Act.[6]

8. Applicants state that FITRs will be listed on an Exchange and will be traded in a manner similar to other equity securities, including the shares of closed-end investment companies. Applicants note that dealers selling shares of closed-end investment companies in the secondary market generally are not required to deliver a prospectus to the purchaser.

9. Applicants contend that FITRs, as a listed security, merit a reduction in the compliance costs and regulatory burdens resulting from the imposition of prospectus delivery obligations in the secondary market. Because FITRs will be exchange-listed, prospective investors will have access to several types of market information about FITRs. Applicants state that information regarding market price and volume will be continually available on a real-time basis throughout the day. The previous day's closing price and volume information for FITRs also will be published daily in the financial sections of many newspapers. In addition, the Trust's website will also include for each Index Fund, the previous business day's NAV and the bid price at the time of calculation of such NAV (the ''Bid Price'') and data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters.[7]

10. Investors also will receive a Product Description describing the Index Fund and its FITRs. Applicants state that, while not intended as a substitute for a Prospectus, the Product Description will contain information about FITRs that is tailored to meet the needs of investors purchasing FITRs in the secondary market.

Sections 17(a)(1) and (a)(2) of the Act

11. Section 17(a) of the Act makes it unlawful, except under certain circumstances, for any affiliated person of a registered investment company, or any affiliated person of such a person, acting as principal, to sell any security to, or purchase any security from, such registered investment company. Section 2(a)(3) of the Act defines ''affiliated person'' to include any person directly or indirectly owning, controlling, or holding with power to vote 5% or more of the outstanding voting securities of the other person and any person directly or indirectly controlling, controlled by, or under common control with, the other person. Section 2(a)(9) of the Act provides that a control relationship will be presumed where one person owns more than 25% of another person's voting securities. Applicants state that because the definition of ''affiliated person'' includes any person owning 5% or more of an issuer's outstanding voting securities, every purchaser of a Creation Unit Aggregation will be affiliated with the Index Fund so long as twenty or fewer Creation Unit Aggregations are in existence, and any purchaser that owns more than 25% of an Index Funds' outstanding FITRs will be affiliated with the Index Fund. Applicants assert that, from time to time, one or more holders of FITRs, including the Specialist, may accumulate 5% or more or more than 25% of an Index Fund's outstanding FITRs. Applicants state that section 17(a) may prohibit such affiliated persons of an Index Fund (and affiliated persons of affiliated persons that are not otherwise affiliated with the Trust or the Index Fund) from purchasing or redeeming Creation Unit Aggregations in kind. Applicants request an exemption from section 17(a) under sections 6(c) and 17(b) to permit these affiliated persons of the Index Fund (and affiliated persons of these affiliated persons that are not otherwise affiliated with the Trust or the Index Fund) to effect such transactions in Creation Unit Aggregations.

12. Section 17(b) of the Act authorizes the Commission to exempt a proposed transaction from section 17(a) of the Act if evidence establishes that the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policy of each registered investment company concerned and the general provisions of the Act. Applicants contend that no useful purpose would be served by prohibiting persons with the types of affiliations described above from purchasing or redeeming Creation Unit Aggregations. The deposit procedure for in-kind purchases and the redemption procedure for in-kind redemptions will be the same for all purchases and redemptions. Deposit Securities and Redemption Securities will be valued under the same objective standards applied to valuing Portfolio Securities. Therefore, applicants state that in-kind purchases and redemptions will afford no opportunity for the affiliated persons, and the affiliated persons of the affiliated persons, described above, of an Index Fund to effect a transaction detrimental to the other holders of FITRs. Applicants also believe that in-kind purchases and redemptions will not result in abusive self-dealing or overreaching by these persons of the Index Fund.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Applicants will not register a future portfolio of the Trust, by means of filing a post-effective amendment to the Trust's registration statement or by another means, unless Applicants have requested and received with respect to such future portfolio, either (a) exemptive relief from the Commission or (b) a no-action letter from the Division of Investment Management of the Commission.

2. Each Index Fund's Prospectus and Product Description will clearly disclose that, for purposes of the Act, FITRs are issued by each Index Fund and that the acquisition of FITRs by investment companies is subject to the restrictions of section 12(d)(1) of the Act.

3. As long as the Trust operates in reliance on the requested order, the FITRs will be listed on an Exchange.

4. Neither the Trust nor any Index Fund will be advertised or marketed as an open-end fund or a mutual fund. Each Index Fund's Prospectus will prominently disclose that FITRs are not individually redeemable shares and will disclose that the owners of FITRs may

[6] Applicants do not seek relief from the prospectus delivery requirement for non-secondary market transactions, including purchases of Creation Unit Aggregations or those involving an underwriter. Applicants state that persons purchasing Creation Unit Aggregations will be cautioned in an Index Fund's Prospectus that some activities on their part may, depending on the circumstances, result in their being deemed statutory underwriters and subject them to the prospectus delivery and liability provisions of the Securities Act. For example, a broker-dealer firm and/or its client may be deemed a statutory underwriter if it takes Creation Unit Aggregations after placing an order with the Distributor, breaks them down into the constituent FITRs, and sells FITRs directly to its customers; or if it chooses to couple the purchase of a supply of new FITRs with an active selling effort involving solicitation of secondary market demand for FITRs. An Index Fund's Prospectus will state that whether a person is an underwriter depends upon all the facts and circumstances pertaining to that person's activities. An Index Fund's Prospectus also will state that dealers who are not ''underwriters'' but are participating in a distribution (as contrasted to ordinary secondary market trading transactions), and thus dealing with FITRs that are part of an ''unsold allotment'' within the meaning of section 4(3)(C) of the Securities Act, would be unable to take advantage of the prospectus delivery exemption provided by section 4(3) of the Securities Act.

[7] The Bid Price per FITR of an Index Fund is determined using the highest bid price on the Exchange on which the FITRs of such Index Fund are listed for trading.

acquire those FITRs from the Index Fund and tender those FITRs for redemption to the Index Fund in Creation Unit Aggregations only. Any advertising material that describes the purchase or sale of Creation Unit Aggregations or refers to redeemability will prominently disclose that FITRs are not individually redeemable and that owners of FITRs may acquire those FITRs from the Index Fund and tender those FITRs for redemption to the Index Fund in Creation Unit Aggregations only.

5. Before an Index Fund may rely on the order, the Commission will have approved, pursuant to rule 19b–4 under the Exchange Act, an Exchange rule requiring Exchange members and member organizations effecting transactions in FITRs to deliver a Product Description to purchasers of FITRs.

6. The website for the Trust, which will be publicly accessible at no charge, will contain the following information, on a per FITR basis, for each Index Fund: (a) The prior business day's NAV and Bid Price, and a calculation of the premium or discount of such Bid Price against such NAV; and (b) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. In addition, the Product Description for each Index Fund will state that the website of the Trust has information about the premiums and discounts at which the Index Fund's FITRs have traded.

7. The Prospectus and the annual report for each Index Fund will also include: (a) The information listed in condition 6(b), (i) in the case of the Prospectus, for the most recently completed year (and the most recently completed quarter or quarters, as applicable) and (ii) in the case of the annual report, for the immediately preceding five years, as applicable; and (b) the following data, calculated on a per FITR basis for one, five and ten year periods (or life of the Index Fund), (i) the cumulative total return and the average annual total return based on NAV and Bid Price, and (ii) the cumulative total return of the relevant Underlying Index.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–22888 Filed 9–9–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46451; File No. SR–Amex–2002–46]

Self-Regulatory Organizations; the American Stock Exchange LLC; Order Granting Approval to a Proposed Rule Change Relating to the Amex Listing Agreement

September 3, 2002.

On May 29, 2002, the American Stock Exchange LLC (''Amex or Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to modify the Amex Listing Agreement for issuers.

The proposed rule change was published for comment in the **Federal Register** on July 23, 2002.[3] The Commission received no comments on the proposal.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange [4] and, in particular, the requirements of section 6 of the Act [5] and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[6] that the proposed rule change (SR–Amex–2002–46) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–22891 Filed 9–9–02; 8:45 am]

BILLING CODE 8010–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 46218 (July 17, 2002), 67 FR 48231 (July 23, 2002).

[4] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation.

[5] 15 U.S.C. 78f.

[6] 15 U.S.C. 78s(b)(2).

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46455; File No. SR–CBOE–2002–42]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Establishing To Adopt an Access Fee for Non-Customer Orders in the MNX℠, NDX, QQQ, and XEO® Options Classes Executed Through the Retail Automatic Execution System

September 3, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 1, 2002, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt an access fee for non-customer orders in the Nasdaq 100® Index Tracking Stock (''QQQ''), Nasdaq-100® Index (''NDX''), CBOE Mini-NDX Index (''MNX℠''), and European style S&P 100® Index (''XEO®'') option classes executed through its Retail Automatic Execution System (''RAES''). The text of the proposed rule change appears below. New text is in italics.

FEE SCHEDULE AS OF JULY 1, 2002

4. RAES (Retail Automatic Execution System) (1)(4)	Per contract
Assessed to Index Customer Transactions	$.25
• Dow Jones, Assessed on the First 25 Contracts Only	
Assessed to Non-Customer Transactions in MNX, NDQ, QQQ and XEO	$.30

* * * * *

(1) Per contract side, including FLEX options. Transaction and Trade Match Fees are applicable to the CBOEdirect system.

* * * * *

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

(4) Transaction, trade match and RAES fees are charged to the CBOE executing firm on the input record.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

The CBOE proposes to adopt a $0.30 per contract access fee for all non-customer orders in the MNX℠, NDX, QQQ, and XEO® option classes that are executed through RAES. Under this proposal, all non-customer transactions in these options classes that are executed via RAES would be uniformly assessed this fee.

According to the CBOE, non-customer orders subject to this proposed fee are Firm orders, CBOE market maker orders, non-CBOE market maker orders, orders from a specialist in the underlying security, and orders for the account of a registered broker-dealer.[3] The CBOE also notes that this fee would only be charged to Exchange member firms through the customary monthly billing that occurs shortly after the close of each trading month. Non-members of the Exchange would not be charged this proposed fee.

The CBOE recently began to allow broker-dealer orders to be executed on RAES for products within the jurisdiction of the Exchange's Index Floor Procedure Committee.[4] Currently, such orders are only authorized in the QQQ, NDX, MNX℠, and XEO® option classes. Having extended the benefits of rapid, automatic execution to such non-customer orders, CBOE seeks to impose this fee to help allocate to such orders a fair share of the related costs of running RAES and related Exchange systems. The CBOE notes in this regard that most index customer orders are already assessed a RAES fee of $0.25 per contract.[5] The CBOE believes that this fee would help to better equalize RAES fees between customer and non-customer RAES orders. The CBOE also notes that this proposal is modeled after File No. SR–PCX–2002–10.[6]

(2) Statutory Basis

The CBOE believes that the proposed rule change is consistent with section 6(b) of the Act,[7] in general, and furthers the objectives of section 6(b)(4),[8] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among CBOE members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change establishes or changes a due, fee, or charge imposed by the Exchange and, therefore, has become effective upon filing pursuant to section 19(b)(3)(A)(ii) of the Act[9] and Rule 19b–4(f)(2) hereunder.[10] At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purpose of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–CBOE–2002–42 and should be submitted by October 1, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–22889 Filed 9–9–02; 8:45 am]

BILLING CODE 8010–01–P

[3] Telephone conversation between Christopher R. Hill, Attorney, CBOE, and Christopher Solgan, Attorney, Division of Market Regulation, Commission, on August 15, 2002.

[4] *See* Securities Exchange Act Release No. 46113 (June 25, 2002), 67 FR 44486 (July 2, 2002).

[5] The CBOE notes that QQQ customer orders are currently exempt from the RAES fee, and Dow Jones Industrial Index customer orders executed through RAES are only assessed the fee on the first 25 contracts.

[6] Under that proposal, the Pacific Exchange, Inc. established a $0.45 per contract surcharge fee for all broker-dealer orders executed via its automatic execution system. *See* Securities Exchange Act Release No. 45662 (March 27, 2002), 67 FR 16786 (April 8, 2002).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4).

[9] 15 U.S.C. 78(s)(b)(3)(A)(ii).

[10] 17 CFR 240.19b–4(f)(2).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46452; File No. SR–CBOE–2002–43]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Electrical Fees for Market Maker Hand Held Terminal Tethering

September 3, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 5, 2002, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 CBOE proposes to make a change to its Fee Schedule to add a pass-through charge for electrician service pertaining to market maker hand held terminal tethering services on the floor. The text of the proposed rule change is available at the Office of the Secretary, the CBOE, and the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is submitting this rule filing to add to its Fee Schedule charges for electrician services connected to the installation and relocation of infrastructure related to the tethering of market maker hand held terminals (''MMHHs'') on the CBOE trading floor. These terminals, originally designed to be wireless, now have the option of being tethered, which can provide superior speed and reliability of data transmission. The Exchange proposes to charge $350 for installation of the tethering, and $200 for relocation. There will be no charge for termination of the tethered service. These fees represent a simple pass-through of the Exchange's costs to provide these services. The CBOE notes that this fee will be charged to Exchange members through their clearing firms, by way of the customary monthly billing that occurs shortly after the close of each trading month.

2. Statutory Basis

The Exchange believes that its proposal is consistent with section 6(b) of the Act,[3] in general, and section 6(b)(4) of the Act,[4] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among CBOE members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange, it has become effective pursuant to section 19(b)(3)(A) of the Act[5] and subparagraph (f)(2) of Rule 19b–4[6] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–CBOE–2002–43 and should be submitted by October 1, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–22890 Filed 9–9–02; 8:45 am]

BILLING CODE 8010–01–P

[3] 15 U.S.C. 78f(b).

[4] 15 U.S.C. 78f(b)(4).

[5] 15 U.S.C. 78s(b)(3)(A).

[6] 17 CFR 240.19b–4(f)(2).

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46456; File No. SR–NASD–2002–106]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendments Nos. 1 and 2 Thereto by the National Association of Securities Dealers, Inc. To Establish Maximum Execution Fees and Liquidity Provider Rebates for SuperSoes Transactions in Low-Priced Securities

September 3, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4[2] thereunder, notice is hereby given that on August 6, 2002, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''), through its subsidiary, The Nasdaq Stock Market, Inc. (''Nasdaq''), submitted to the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. Nasdaq submitted Amendment No. 1 with the Commission on August 19, 2001.[3] Nasdaq filed Amendment No. 2 with the Commission on August 30, 2001.[4] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Thomas P. Moran, Office of General Counsel, Nasdaq, to Katherine A, England, Associate Director, Division of Market Regulation (''Division''), Commission, dated August 16, 2002. In Amendment No. 1, Nasdaq made non-substantive, technical amendments to its rule.

[4] *See* letter from Thomas P. Moran, Office of General Counsel, Nasdaq, to Katherine A, England, Associate Director, Division, Commission, dated August 30, 2002. In Amendment No. 2, Nasdaq made a non-substantive, technical amendment to its rule. For purposes of determining the effective date and calculating the 60-day abrogation date, the Commission considers August 30, 2002, the date Nasdaq filed Amendment No. 2, to be the effective date of the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes to: (1) Establish a $75 maximum execution fee cap for a single SuperSoes transaction, and (2) establish a $37.50 maximum cap on the rebate amount provided by Nasdaq to market participants that provide liquidity to its market. Nasdaq has designated this proposal as one establishing or changing a due, fee, or other charge imposed by the self-regulatory organization under section 19(b)(3)(A)(ii) of the Act,[5] which renders the rule effective upon the Commission's receipt of this filing.[6]

The text of the proposed rule change appears below. New text is in italics.

7010. System Services

(a)–(h) No change.

(i) Transaction Execution Services

(1) No change.

(2) Nasdaq National Market Execution System (SuperSOES)

The following charges shall apply to the use of the Nasdaq National Market Execution System:

Order Entry Charge
$0.10 per order entry (entering party only)
Per Share Charge
$0.001 per share executed for all fully or partially executed orders (entering party only)
Cancellation Fee
$0.25 per order cancelled (canceling party only)

For a pilot period commencing on November 1, 2001 and lasting until October 31, 2002, the per share charge will be $0.002 per share executed for all fully or partially executed orders (entering party only)

For trades in securities that are executed at a price of $1.00 or less per share, the maximum charge per trade under this section shall not exceed $75.00

(3) No change.

(4) Liquidity provider rebate

For a pilot period commencing on November 1, 2001 and lasting until October 31, 2002:

(A) NASD members that do not charge an access fee to market participants accessing their quotations through the Nasdaq National Market Execution System will receive a rebate of $0.001 per share when their quotation is executed against by a Nasdaq National Market Execution System order.

(B) NASD members will receive a rebate of $0.001 per share when they send a Nasdaq National Market Execution System order that executes against the quotation of a market participant that charges an access fee to market participants accessing its quotations through the Nasdaq National Market Execution System.

(C) For trades in securities that are executed at a price of $1.00 or less per share, the maximum rebate available per trade under section (4) of this rule shall not exceed $37.50.

(j)–(r) No change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Nasdaq included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

In order to control trading costs for low-priced stocks, Nasdaq proposes to establish a maximum SuperSoes execution fee of $75.00 per trade and liquidity provider rebate cap of $37.50 per trade for securities trading at $1.00 or less per share.

Currently, Nasdaq assesses on parties entering orders into SuperSoes a $0.002 per share charge for all resulting full or partial trade executions. This fee applies regardless of the price of the individual security traded and there is no maximum fee per individual trade. Nasdaq also rebates $0.001 per share to market participants that provide liquidity to the market by having their quotes accessed by SuperSoes orders, when those quoting market participants do not themselves charge a separate fee for that access. When a market participant enters an order into SuperSoes that interacts with the quote of an access fee-charging Electronic Communications Network (''ECN''), Nasdaq likewise rebates $0.001 per share to that entering party. Like the per share SuperSoes execution fee, these rebates currently have no maximum dollar amount.

Nasdaq represents that recent market activity has caused the prices of many Nasdaq securities to fluctuate, and in some cases lose significant value. As the prices of these securities decline, market participants generally need to purchase or sell an increasing number of total shares to actively participate in the market for these issues. This increase in the size of individual transactions, when combined with SuperSoes' unlimited per share fee structure, raise execution costs to market participants. Similarly, large transactions involving low-priced securities also can result in disproportionate liquidity-provider rebates.

In response, Nasdaq has determined to establish per trade maximums for SuperSoes execution fees and liquidity provider rebates in low-priced ($1.00 or less per share) securities. Under the proposal, Nasdaq would cap at $75 the maximum execution fee it would impose on the entering party for a single SuperSoes trade where the price of the security traded was one dollar or less. For rebates, Nasdaq would cap at $37.50 the amount it gives back to market participants for providing liquidity in low-priced securities or when their orders access the low-priced quotes of fee-charging ECNs. Nasdaq notes that the ratio between its low-priced maximum per trade fee and per trade rebate is the same as those that are applicable to higher-priced issues.

2. Statutory Basis

Nasdaq believes that the proposed rule change is with the provisions of section 15A of the Act,[7] in general, and with section 15A(b)(5) of the Act,[8] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers, and other persons using any facility or system which the association operates or controls.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

[5] 15 U.S.C. 78s(b)(3)(A)(ii).

[6] Nasdaq also filed with the Commission a separate proposed rule change to apply the fee and rebate limits proposed here retroactive to July 1, 2002. *See* SR–NASD–2002–107.

[7] 15 U.S.C. 78*o*–3.

[8] 15 U.S.C. 78*o*–3(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A)(ii) of the Act [9] and Rule 19b–4(f)(2)[10] thereunder because it establishes or changes a due, fee, or charge imposed by the self-regulatory organization. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[11]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the principal office of the Association. All submissions should refer to File No. SR–NASD–2002–106 and should be submitted by October 1, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–22892 Filed 9–9–02; 8:45 am]

BILLING CODE 8010–01–P

[9] 15 U.S.C. 78s(b)(3)(A)(ii).

[10] 17 CFR 240.19–4(f)(2).

[11] For purposes of determining the effective date and calculating the 60-day abrogation date, the Commission considers August 30, 2002, the date Nasdaq filed Amendment No. 2, to be the effective date of the proposed rule change.

[12] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3428]

State of Texas

Amendment #9

In accordance with notices received from the Federal Emergency Management Agency, dated August 27 and August 30, 2002, the above numbered declaration is hereby amended to include Bee County in the State of Texas as a disaster area due to damages caused by severe storms and flooding beginning on June 29, 2002 and continuing through July 31, 2002. This declaration is also amended to extend the deadline for filing applications for physical damages as a result of this disaster to September 16, 2002.

All other counties contiguous to the above named primary counties have been previously declared.

All other information remains the same, *i.e.*, the deadline for filing applications for economic injury is April 4, 2003.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: September 3, 2002.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 02–22931 Filed 9–9–02; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Privacy Act of 1974; Revision of Privacy Act System of Records

AGENCY: Small Business Administration.

ACTION: Notice of revision of Privacy Act System of Records.

SUMMARY: The Small Business Administration (SBA) Office of Inspector General (OIG) is revising its Privacy Act System of Records, SBA 120, Security and Investigations Files, and SBA 130, Investigations Division Management Information System, to include as routine uses the disclosure of information to the public when: (1) An investigation has become public knowledge; (2) it is necessary to preserve confidence in the integrity of the investigative process; (3) it is necessary to demonstrate the accountability of individuals covered by this system; (4) a legitimate public interest exists; or (5) it is necessary for the protection from imminent threat to life or property.

In addition, the revision includes a routine use to allow the disclosure of information to members of the President's Council on Integrity and Efficiency (PCIE) for the purpose of accurate reporting to the President and Congress on the activities of the Inspectors General. The revision further includes a routine use to allow disclosures to members of the PCIE, the Department of Justice, the Federal Bureau of Investigation, or the U.S. Marshals Service, as necessary, for investigative qualitative assessment review. The PCIE is establishing a peer review process to ensure that adequate internal safeguards and management procedures continue to exist. The objectives of the review are to assess whether adequate internal safeguards and management procedures are met, foster high-quality investigations and investigative processes, ensure that the highest levels of professionalism are maintained, and promote consistency in investigative standards and practices within the Inspector General investigative community.

DATES: The changes to this System of Records are effective without further notice October 10, 2002, unless comments are received that result in further modifications.

ADDRESSES: Address comments to David R. Gray, Counsel to the Inspector General, Office of Inspector General, Small Business Administration, 409 Third Street SW., 5th Floor, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: David R. Gray, Counsel to the Inspector General, Office of Inspector General, Small Business Administration, 409 Third Street SW., 5th Floor, Washington, DC 20416, (202) 205–7200.

SUPPLEMENTARY INFORMATION: This publication is in accordance with the Privacy Act requirement that Agencies publish their amended Systems in the **Federal Register** when there is a revision, change, or addition. SBA is amending the Routine Uses of System of Records, SBA 120 Security and Investigations Files, and SBA 130 Investigations Division Management Information System previously published at 56 FR 8030 (Feb. 26, 1991) and 56 FR 8034 (Feb. 26, 1991). The Routine Use Notices of System 120, Security and Investigation Files, and

System 130, Investigations Division Management Information System, are being amended to specifically allow the disclosure of names of indicted or convicted individuals in the Office of Inspector General (OIG) Semiannual Report, monthly reports, and press releases or other forms of communication with the media. SBA's objective in allowing disclosure of names is to enhance the deterrence of similar crimes against the Agency. In addition, the amended routine uses would allow the disclosure of information to the PCIE for the preparation of reports to the President and Congress on the activities of the Inspectors General. Finally, the amendments would allow the disclosure of information to members of the PCIE, the Department of Justice, the Federal Bureau of Investigation, or the U.S. Marshals Service, as necessary, for the purpose of investigative qualitative assessment reviews to ensure adequate internal safeguards and management procedures are maintained.

These notices contain minor typographical changes. Several data elements have also been updated and clarified: (1) SBA 120, Security and Investigations Files—safeguards, retention and disposal, system manager(s) and address, and record source categories, and (2) SBA 130, Investigations Division Management Information System—retention and disposal, system manager(s) and address, and record source categories.

System Name:

Security and Investigations Files—SBA 120.

Routine Uses of Records Maintained in the System, Including Categories of Users and the Purposes of Such Uses:

These records may be disclosed, as a routine use, to the public when: (1) The matter under investigation has become public knowledge, or (2) when the Inspector General determines that such disclosure is necessary (a) to preserve confidence in the integrity of the OIG investigative process, or (b) to demonstrate the accountability of SBA officers, or employees, or other individuals covered by this system; unless the Inspector General determines that disclosure of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

These records may be disclosed, as a routine use, to the news media and public when there exists a legitimate public interest (*e.g.*, to provide information on events in the criminal process, such as indictments), or when necessary for protection from imminent threat to life or property.

These records may be disclosed, as a routine use, to members of the President's Council on Integrity and Efficiency, for the preparation of reports to the President and Congress on the activities of the Inspectors General.

These records may be disclosed, as a routine use, to members of the President's Council on Integrity and Efficiency, the Department of Justice, the Federal Bureau of Investigation, or the U.S. Marshals Service, as necessary, for the purpose of conducting qualitative assessment reviews of the investigative operations of SBA OIG to ensure that adequate internal safeguards and management procedures are maintained.

System Name:

Investigations Division Management Information System—SBA 130.

Routine Uses of Records Maintained in the System, Including Categories of Users and the Purposes of Such Uses:

These records may be disclosed, as a routine use, to the public when: (1) The matter under investigation has become public knowledge, or (2) when the Inspector General determines that such disclosure is necessary (a) to preserve confidence in the integrity of the OIG investigative process, or (b) to demonstrate the accountability of SBA officers, or employees, or other individuals covered by this system; unless the Inspector General determines that disclosure of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

These records may be disclosed, as a routine use, to the news media and public when there exists a legitimate public interest (*e.g.*, to provide information on events in the criminal process, such as indictments), or when necessary for protection from imminent threat to life or property.

These records may be disclosed, as a routine use, to members of the President's Council on Integrity and Efficiency, for the preparation of reports to the President and Congress on the activities of the Inspectors General.

These records may be disclosed, as a routine use, to members of the President's Council on Integrity and Efficiency, the Department of Justice, the Federal Bureau of Investigation, or the U.S. Marshals Service, as necessary, for the purpose of conducting qualitative assessment reviews of the investigative operations of SBA OIG to ensure that adequate internal safeguards and management procedures are maintained.

Dated: August 28, 2002.

Gloria E. Blazsik,

Acting Senior Privacy Act Official.

SBA 120

SYSTEM NAME:

Security and Investigations Files—SBA 120.

SYSTEM LOCATION:

Office of Inspector General (OIG), Investigations Division, Central Office duty stations in the field, and Federal Records Centers. See Appendices A and B for addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for, recipients of, and other parties in interest (*e.g.*, guarantors) to SBA disaster loans. Principals and representatives of applicant and recipient businesses and other parties in interest to, as well as governmental entities, participating in the various SBA programs, including but not limited to all types of direct and guaranteed loans and other guarantee programs, the Small Business Investment Company (SBIC) program, the state, local, and Certified Development Company programs, the section 7(j) assistance program and section 8(a) business development program, as well as other contractors, grantees, and participants in cooperative agreements with SBA. Records are also maintained on the principal SBIC directors and stockholders. In addition, records are maintained on persons who supply information and the information supplied on SBA employees against whom allegations have been made and investigations conducted; and on members of Advisory Councils, the Service Corps of Retired Executives, and the Active Corps of Executives volunteers.

CATEGORIES OF THE RECORDS IN THE SYSTEM:

This system of records contains material gathered or created during the preparation for, conduct of, and follow up on, investigations conducted by OIG, the Federal Bureau of Investigation (FBI) and other Federal, state, local or foreign regulatory or law enforcement agencies as well as other material submitted to or gathered by OIG in furtherance of its investigative function. These records include FBI and other Federal, state, local and foreign regulatory or law enforcement investigative reports and include personal history statements, background character checks, field

investigations, arrest and conviction records, parole and probation data, recommendations and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. app.; 15 U.S.C. chs. 14A and 14B; 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In the event that a system of records maintained by this Agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or administrative in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, foreign, international, private agency or organization involved in investigation or prosecution of such violations or charged with enforcing or implementing the statute or rule, regulation or order issued pursuant thereto.

A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence in or to a court, magistrate, administrative tribunal, or grand jury, including disclosures to opposing counsel in the course of such proceedings or in settlement negotiations.

A record from this system of records which indicates either by itself or in combination with other information within the agency's possession, a violation or potential violation of law, whether civil, criminal or regulatory and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, may be disclosed, as a routine use, to the appropriate Federal, state, local, foreign, international, private agency or organization charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing or investigating or prosecuting such violation or charged with enforcing or implementing the statute or rule, regulation or order issued pursuant thereto.

These records may be disclosed, as a routine use, to any source or person, either private or governmental, to the extent necessary to secure from such source information relevant to, and sought in furtherance of, a legitimate investigation concerning a violation of any Federal, state, local or foreign law, rule, regulation or order or the commission of an offense.

These records may routinely be disclosed to other Federal agencies, in response to their requests in connection with the conduct of background checks. Disclosure will be made only to the extent that the information is relevant and necessary to the requesting agencies' function.

These records may be disclosed, as a routine use, to any Federal, state, local, foreign, international, private agency or organization in connection with such entity's assignment, hiring or retention of an individual, issuance of a security clearance, reporting of an investigation of an individual, letting of a contract or issuance of a license, grant or other benefit, to the extent that the information is relevant and necessary to such agency's decision on the matter.

These records may be disclosed as a routine use, to a domestic, foreign, or international governmental agency maintaining civil, criminal or other relevant enforcement information, or other pertinent information, in order to obtain information relevant to an agency decision concerning the assignment, hiring or retention of an individual, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

These records may be disclosed to Federal, state or local bar associations and other professional regulatory or disciplinary bodies for use in disciplinary proceedings and inquiries preparatory thereto.

These records may be disclosed, as a routine use, to a Member of Congress who submits an inquiry on behalf of an individual when the Member of Congress informs the appropriate agency official that the individual to whom the record pertains has authorized the Member of Congress to have access. In such cases, the member has no greater right to the record than does the individual. These records may be used to provide data to the General Accounting Office for periodic reviews of this Agency.

These records may be disclosed, as a routine use, to the Office of Government Ethics for any purpose consistent with that office's mission, including the compilation of statistical data.

These records may be disclosed, as a routine use, to the General Accounting Office and to the General Services Administration's Board of Contract Appeals in bid protest cases involving an agency procurement.

These records may be disclosed, as a routine use, to any Federal agency which has the authority to subpoena other Federal agencies' records and which has issued a facially valid subpoena for the record.

These records may be disclosed, as a routine use, to the Department of the Treasury and the Department of Justice when an agency is seeking an ex parte court order to obtain taxpayer information from the Internal Revenue Service.

These records may be disclosed, as a routine use, to debt collection contractors for the purpose of collecting delinquent debts as authorized by the Debt Collection Act of 1982, 31 U.S.C. 3718.

These records may be disclosed, as a routine use, to a ''consumer reporting agency'' as that term is defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) and the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)), for the purposes of obtaining information in the course of an investigation.

These records may be disclosed, as a routine use, to agency personnel responsible for bringing Program Fraud Civil Remedies Act litigation, to the persons constituting the tribunal hearing such litigation or any appeals therefrom, and to counsel for the defendant party in any such litigation.

These records may be disclosed, as a routine use, to a grand jury agent pursuant either to a Federal or state grand jury subpoena or to a prosecution request that such record be released for the purpose of its introduction to a grand jury.

These records may be disclosed, as a routine use, to members of the public under the Freedom of Information Act, 5 U.S.C. 552.

These records may be disclosed, as a routine use, to the U.S. Department of Justice in order to obtain that department's advice regarding an agency's disclosure obligations under the Freedom of Information Act.

These records may be disclosed, as a routine use, to the Office of Management and Budget in order to obtain that office's advice regarding an agency's obligations under the Privacy Act.

It shall be routine use of the records in this system of records to disclose them to the Department of Justice when:

(a) SBA, or any component thereof; or

(b) Any employee of SBA in his or her official capacity; or

(c) Any employee of SBA in his or her individual capacity where the Department of Justice has agreed to represent the employee; or

(d) The United States, where SBA determines that litigation is likely to affect SBA or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice is

deemed by SBA to be relevant and necessary to the litigation, provided, however, that in each case, the Agency determines that disclosures of the records to the Department of Justice is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

These records may be disclosed, as a routine use, to the Agency's legal representative, to include the Department of Justice and other outside counsel, where the Agency is a party in litigation or has an interest in litigation when:

(a) SBA, or any component thereof; or

(b) Any employee of SBA in his or her official capacity; or

(c) Any employee of SBA in her or her individual capacity, where the Department of Justice has agreed or is considering a request to represent the employee; or

(d) The United States, where SBA determines that litigation is likely to affect SBA or any of its components, is a party to litigation or has an interest in such litigation, and SBA determines that the use of such records by the Department of Justice is relevant and necessary to litigation; provided however, that in each case, SBA determines that disclosures to the records to the Department of Justice is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

It shall be a routine use of records maintained by SBA to disclose them in a proceeding before a court, grand jury or adjudicative body before which SBA is authorized to appear, when:

(a) SBA or any component thereof; or

(b) Any employee of SBA in his or her official capacity; or

(c) Any employee of SBA in his or her individual capacity where SBA has agreed to represent the employee; or

(d) The United States, where SBA determines that litigation is likely to affect SBA or any of its components, is a party to litigation or has an interest in such litigation, and the SBA determines that the use of such record is relevant and necessary to the litigation; provided, however, that in each case SBA determines that disclosure of the records is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

These records may be disclosed, as a routine use, to the public when: (1) The matter under investigation has become public knowledge, or (2) when the Inspector General determines that such disclosure is necessary (a) to preserve confidence in the integrity of the OIG investigative process, or (b) to demonstrate the accountability of SBA officers, or employees, or other individuals covered by this system; unless the Inspector General determines that disclosure of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

These records may be disclosed, as a routine use, to the news media and public when there exists a legitimate public interest (*e.g.*, to provide information on events in the criminal process, such as indictments), or when necessary for protection from imminent threat to life or property.

These records may be disclosed, as a routine use, to members of the President's Council on Integrity and Efficiency, for the preparation of reports to the President and Congress on the activities of the Inspectors General.

These records may be disclosed, as a routine use, to members of the President's Council on Integrity and Efficiency, the Department of Justice, the Federal Bureau of Investigation, or the U.S. Marshals Service, as necessary, for the purpose of conducting qualitative assessment reviews of the investigative operations of SBA OIG to ensure that adequate internal safeguards and management procedures are maintained.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are currently maintained in rotary diebold power files, filing cabinets, file folders and computer databases.

RETRIEVABILITY:

These records are indexed by name and cross-referenced to OIG files containing related material.

SAFEGUARDS:

Information is released only to authorized persons. Files are maintained in secure, controlled access rooms.

RETENTION AND DISPOSAL:

Following final agency action as the result of an investigation, field investigation records are transferred to the Central Office. In accordance with established record retention schedules, records are maintained in the Investigations Division's file room for six years and then transferred to the Federal Records Center, which destroys them after fifteen years. An electronic alphabetical index is maintained on all investigations for an indefinite period of time.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Inspector General for Investigations or Designee. See Appendix A for Central Office address.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in writing to the Inspector General. The address of OIG is contained in Appendix A.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the Inspector General will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment.

RECORD SOURCE CATEGORIES:

Individuals to whom the records pertain, Agency personnel, third party informants, the Department of Justice, the Federal Bureau of Investigation, the U.S. Marshals Service, and other investigative Government agencies.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

(1) Pursuant to 5 U.S.C. 522a(j)(2), this system of records is exempt from the application of all provisions of section 522a except sections (b), (c)(1) and (2), (e)(4)(A) thorough (F), (e)(6), (7), (9), (10), (11), and (i), to the extent that it consists of (A) information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, confinement, release, and parole and probation status; (B) information compiled for the purpose of criminal investigation, including reports of informants and investigators, and associated with an identifiable individual; or (C) reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through release from supervision. This system is exempted in order to maintain the efficacy and integrity of the OIG's criminal law enforcement function.

(2) Pursuant to 5 U.S.C. 552a(k)(2) and (k)(5), except as otherwise provided therein, all investigatory material compiled for law enforcement purposes or for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information contained in this system to records is exempt from sections (c)(3), (d), (e)(1), (e)(4)(G) through (I), and (f) of the Privacy Act. This exemption is necessary in order to protect the confidentiality of sources of information and to maintain access to sources necessary in making determinations of suitability for employment.

SBA 130

SYSTEM NAME:

Investigations Division Management Information System—SBA 130

SYSTEM LOCATION:

Office of Inspector General (OIG), Investigations Division.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Principals and representatives of applicants, participants, contractors, grantees, participants in cooperative agreements, and other parties in interest to, as well as governmental entities participating in, SBA programs. Records are also maintained on SBA employees against whom allegations have been made and investigations conducted; members of Advisory Councils; the Service Corps of Retired Executives; and the Active Corps of Executives volunteers.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains material gathered or created during preparation for, conduct of, and follow-up on, investigations conducted by OIG, the Federal Bureau of Investigation (FBI) and other Federal, state, local, or foreign regulatory or law enforcement agency. This system of records contains alphabetical indices of names and case numbers. These records include FBI and other Federal, state, local and foreign regulatory or law enforcement investigative reports and referrals and include arrest, indictment, and conviction records, parole and probation data and related information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. app.; 15 U.S.C. chs. 14A and 14B; 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

In the event that a system of records maintained by this Agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal, or administrative in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with responsibility for, or otherwise involved in, investigation or prosecution of such violations or charged with enforcing or implementing the statute or rule, regulation or order issued pursuant thereto.

A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence in or to a court, magistrate, administrative tribunal or grand jury including disclosures to opposing counsel in the course of such proceedings or in settlement negotiations.

A record from this system of records, which indicates either by itself or in combination with other information within the agency's possession, a violation or potential violation of law, whether civil, criminal or regulatory and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, may be disclosed, as a routine use, to the appropriate Federal, foreign, state, or local agency or professional organization charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing or investigating or prosecuting such violation or charged with enforcing or implementing the statute or rule, regulation or order issued pursuant thereto.

These records may be disclosed, as a routine use, to provide data to the General Accounting Office for periodic reviews of this Agency.

These records may be disclosed, as a routine use, to the Office of Government Ethics for any purpose consistent with that office's mission, including the compilation of statistical data.

It shall be a routine use of the records in this system of records to disclose them to the Department of Justice when:

(a) SBA, or any component thereof; or

(b) Any employee of SBA in his or her official capacity; or

(c) Any employee of SBA in his or her individual capacity where the Department of Justice has agreed to represent the employee; or

(d) The United States, where SBA determines that litigation is likely to affect the agency or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice is deemed by SBA to be relevant and necessary to the litigation, provided, however, that in each case, the agency determines that disclosure of the records to the Department of Justice is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

It shall be a routine use of records maintained by this agency to disclose them in a proceeding before a court, grand jury or adjudicative body before which SBA is authorized to appear, when:

(a) SBA, or any component thereof; or

(b) Any employee of SBA in his or her official capacity; or

(c) Any employee of SBA in his or her individual capacity where the Department of Justice has agreed to represent the employee; or

(d) The United States, where SBA determines that litigation is likely to affect the agency or any of its components, is a party to litigation or has an interest in such litigation, and SBA determines that use of such records is relevant and necessary to the litigation, provided, however, that in each case, SBA determines that disclosure of the records to a court, grand jury or other adjudicative body is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

These records may be disclosed, as a routine use, to the public when: (1) The matter under investigation has become public knowledge, or (2) when the Inspector General determines that such disclosure is necessary (a) to preserve confidence in the integrity of the OIG investigative process, or (b) to demonstrate the accountability of SBA officers, or employees, or other individuals covered by this system; unless the Inspector General determines that disclosure of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

These records may be disclosed, as a routine use, to the news media and public when there exists a legitimate public interest (*e.g.*, to provide information on events in the criminal process, such as indictments), or when necessary for protection from imminent threat to life or property.

These records may be disclosed, as a routine use, to members of the President's Council on Integrity and Efficiency, for the preparation of reports to the President and Congress on the activities of the Inspectors General.

These records may be disclosed, as a routine use, to members of the President's Council on Integrity and Efficiency, the Department of Justice, the Federal Bureau of Investigation, or the U.S. Marshals Service, as necessary, for the purpose of conducting qualitative assessment reviews of the investigative operations of SBA OIG to ensure that adequate internal safeguards and management procedures are maintained.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in a secured electronic database system and on computer disks.

RETRIEVABILITY:

These records are indexed by the subject's name, subject's Social Security Number, company name, case number, agent's name, or agent's identification number.

SAFEGUARDS:

Access to and use of these records is limited to those persons whose official duties require such access. Personnel screening is employed to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

These records are retained on computer disks and deleted when the investigative case file is destroyed. In accordance with established record retention schedules, investigative case files are maintained in the Investigations Division's file room for six years and then transferred to the Federal Records Center, which destroys them after fifteen years.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Inspector General for Investigations or Designee. *See* Appendix A for address.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to them by addressing a request in person or in writing to the Inspector General. The address of OIG is contained in Appendix A.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the Inspector General will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the paragraph above, stating the reasons for contesting it and the proposed amendment.

RECORD SOURCE CATEGORIES:

Individuals to whom the records pertain, Agency personnel, third party informants, the Department of Justice, the Federal Bureau of Investigation, the U.S. Marshals Service, and other investigative Government agencies.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

(1) Pursuant to 5 U.S.C. 522a(j)(2), this system of records is exempt from the application of all provisions of section 522a except sections (b), (c)(1) and (2), (e)(4)(A) thorough (F), (e)(6), (7), (9), (10), (11), and (i), to the extent that it consists of (A) information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, confinement, release, and parole and probation status; (B) information compiled for the purpose of criminal investigation, including reports of informants and investigators, and associated with an identifiable individual; or (C) reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through release from supervision. This system is exempted in order to maintain the efficacy and integrity of the OIG's criminal law enforcement function.

(2) Pursuant to 5 U.S.C. 552a(k)(2) and (k)(5), except as otherwise provided therein, all investigatory material compiled for law enforcement purposes or for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information contained in this system to records is exempt from sections (c)(3), (d), (e)(1), (e)(4) (G) through (I), and (f) of the Privacy Act. This exemption is necessary in order to protect the confidentiality of sources of information and to maintain access to sources necessary in making determinations of suitability for employment.

[FR Doc. 02–22933 Filed 9–9–02; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Third Party War Risk Liability Insurance

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of extension of aviation insurance.

SUMMARY: This notice contains the text of a memo from the Secretary of Transportation to the President regarding the extension of the provision of aviation insurance coverage for U.S. flag commercial air carrier service in domestic and international operations.

DATES: Dates of extension from August 18, 2002 through October 16, 2002.

FOR FURTHER INFORMATION CONTACT: Helen Kish, Program Analyst, APO–3, or Eric Nelson, Program Analyst, APO–3, Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591, telephone 202–267–9943 or 202–267–3090. Or online at FAA Insurance Website: *http://insurance.faa.gov.*

SUPPLEMENTARY INFORMATION:

On August 9, 2002, the Secretary of Transportation authorized a 60-day extension of aviation insurance provided by the Federal Aviation Administration as follows:

Memorandum to the President

''Pursuant to the authority delegated to me in paragraph (3) of Presidential Determination No. 01–29 of September 23, 2001, I hereby extend that determination to allow for the provision of aviation insurance and reinsurance coverage for U.S. Flag commercial air service in domestic and international operations for an additional 60 days.

Pursuant to section 44306(c) of chapter 443 of 49 U.S.C.—Aviation Insurance, the period for provision of insurance shall be extended from August 18, 2002, through October 16, 2002.''

/s/ Norman Y. Mineta

Affected Public: Air Carriers who currently have Third Party War-Risk Liability Insurance with the Federal Aviation Administration.

Issued in Washington, DC on September 4, 2002.

Nan Shellabarger,

Deputy Director, Office of Aviation Policy and Plans.

[FR Doc. 02–22937 Filed 9–9–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2002–54]

Petitions for Exemption; Summary of Petitions Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of certain petitions seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before September 30, 2002.

ADDRESSES: Send comments on any petition to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2000–XXXX at the beginning of your comments. If you wish to receive confirmation that FAA received your comments, include a self-addressed, stamped postcard.

You may also submit comments through the Internet to *http://dms.dot.gov.* You may review the public docket containing the petition, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Dockets Office (telephone 1–800–647–5527) is on the plaza level of the NASSIF Building at the Department of Transportation at the above address. Also, you may review public dockets on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Denise Emrick (202) 267–5174, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC., on September 5, 2002.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: FAA–2002–12501.

Petitioner: Mr. Anthony P. X. Bothwell, Attorney for ten petitioners.

Section of 14 CFR Affected: 14 CFR 121.383(c).

Description of Relief Sought: To permit ten petitioners to act as pilots in operations conducted under part 121 after reaching their 60th birthdays.

[FR Doc. 02–22944 Filed 9–9–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 189/EUROCAE Working Group 53: Air Traffic Services (ATS) Safety and Interoperability Requirements

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 189/EUROCAE Working Group 53 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 189/EUROCAE Working Group 53: Air Traffic Services (ATS) Safety and Interoperability Requirements.

DATES: The meeting will be held September 16–20, 2002 starting at 9 a.m.

ADDRESSES: The meeting will be held at Aeronautical Radio, Inc. (ARINC), 2551 Riva Road, Annapolis, MD 21401–7435.

FOR FURTHER INFORMATION CONTACT: (1) RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC 20036; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org*; (2) Mr. Doug Blyth; (E-mail) *rto@arinc.com*; (Phone) 410–266–2982; (Fax) 410–266–2047.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 189/EUROCAE Working Group 53 meeting. **Note:** The plenary meeting on Monday and Friday will be held in Building 6, Room 6A2–3. Rooms will also be available for working group meetings. (1) At Building 6 use visitor's parking; (2) On arrival inside Building 6 stop at the security desk to sign-in and receive a name badge.

The agenda will include:

- September 16:
- Opening Plenary Session (Welcome and Introductory Remarks, Review/Approval of Meeting Agenda, Review/Approval of Meeting Minutes)
- Sub-group and related reports; Position papers planned for plenary agreement; SC–189/WG–53 co-chair progress report
- September 17–19:
- PUB, Publications Integration Sub-group and Chair meetings
- INTEROP, Interoperability Sub-group
- ICSPR, Initial Continental Safety and Performance Requirements Sub-group
- IOSPR, Initial Oceanic Safety and Performance Requirements Sub-group
- September 20:
- Closing Plenary Session (Welcome and Introductory Remarks, Review/Approval of Meeting Agenda)
- Sub-group and related reports; Position papers planned for plenary agreement; SC–189/WG–53 co-chair progress report and wrap-up

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on September 3, 2002.

Janice L. Peters,

FAA Special Assistant, RTCA Advisory Committee.

[FR Doc. 02–22938 Filed 9–9–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application 02–04–C–00–MDT To Use, and Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Harrisburg International Airport, Middletown, PA

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 use, and impose and use the revenue from a PFC at Harrisburg International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L.

101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before October 10, 2002.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Ms. Sharon/Dabion/Manager HAR–ADO, FAA, Airports District Office, 3905 Hartzdale Drive, Suite 508, Camp Hill, PA 17011.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to David Holdsworth, Deputy Director of Administration and Finance of the Susquehanna Area Regional Airport Authority at the following address: Harrisburg International Airport, 208 Airport Drive, Middletown, Pennsylvania 17057.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Susquehanna Area Regional Airport Authority under section 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Lori Ledebohm/Planner, Airports District Office, 3905 Hartzdale Drive, Suite 508 Camp Hill, PA 17011, 717–730–2835. 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 use, and impose and use the revenue from a PFC at Harrisburg International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On August 23, 2002, the FAA determined that the application to use, and impose and use the revenue from a PFC submitted by Susquehanna Area Regional Airport Authority was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, not later than November 22, 2002.

The following is a brief overview of the application.

PFC Application No.: 02–04–C–00–MDT.

Level of the proposed PFC: $4.50.

Proposed charge effective date: December 1, 2002.

Proposed charge expiration date: June 30, 2020.

Total estimated PFC revenue: $66,334,500.

Brief description of proposed projects:

—Construct Parallel Taxiway, Taxilanes, Lighting and Related Work

—Navaids and Runway Lighting

—Construct Terminal and Related Work

—PFC Application Development

The following approved to impose PFC revenue and is seeking authority to use PFC revenue:

—Construct Terminal Loop Road

Class or classes of air carriers which the public agency has requested to be required to collect PFCs: Nonscheduled/On-Demand Air Carriers.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Office located at: Eastern Region, Airports Division, AEA–610, 1 Aviation Plaza, Jamaica, New York 11434.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Susquehanna Area Regional Airport Authority Office.

Issued in Jamaica, New York on August 30, 2002.

Eleanor Schifflin,

PFC Program Manager, Eastern Region.

[FR Doc. 02–22942 Filed 9–9–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2001–8677; Notice 5]

Public Meeting on Early Warning Reporting Procedures; Correction

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Notice; correction.

SUMMARY: NHTSA published a document in the **Federal Register** of August 29, 2002, concerning a public meeting to discuss the manner in which Early Warning Reporting (EWR) information will be submitted to, and retained by, the agency. That document contained an error in the **DATES** caption, *i.e.*, the day of the week for the public meeting was incorrect.

FOR FURTHER INFORMATION CONTACT: Julia Goldson at (202) 366–9944 or at *jgoldson@nhtsa.dot.gov.*

Correction

In the **Federal Register** of August 29, 2002, in FR Doc. 02–22081, on page 55448, in the second column, correct the **DATES** caption to read:

DATES: The Agency's public meeting relating to EWR data submission will be held on Tuesday, September 24, 2002, beginning at 10 a.m. in Room 2230 of the United States Department of Transportation, 400 Seventh St., SW., (NASSIF Building), Washington, DC 20590.

Issued on: September 3, 2002.

Kenneth N. Weinstein,

Associate Administrator for Enforcement.

[FR Doc. 02–22936 Filed 9–9–02; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2002–13219]

Notice of Receipt of Petition for Decision That Nonconforming 2002 Ferrari 360 Passenger Cars Manufactured Before September 1, 2002 Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 2002 Ferrari 360 passenger cars manufactured before September 1, 2002 are eligible for importation.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 2002 Ferrari 360 passenger cars manufactured before September 1, 2002 that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for importation into and sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is October 10, 2002.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590. [Docket hours are from 9 am to 5 pm].

FOR FURTHER INFORMATION CONTACT: Luke Loy, Office of Vehicle Safety Compliance, NHTSA (202–366–5308).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all

applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

G&K Automotive Conversion, Inc. of Santa Anna, California (''G&K'') (Registered Importer 90–007) has petitioned NHTSA to decide whether 2002 Ferrari 360 passenger cars manufactured before September 1, 2002 are eligible for importation into the United States. The vehicles which G&K believes are substantially similar are 2002 Ferrari 360 passenger cars manufactured before September 1, 2002 that were manufactured for importation into, and sale in, the United States and certified by their manufacturer as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared non-U.S. certified 2002 Ferrari 360 passenger cars manufactured before September 1, 2002 to their U.S.-certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

G&K submitted information with its petition intended to demonstrate that non-U.S. certified 2002 Ferrari 360 passenger cars manufactured before September 1, 2002, as originally manufactured, conform to many Federal motor vehicle safety standards in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 2002 Ferrari 360 passenger cars manufactured before September 1, 2002 are identical to their U.S. certified counterparts with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence * * *.,* 103 *Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 106 *Brake Hoses,* 109 *New Pneumatic Tires,* 113 *Hood Latch Systems,* 116 Brake Fluid, 124 *Accelerator Control Systems,* 135 *Passenger Car Brake Systems,* 202 Head Restraints, 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 206 *Door Locks and Door Retention Components,* 207 *Seating Systems,* 212 *Windshield Retention,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* and 302 *Flammability of Interior Materials.*

Petitioner also contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) Substitution of the word ''Brake'' for the ECE warning symbol on the markings for the brake failure indicator lamp; (b) modification of the speedometer to read in miles per hour. The petitioner states that the instrument cluster will be modified by installing a microchip and downloading U.S.-version software information which will result in the seat belt warning symbol and other warning emblems reading appropriately in English.

Standard No. 108 Lamps, *Reflective Devices and Associated Equipment:* (a) Installation of U.S.-model front and rear sidemarker assemblies; (b) modification of the tail lamp assembly wiring (by welding the circuit in the tail lamp assembly) so that the tail lamps will operate in the same manner as those on the vehicle's U.S.-certified counterpart.

Standard No. 110 *Tire Selection and Rims:* installation of a tire information placard.

Standard No. 111 *Rearview Mirror:* inscription of the required warning statement on the face of the passenger side rearview mirror.

Standard No. 114 *Theft Protection:* installation of a microchip in the instrument cluster and downloading of U.S.-version software information so that the vehicle complies with the standard.

Standard No. 118 *Power Window Systems:* inspection of all vehicles and installation, on vehicles that are not already so equipped, of a relay in the power window control circuit so that the window transport mechanism is inoperative when the ignition switch is in the ''off'' position.

Standard No. 201 *Occupant Protection in Interior Impact:* inspection of all vehicles and installation, on vehicles that are not already so equipped, of trim components that are necessary to comply with the upper interior impact requirements of the standard.

Standard No. 208 *Occupant Crash Protection:* inspection of all vehicles and replacement of the driver's and passenger's side air bags, knee bolsters, air bag control units, and seat belts if they are not identical to the U.S.-model components. The petitioner states that the vehicles are equipped with Type 2 combination lap and shoulder belts which are identical to those installed on the U.S. certified counterpart vehicle. According to the petitioner, these seat belts are automatic, self-tensioning, and capable of being released by means of a single red push button.

Standard No. 209 *Seat Belt Assemblies:* inspection of all vehicles and replacement of the seat belt assemblies with U.S.-model components on vehicles that are not already so equipped.

Standard No. 210 *Seat Belt Assembly Anchorages:* inspection of all vehicles and replacement of the seat belt assembly anchorages and components with U.S.-model tether anchorage components on vehicles that are not already so equipped.

Standard No. 214 *Side Impact Protection:* inspection of all vehicles and installation of U.S.-model doors on vehicles that are not equipped with factory installed door beams.

Standard No. 225 *Child Restraint Anchorage Systems:* installation of U.S.-model tether anchorages.

Standard No. 301 *Fuel System Integrity:* replacement of the charcoal canister, air pump, fuel filler neck, and rollover valve with U.S.-model components, providing a sufficient connection between the fuel tank and the U.S.-model fuel filler neck.

Because the petitioner is only seeking import eligibility for 2002 Ferrari 360 passenger cars manufactured before September 1, 2002, those vehicles will not have to be conformed to the requirements of Standard No. 401 *Interior Trunk Release.*

The petitioner states that the front and rear bumpers of the vehicle will be replaced with U.S.-model components to meet the requirements of the Bumper Standard found in 49 CFR part 581.

The petitioner also states that all vehicles will be inspected prior to importation to ensure that all required anti-theft devices identical to those found on the U.S. certified counterpart vehicles are installed. Any modifications necessary to achieve compliance with the Theft Prevention Standard in 49 CFR part 541 will be made at that time.

In addition, the petitioner states that a vehicle identification number (VIN) plate must be affixed to the vehicles so that it is readable from outside the driver's windshield pillar, and a reference and certification label must be affixed to the edge of the driver's side door or to the latch post nearest the driver to meet the requirements of 49 CFR part 565.

Lastly, the petitioner states that a certification label will be affixed to the driver's side doorjamb to meet the requirements of the vehicle certification regulations in 49 CFR part 567.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590. [Docket hours are from 9 am to 5 pm]. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: September 5, 2002.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 02–22950 Filed 9–9–02; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2002–11878; Notice 2]

Decision That Nonconforming 2001 and 2002 Porsche GT2 Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of decision by NHTSA that nonconforming 2001 and 2002 Porsche GT2 passenger cars are eligible for importation.

SUMMARY: This notice announces the decision by NHTSA that 2001 and 2002 Porsche GT2 passenger cars not originally manufactured to comply with all applicable Federal motor vehicle safety standards (FMVSS) are eligible for importation into the United States. The 2001 Porsche GT2 is eligible for importation because it has safety features that comply with, or are capable of being altered to comply all applicable FMVSS. The 2002 Porsche GT2 is eligible for importation because it is substantially similar to a vehicle originally manufactured for importation into and sale in the United States and certified by its manufacturer as complying with the safety standards (the U.S. certified version of the 2002 Porsche GT2), and it is capable of being readily altered to conform to the standards.

DATES: This decision is effective as of the date of its publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Marilynne Jacobs, Office of Vehicle Safety Compliance, NHTSA (202–366–2832).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable FMVSS shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable FMVSS.

Where there is no substantially similar U.S.-certified motor vehicle, 49 U.S.C. 30141(a)(1)(B) permits a nonconforming motor vehicle to be admitted into the United States if its safety features comply with, or are capable of being altered to comply with, all applicable FMVSS based on destructive test data or such other evidence as NHTSA decides to be adequate.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Northern California Diagnostic Laboratories, Inc. of Napa, California (''NCDL'') (Registered Importer 92–011) petitioned NHTSA to decide whether 2002 Porsche GT2 passenger cars are eligible for importation into the United States. Shortly after NCDL's petition was filed, J.K. Technologies, L.L.C. of Baltimore, Maryland (''J.K.'') (Registered Importer 90–006) separately petitioned NHTSA to decide whether 2001 and 2002 Porsche GT2 passenger cars are eligible for importation. NHTSA published notice of these petitions on April 9, 2002 (67 FR 17115) to afford an opportunity for public comment. The reader is referred to that notice for a thorough description of the petitions.

One comment was received in response to the notice of the petitions. This was from Porsche Cars North America, Inc. (''Porsche''), the U.S. representative of Porsche AG, the vehicles' manufacturer. In its comment, Porsche stated that it did not manufacture and certify for importation into and sale in the United States any model year 2001 Porsche 911 GT2 passenger car. Porsche stated that J.K. may have confused the 2001 Porsche 911 GT2 with the 2001 Porsche 911 Turbo, which it did offer for sale in the United States. Porsche contended that there are substantial differences between the non-U.S. certified 2001 Porsche 911 GT2 and the U.S. certified 2001 Porche 911 Turbo that preclude those vehicles from being found to be substantially similar. Porsche submitted no comments regarding the 2002 Porsche GT2.

From its review of the information submitted by the petitioners, the agency has concluded that the 2002 Porsche GT2 is eligible for importation under 49 U.S.C. 30141(a)(1)(A) based on its substantial similarity to the U.S.-certified model and its capability of being readily altered to conform to the standards.

With regard to the 2001 model, NHTSA has considered Porsche's comments and confirmed that it did not certify a 2001 Porsche GT2 for importation into and sale in the United States. However, the factory-issued sales literature for the German versions of the 2001 and 2002 Porsche GT2 (''Der 911 GT2'' Catalog Nos. WVK 178 410 D/WW 11/00 and WVK 202 310 02 D/WW 8/01) show that those vehicles have identical mechanical and dimensional specifications. In light of this circumstance, the agency has decided to grant import eligibility to the 2001 Porsche GT2 even though there is no U.S.-certified version of that vehicle.

The agency is making this decision under 49 U.S.C. 30141(a)(1)(B), which, as previously noted, permits a nonconforming motor vehicle to be admitted into the United States if its safety features comply with, or are capable of being altered to comply with, all applicable FMVSS based on destructive test or such other evidence as NHTSA decides to be adequate. In this instance, the factory-issued sales literature, which reveals the German 2001 Porsche GT2 to be identical in mechanical and dimensional specifications to the German 2002 Porsche GT2, provides adequate evidence that the 2001 model is capable of being altered to comply with the FMVSS, when coupled with the fact that there is a U.S.-certified counterpart for the 2002 model, and the agency's finding that the non-U.S. certified 2002 model is capable of being readily altered to conform to the FMVSS.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final decision must indicate on the form HS–7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VCP–20 is the vehicle eligibility number assigned to 2001 Porsche GT2 passenger cars and VSP–388 is the vehicle eligibility number assigned to 2002 Porsche GT2 passenger cars admissible under this notice of final decision.

Final Decision

Accordingly, on the basis of the foregoing, NHTSA hereby decides that 2001 Porsche GT2 passenger cars that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they have safety features that comply with, or are capable of being altered to comply with, all applicable Federal motor vehicle safety standards. In addition, the agency decides that 2002 Porsche GT2 passenger cars that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they are substantially similar to 2002 Porsche GT2 passenger cars originally manufactured for sale in the United States and certified under 49 U.S.C. 30115, and are capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Authority: 49 U.S.C. 30141(a)(1)(A), (a)(1)(B), and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: September 5, 2002.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 02–22949 Filed 9–9–02; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2002–13220]

Decision That Certain Nonconforming Motor Vehicles Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of decision by NHTSA that certain nonconforming motor vehicles are eligible for importation.

SUMMARY: This document announces decisions by NHTSA that certain motor vehicles not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they are substantially similar to vehicles originally manufactured for importation into and/or sale in the United States and certified by their manufacturers as complying with the safety standards, and they are capable of being readily altered to conform to the standards.

DATES: These decisions are effective as of the date of their publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Marilynne Jacobs, Office of Vehicle Safety Compliance, NHTSA (202–366–2832).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

NHTSA received petitions from registered importers to decide whether the vehicles listed in Annex A to this notice are eligible for importation into the United States. To afford an opportunity for public comment, NHTSA published notice of these petitions as specified in Annex A. The reader is referred to those notices for a thorough description of the petitions. No comments were received in response to these notices. Based on its review of the information submitted by the petitioners, NHTSA has decided to grant the petitions.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final decision must indicate on the form HS–7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. Vehicle eligibility numbers assigned to vehicles admissible under this decision are specified in Annex A.

Final Decision

Accordingly, on the basis of the foregoing, NHTSA hereby decides that each motor vehicle listed in Annex A to this notice, which was not originally manufactured to comply with all applicable Federal motor vehicle safety standards, is substantially similar to a motor vehicle manufactured for importation into and/or sale in the United States, and certified under 49 U.S.C. 30115, as specified in Annex A, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: September 5, 2002.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

Annex A

Nonconforming Motor Vehicles Decided To Be Eligible for Importation

1. Docket No. NHTSA–2002–11881

Nonconforming Vehicle: 1999, 2001 BMW 3 Series passenger cars.

Substantially similar U.S.-certified vehicle: 1999, 2001 BMW 3 Series passenger cars.

Notice of Petition Published at: 67 FR 16147 (April 4, 2002).

Vehicle Eligibility Number: VSP–379.

2. Docket No. NHTSA–2002–11780

Nonconforming Vehicles: 2001 and 2002 Vespa ET2 and ET4 motor scooters.

Substantially similar U.S.-certified vehicles: 2001 and 2002 Vespa ET2 and ET4 motor scooters.

Notice of Petition Published at: 67 FR 13823 (March 26, 2002).

Vehicle Eligibility Number: VSP–378.

3. Docket No. NHTSA–2002–11879

Nonconforming Vehicle: 1980 General Motors Jimmy multipurpose passenger vehicles.

Substantially similar U.S.-certified vehicle: 1980 General Motors Jimmy multipurpose passenger vehicles.

Notice of Petition Published at: 67 FR 22488 (May 3, 2002).

Vehicle Eligibility Number: VSP–383.

4. Docket No. NHTSA–2002–11880

Nonconforming Vehicles: 1978 General Motors Blazer multipurpose passenger vehicles.

Substantially similar U.S.-certified vehicles: 1978 General Motors Blazer multipurpose passenger vehicles.

Notice of Petition Published at: 67 FR 21796 (May 1, 2002).

Vehicle Eligibility Number: VSP–384

5. Docket No. NHTSA–2002–12047

Nonconforming Vehicle: 2001 Jeep Grand Cherokee multipurpose passenger vehicles.

Substantially similar U.S.-certified vehicle: 2001 Jeep Grand Cherokee multipurpose passenger vehicles.

Notice of Petition Published at: 67 FR 18679 (April 16, 2002).

Vehicle Eligibility Number: VSP–382

6. Docket No. NHTSA–2002–12048

Nonconforming Vehicles: 1999, 2000, 2001 Mercedes Benz CLK passenger cars.

Substantially similar U.S.-certified vehicles: 1999, 2000, 2001 Mercedes Benz CLK passenger cars.

Notice of Petition Published at: 67 FR 18678 (April 16, 2002).

Vehicle Eligibility Number: VSP–380.

7. Docket No. NHTSA–2002–12046

Nonconforming Vehicle: 2000, 2001 Mercedes Benz SLK passenger cars.

Substantially similar U.S.-certified vehicle: 2000, 2001 Mercedes Benz SLK passenger cars.

Notice of Petition Published at: 67 FR 18680 (April 16, 2002).

Vehicle Eligibility Number: VSP–381.

8. Docket No. NHTSA–2002–12316

Nonconforming Vehicles: 1999, 2000, 2001, 2002 Mercedes Benz S Class (W220) passenger cars.

Substantially similar U.S.-certified vehicles: 1999, 2000, 2001, 2002 Mercedes Benz S Class (W 220) passenger cars.

Notice of Petition Published at: 67 FR 38314 (June 3, 2002).

Vehicle Eligibility Number: VSP–387.

9. Docket No. NHTSA–2002–12317

Nonconforming Vehicles: 1997, 1998, 1999, 2000 Mercedes Benz SL Class (W129) passenger cars.

Substantially similar U.S.-certified vehicles: 1997, 1998, 1999, 2000 Mercedes Benz SL Class (W129) passenger cars.

Notice of Petition Published at: 67 FR 36664 (May 24, 2002).

Vehicle Eligibility Number: VSP–386.

[FR Doc. 02–22951 Filed 9–9–02; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Office of Hazardous Materials Safety; Notice of Delays in Processing of Exemption Applications

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applications delayed more than 180 days.

SUMMARY: In accordance with the requirements of 49 U.S.C. 5117(c), RSPA is publishing the following list of exemption applications that have been in process for 180 days or more. The reason(s) for delay and the expected completion date for action on each application is provided in association with each identified application.

FOR FURTHER INFORMATION CONTACT: J. Suzanne Hedgepeth, Director, Office of Hazardous Materials, Exemptions and Approvals, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001, (202) 366–4535.

Key to "Reasons for Delay"

1. Awaiting additional information from applicant.
2. Extensive public comment under review.
3. Application is technically complex and is of significant impact or precedent-setting and requires extensive analysis.
4. Staff review delayed by other priority issues or volume of exemption applications.

Meaning of Application Number Suffixes

N—New application
M—Modification request
PM—Party to application with modification request

Issued in Washington, DC, on September 4, 2002.

J. Suzanne Hedgepeth,

Director, Office of Hazardous Materials Exemptions and Approvals.

Application No.	Applicant	Reason for delay	Estimated date of completion
New Exemption Applications			
11862–N	The BOC Group, Murray Hill, NJ	4	09/30/2002
11927–N	Alaska Marine Lines, Inc., Seattle, WA	4	12/31/2002
12381–N	Ideal Chemical & Supply Co., Memphis, TN	4	11/29/2002
12412–N	Great Western Chemical Company, Portland, OR	4	11/29/2002
12440–N	Luxfer Inc., Riverside, CA	4	09/30/2002
12571–N	Air Products & Chemicals, Inc., Allentown, PA	4	09/30/2002
12630–N	Chemetall GmbH Gesellschaft, Langelsheim, DE	4	09/30/2002
12648–N	Stress Engineering Services, Inc., Houston, TX	4	09/30/2002

Application No.	Applicant	Reason for delay	Estimated date of completion
12676–N	Hawks Logistics, Edmond, OK	4	09/30/2002
12701–N	Fuel Cell Components & Integrators, Inc., Hauppauge, NY	1	10/31/2002
12706–N	Raufoss Composites AS, Raufoss, NO	4	10/31/2002
12715–N	Arkansas Eastman Division, Eastman Chemical Co., Batesville, AR	4	10/31/2002
12718–N	Weldship Corporations, Bethlehem, PA	4	10/31/2002
12751–N	Defense Technology Corporation, Casper, WY	4	09/30/2002
12843–N	United States Enrichment Corporation, Bethesda, MD	4	10/31/2002
12845–N	Qantas Airways Limited, Los Angeles, CA	4	09/30/2002
12859–N	Atlantic Research Corporation, Gainesville, VA	4	10/31/2002
12867–N	G.L.I. Citergaz, 964 Civray, FR	4	10/31/2002
12874–N	Zomeworks Corporation, Albuquerque, NM	4	09/30/2002
12900–N	Syngenta Crop Protection, Inc., Greensboro, NC	4	10/31/2002
12902–N	C&S Railroad Corp., Jim Thorpe, PA	4	09/30/2002
12904–N	Chemex Corp., San Juan, PR	4	09/30/2002
12921–N	GATX Rail, Chicago, IL	4	10/31/2002
12929–N	Matheson Tri-Gas, East Rutherford, NJ	4	11/29/2002
12941–N	The Neiman Marcus Group, Longview, TX	4	11/29/2002
12950–N	Walnut Industries, Inc., Bensalem, PA	4	11/29/2002
12960–N	International Fuel Cells, South Windsor, CT	4	11/29/2002
12966–N	Scientific Cylinder Corporation, Englewood, CO	4	11/29/2002
Modifications to Exemptions			
4884–M	Matheson Tri-Gas, East Rutherford, NJ	4	10/31/2002
7060–M	Federal Express, Memphis, TN	4	10/31/2002
7277–M	Structural Composites Industries, Pomona, CA	4	10/31/2002
8162–M	Structural Composites Industries, Pomona, CA	4	10/31/2002
8308–M	Tradewind Enterprises, Inc., Hillsboro, OR	4	10/31/2002
8308–M	American Courier Express Corporation, Miramar, FL	4	10/31/2002
8495–M	Kidde Aerospace, Wilson, NC	4	11/29/2002
8554–M	Orica USA Inc., Englewood, CO	4	10/31/2002
8718–M	Structural Composites Industries, Pomona, CA	4	10/31/2002
10019–M	Structural Composites Industries, Pomona, CA	4	10/31/2002
10440–M	MASS Systems (A Unit of Ameron Global, Inc.), Baldwin Park, CA	4	10/31/2002
11327–M	Phoenix Services, Inc., Pasadena, MD	1	11/29/2002
11373–M	Chemical Resources, Inc., Louisville, KY	4	11/29/2002
11380–M	Baker Atlas (Houston Technology Center), Houston, TX	4	10/31/2002
11537–M	JCI Jones Chemicals, Inc., Milford, VA	4	10/31/2002
11769–M	Great Western Chemical Company, Portland, OR	4	09/30/2002
11769–M	Great Western Chemical Company, Portland, OR	4	09/30/2002
11769–M	Hydrite Chemical Company, Brookfield, WI	4	11/29/2002
11791–M	The Coleman Company, Inc., Wichita, KS	4	10/31/2002
11850–M	Air Transport Association, Washington, DC	4	11/29/2002
11860–M	GATX Rail, Chicago, IL	4	10/31/2002
11911–M	Transfer Flow, Inc., Chico, CA	4	10/29/2002
11911–M	Transfer Flow, Inc., Chico, CA	4	11/29/2002
12065–M	Petrolab Company,	4	10/31/2002
12443–M	Dow Reichhold Specialty Latex, LLC, Chickamauga, GA	4	11/29/2002
12449–M	Chlorine Service Company, Inc., Kingwood, TX	4	09/30/2002
12599–M	Voltaix, Inc., North Branch, NJ	4	10/31/2002
12866–M	Delta Air Lines (Technical Operations Center), Atlanta, GA	4	09/30/2002

[FR Doc. 02–22953 Filed 9–9–02; 8:45 am]
BILLING CODE 4910–60–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Pipeline Safety: Safety of Liquefied Petroleum Gas (LPG) Distribution Systems

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice; issuance of advisory bulletin.

SUMMARY: This advisory bulletin urges owners and operators of liquefied petroleum gas (LPG) distribution systems to review their compliance with all leak detection, corrosion monitoring, and emergency response procedures, including training of emergency response personnel and liaison with emergency responders. Heavy rains and frozen soils can cause leaking propane to migrate to low areas, such as basements, and impede measurement of the presence of combustible gas.

FOR FURTHER INFORMATION CONTACT: Richard Huriaux, (202) 366–4565; or by e-mail, *richard.huriaux@rspa.dot.gov.*

This document can be viewed at the OPS home page at *http://ops.dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On September 1, 2002 a propane gas explosion leveled a house in Snow Hill, MD. An employee of the local gas distribution company was killed and 17 emergency responders and others were injured, four critically. The accident is under investigation by the Maryland Public Service Commission. Initial

observations indicate that the propane gas explosion occurred as the basement was being mechanically ventilated. The propane gas may have leaked into the house from a corroded service line.

The Federal pipeline safety regulations for gas pipeline systems (49 CFR part 192) provide safety requirements for corrosion control, leak detection, operations and maintenance, and emergency response for LPG systems. Leak detection on LPG systems is complicated because LPG is heavier than air and has a lower explosive limit (LEL) of 2 percent in air. Leak detection equipment must be calibrated to detect this lower concentration. Leak detection may also be complicated by extremely wet or frozen soils and by ineffective leak detection procedures. Wet or frozen soils can effectively cap an area of leaking gas and cause gas that had been venting through the soil into the air to be redirected along underground utility lines or through loosely compacted soils into structures, especially basements. Both these conditions require leak detection procedures that emphasize measurement of gas below the surface of the soil or pavement. Usually this is accomplished by ''bar holing'' and examination of below ground areas, such as manholes, storm drains, and basements.

In addition, the gas pipeline safety regulations require an operator to establish and follow written procedures for responding to an LPG pipeline emergency (49 CFR 192.615). The operator's emergency plan for LPG must recognize its different characteristics. The operator must establish effective communications between utilities and appropriate fire, police, and other public officials. The regulations require a continuing educational program to enable customers, the public, and appropriate government organizations to recognize an LPG pipeline emergency and to take action to notify the gas operator and local emergency responders (49 CFR 192.616).

Prompt and effective response is required when gas is detected in or near a building. All actions should be directed to protecting people through a prompt evacuation of the affected buildings and securing the area.

RSPA and its state pipeline safety program partners have recently issued a manual to assist LPG pipeline operators in safely operating their systems and effectively responding to emergencies. The *Training Guide for Operators of Small LP Gas Systems,* which was prepared for RSPA by the National Association of Regulatory Utility Commissioners, includes information on LPG pipeline system operations and maintenance and on preparing the required emergency response manual. Chapter X addresses gas leakage control guidelines for LPG systems. It includes guidelines for the detection, grading, and control of gas leakage for systems handling LPG and other heavier-than-air gas mixtures.

Another excellent source of information on complying with the gas pipeline safety regulations is the *Guide for Gas Transmission and Distribution Piping Systems* © (ANSI GPTC Z380.1–1998), which is published by the Gas Piping Technology Committee. The document provides useful detail on written emergency procedures, including making the area safe through evacuation, access control, elimination of sources of ignition, ventilation, and coordination with emergency responders. It also addresses procedures for establishing liaison and emergency planning with public officials.

II. Advisory Bulletin (ADB–02–05)

To: Owners and Operators of Liquefied Petroleum Gas (LPG) Distribution Systems.

Subject: Safety of Liquefied Petroleum Gas (LPG) Distribution Systems

Purpose: To advise owners and operators of liquefied petroleum gas (LPG) distribution systems

Advisory: Owners and operators of liquefied petroleum gas (LPG) distribution systems should review their compliance with all leak detection, corrosion monitoring, and emergency response procedures, including training of emergency response personnel and liaison with other agencies.

LPG system operators should ensure that their procedures are adequate to detect leaks of heavier-than-air gas. LPG leaks do not dissipate as readily as does the natural gas, which is lighter than air and tends to rise through the soil. Leak detection may also be complicated by extremely wet or frozen soils that effectively cap an area of leaking gas and cause gas that had been venting through the soil into the air to be redirected along underground utility lines or through loosely compacted soils into structures, especially basements. Both these conditions require a leak detection procedure that emphasizes measurement of gas below the surface of the soil or pavement. Usually this is accomplished by ''bar holing'' and examination of below ground areas, such as manholes, storm drains, and basements.

In addition, the gas pipeline safety regulations require an operator to establish and follow written procedures for responding to LPG pipeline emergencies (49 CFR 192.615). This includes establishment of communications systems between utilities, and appropriate fire, police, and other public officials. The regulations also require an operator to establish a continuing educational program to enable customers, the public, and appropriate government organizations to recognize a gas pipeline emergency and to take action to notify the gas operator and local emergency responders (49 CFR 192.616).

Prompt and effective response is required when gas is detected in or near a building. All actions should be directed to protecting people first through a prompt evacuation of the buildings, followed by establishing access control, elimination of sources of ignition, ventilation, and coordination with emergency responders.

Issued in Washington, DC, on September 5, 2002.

Stacey L. Gerard,

Associate Administrator for Pipeline Safety.

[FR Doc. 02–22952 Filed 9–9–02; 8:45 am]

BILLING CODE 4910–60–P

Corrections

Federal Register

Vol. 67, No. 175

Tuesday, September 10, 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 EDUCATION

[CFDA No. 84.041C]

Office of Elementary and Secondary Education; Impact Aid Discretionary Construction Grant Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2002 Funds

Correction

In notice document 02–22111 beginning on page 55383 in the issue of Thursday, August 29, 2002, make the following correction:

On page 55385, in the first column, in the first paragraph, in the ninth line after the word ''assuming'', the phrase ''that their bond limit is 10 percent of the assessed'' is added.

[FR Doc. C2–22111 Filed 9–9–02; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Correction

In notice document 02–16975 beginning on page 45153 in the issue of Monday, July 8, 2002, make the following correction:

On pages 45153 and 45154, the Appendix is corrected to read as set forth below.

APPENDIX

[Petitions instituted on 06/17/2002]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
41,645	Clements Manufacturing (Comp)	Harbor Beach, MI	05/15/2002	Wire Harnesses.
41,646	Trinity Industries (Wrks)	Beaumont, TX	05/23/2002	Freight.
41,647	DuPont Co. (Wrks)	Niagara Falls, NY	05/20/2002	Polyethene Glycol.
41,648	Breeze Industrial Product (Comp)	Saltsburg, PA	05/13/2002	Hose Clamps.
41,649	Calument Steel Co (Wrks)	Chicago Heights, IL	05/24/2002	Bars.
41,650	Gerber Childrenswear (Wrks)	Ballinger, TX	06/03/2002	Blanket Sleepers.
41,651	Tyco Electronics Corp (Wrks)	Carlisle, PA	01/24/2002	Electroplated Components.
41,652	Sagem, Inc. (Comp)	Greenville, SC	05/27/2002	Gas Injectors.
41,653	La-Z-Boy East (IUE)	Florence, SC	05/23/2002	Recliner Chairs.
41,654	Harry J. Price Textiles (Comp)	Lowell, NC	05/15/2002	Various Fabrics.
41,655	BTA-Perfex (Wrks)	Butler, WI	05/22/2002	Industrial Heat and Pressure Vessels.
41,656	Hancock Manufacturing Co (Wrks)	Toronto, OH	05/29/2002	Steel Stampings.
41,657	Chevron Phillips Chemical (Wrks)	Orange, TX	05/20/2002	Polyethylene.
41,658	TNS Mills/Gaffney Weaving (Wrks)	Gaffney, SC	05/10/2002	Cloth for Men's Apparel.
41,659	Louisiana Uniform Ind. (Comp)	Delhi, LA	05/17/2002	Aprons, Vest, Doublets.
41,660	Amspec Chemical Corp (Wrks)	Gloucester City, NJ	03/06/2002	Antmony Flame Retardants.
41,661	Soilmec Branham, Inc. (Wrks)	Conroe, TX	05/23/2002	Oil Field Equipment.
41,662	Cerro Copper Products (USWA)	St. Louis, MO	05/07/2002	Copper Tubes.
41,663	Gold Toe Brands, Inc. (Comp)	Burlington, NC	05/20/2002	Socks.
41,664	Alyeska Pipeling Service (Comp)	Anchorage, AK	04/16/2002	Crude Oils.
41,665	Scotty's Fashions (UNITE)	Lewistown, PA	05/30/2002	Ladies Sportswear.
41,666	P.S.M. Fastener Corp. (Wrks)	St. Louis, MO	05/24/2002	Metal Inserts.
41,667	Mechanical Products (IAMAW)	Jackson, MI	05/28/2002	Circuit Breakers.
41,668	Visiontek, LLC (Wrks)	Gurnee, IL	05/08/2002	Computer Graphic Accelerator Cards.
41,669	Hankison International (USWA)	Washington, PA	05/24/2002	Compressed Air Dryers.
41,670	Burlington Industries (Comp)	Graham, NC	05/22/2002	Furniture Upholstery.
41,671	West Penn Hat and Cap (UNITE)	Creighton, PA	05/14/2002	Baseball Caps and Visors.
41,672	VMV Enterprises, Inc. (IAMAW)	Paducah, KY	05/29/2002	Repairs & Locomotives, Traction Motors.
41,673	Nichirin Coupler (Wrks)	El Paso, TX	05/28/2002	Transfering Machines.
41,674	Kennametal Greenfield (Wrks)	Greenfield, MA	05/14/2002	Taps.
41,675	Great Lakes Chemicals (Wrks)	Newport, TN	05/10/2002	Brominated Flame Retardant.
41,676	Thomson Multimedia, Inc., (IAMAW)	Lancaster, PA	05/24/2002	Televisions.
41,677	Ames True Temper (USWA)	Parkersburg, WV	05/17/2002	Lawn and Garden Tools.
41,678	Pepperell Paper Co (PACE)	Pepperell, MA	05/28/2002	Colored Paper.
41,679	NewSouth Apparel, LLC (Comp)	Brewton, AL	06/07/2002	Apparel.
41,680	Goodyear Tire and Rubber (USWA)	Green, OH	06/04/2002	Rubber Air Springs.

APPENDIX—Continued

[Petitions instituted on 06/17/2002]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
41,681	Farley's and Sathers (Wrks)	Pittston, PA	05/14/2002	Candy.
41,682	Canon Business Machines (Comp)	Costa Mesa, CA	05/14/2002	Ink Jet Printers and Peripheral Products.
41,683	International Comfort (IAMAW)	Lewisburg, TN	05/20/2002	Commercial Heating Ventilation.
41,684	Supreme Tool and Die Co (Comp)	Fenton, MO	05/22/2002	Tooling.
41,685	Dana Corporation (Comp)	Columbia City, IN	06/10/2002	Power Steering Assembly.
41,686	Buehler Motor, Inc. (Comp)	Kinston, NC	05/29/2002	Sub-fractional HP Permanent Motors.
41,687	Oxford of South Carolina (Comp)	Walhalla, SC	05/31/2002	Women's Apparel.
41,688	Stork H and E Turbo (Wrks)	Ithaca, NY	06/03/2002	Gas and Steam Turbine Blades.

[FR Doc. C2–16975 Filed 9–9–02; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21, 36, and 91

[Docket No. FAA–2000–7587 Amdt No. 21–81, 36–24 & 91–275]

RIN 2120–AH03

Noise Certification Standards for Subsonic Jet Airplanes and Subsonic Transport Category Large Airplanes

Correction

In rule document 02–15835 beginning on page 45194 in the issue of Monday, July 8, 2002 make the following correction:

On page 45194 the docket number should read as set forth above.

[FR Doc. C2–15835 Filed 9–9–02; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Tuesday,
September 10, 2002

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Part 21

Equivalent Safety Provisions for Fuel Tank System Fault Tolerance Evaluations (SFAR 88); Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 21

[Docket No. FAA–1999–6411; Amendment No. 21–82]

RIN 2120–AH85

Equivalent Safety Provisions for Fuel Tank System Fault Tolerance Evaluations (SFAR 88)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This final rule adds a provision to the existing requirements for fuel tank system fault tolerance evaluations that allows type certificate holders to use equivalent safety provisions for demonstrating compliance. The current regulations do not provide such provisions. This rulemaking will allow current certificate holders to use the same equivalent safety provisions already available to applicants for new or changed type design approvals.

DATES: This final rule is effective August 30, 2002. Comments must be submitted on or before October 10, 2002.

ADDRESSES: Address your comments to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–1999–6411 at the beginning of your comments, and you should submit two copies of your comments. If you wish to receive confirmation that FAA received your comments, include a self-addressed, stamped postcard.

You must also submit comments through the Internet to *http://dms.dot.gov.* You may review the public docket containing comments to these proposed regulations in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Dockets Office is on the plaza level of the NASSIF Building at the Department of Transportation at the above address. Also, you may review public dockets on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Mike Dostert, Transport Airplane Directorate, Propulsion/Mechanical Systems Branch, ANM–112, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (425) 227–2132.

SUPPLEMENTARY INFORMATION:

Comments Invited

This final rule is being adopted without prior notice and prior public comment. The Regulatory Policies and Procedures of the Department of Transportation (DOT) (44 FR 1134, February 26, 1979), however, provide that, to the maximum extent possible, operating administrations for the DOT should provide an opportunity for public comment on regulations issued without prior notice. Accordingly, the FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from this amendment. The most helpful comments reference a specific portion of the amendment, explain the reason for any recommended changes, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive pubic contact with FAA personnel concerning this rulemaking. The docket is available for public inspection before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section.

The FAA will consider all comments received on or before the closing date for comments. Late filed comments will be considered to the extent practicable. This final rule may be amended in light of the comments received.

If you want the FAA to acknowledge receipt of your comments on this amendment, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it to you.

Availability of Final Rule

You can get an electronic copy of this final rule using the Internet by taking the following steps:

(1) Go to the search function of the Department of Transportation's electronic Docket Management System (DMS) Web page (*http://dms.dot.gov/search*).

(2) On the search page type in the last four digits of the Docket number shown at the beginning of this final rule. Click on ''search.''

(3) On the next page, which contains the Docket summary information for the Docket you selected, click on the final rule.

You can also get an electronic copy using the Internet through the Office of Rulemaking's Web page at *http://www.faa.gov/avr/arm/nprm.cfm* or the Government Printing Office's Web page at *http://www.access.gpo.gov/su_docs/aces/asces140.html.*

You can also get a copy by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–9680. Make sure to identify the amendment number or docket number of this final rule.

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. Any small entity that has a question regarding this document may contact their local FAA official, or the person listed under **FOR FURTHER INFORMATION CONTACT**. You can find out more about SBREFA on the Internet at our site, *http://www.gov/avr/arm/sbrefa.htm.* For more information on SBREFA, e-mail us at *9–AWA–SBREFA@faa.gov.*

Background

Amendment 25–102 and SRAF 88

Following the 1996 TWA 800 accident, which was caused by an explosion in the center wing fuel tank, the FAA promulgated rulemaking to establish several new transport airplane fuel tank safety requirements (66 FR 23086, May 7, 2001). The rulemaking which was effective June 6, 2001, included:

- Amendment 21–78 (SFAR 88) which requires type certificate (TC) and supplemental type certificate (STC) holders to conduct a revalidation of the fuel tank system designs on the existing fleet of transport category airplanes carrying 30 or more passengers or a payload of 7,500 lbs. or more; and to develop all design changes required to demonstrate they meet the new ignition prevention requirements and develop fuel tank maintenance and inspection instructions,
- Amendments 91–266, 121–282, 125–36, and 129–30, which require certain operators to incorporate FAA-approved fuel tank maintenance and inspection requirements into their maintenance or inspection programs, and
- Amendment 25–102, which includes ignition prevention design and maintenance requirements (§ 25.981(a) & (b) and paragraph H25.4 of appendix H), and fuel tank flammability requirements (§ 25.981(c)).

Discussion of SFAR 88 and This Amendment

SFAR 88 requires that holders of type certificates and supplemental type certificates review the designs of fuel tank systems of large transport category airplanes, and develop design changes and maintenance and inspection programs based on the findings of those reviews. The reviews are conducted using the identical ignition prevention requirements that were adopted for new or amended type designs in § 25.981. Reports documenting compliance are required to be submitted to the FAA by December 6, 2002.

During initial implementation of the rule, the FAA learned that mandating all the design changes required to meet the new safety assessment requirements of Amendment 25–102 for in-service airplanes, as required by SFAR 88, may not be needed to achieve the safety level intended by the rule. For example, the SFAR requires that design changes be developed to comply with the new design standard, § 25.981, which in turn requires that all possible ignition sources be eliminated from fuel systems. In the final rule preamble, we said that these design changes would be mandated by airworthiness directive (AD); however, ADs are issued only when we find an unsafe condition. This means that in some cases the SFAR would require development of design changes to address problems that are not serious enough (*e.g.,* because of very low probabilities of occurrence) to warrant issuance of an AD. This result would be consistent with existing FAA policy that noncompliance with certification requirements is not by itself sufficient to establish an unsafe condition. The existing rule results in an unnecessary and inappropriate burden on industry to develop design changes that would never be required to be implemented. The cost of developing these changes would, therefore, not result in an improvement in safety and may divert resources needed to develop design changes that will be mandated via AD.

This new amendment will allow certificate holders to propose other means of demonstrating equivalent safety. For example, in the preamble to Amendment 25–102, the FAA discussed a change in philosophy regarding fuel tank safety. Data from past accidents indicated reduced fuel tank flammability, in combination with prevention of ignition sources, would provide the needed level of safety. Section 25.981(c) requires that fuel tank flammability be minimized.

The flammability level required by § 25.981(c) was based on the report of a 1998 industry advisory group that determined the flammability exposure of an unheated aluminum wing tank would provide an acceptable level of safety for all transport airplane fuel tanks. At the time of the rulemaking, however, the FAA did not have data to support rulemaking to require reduced fuel tank flammability on in-service airplanes. Since the rulemaking, FAA research into nitrogen inerting systems has shown that the practicality of incorporating nitrogen inerting systems into in-service airplanes has significantly improved. Type certificate holders may therefore wish to propose use of reduced fuel tank flammability to mitigate the need to make other more costly changes or implement expensive maintenance actions to prevent certain fuel tank ignition sources. This rulemaking will allow the FAA to consider these proposals that may well provide a better long-term solution to the fuel tank safety issues than that of ignition source prevention alone, as is currently require by SFAR 88.

The SFAR applies to two groups: current TC holders and applicants whose TC applications were pending on June 6, 2001, the SFAR's effective date. (All subsequent applicants are subject to the new part 25 standard.) [**Note:** In this discussion, STC holders are included in the term TC holders.] For TC applicants, the problem described above can be resolved under existing regulations. Specifically, § 21.21(b)(1) provides that the FAA can issue a TC if we find that standards ''not complied with are compensated for by factors that provide an equivalent level of safety.'' For example, an applicant for a TC whose application was submitted prior to June 6, 2001 (for which the flammability requirements of § 25.981(c) would not normally apply), may propose incorporation of a fuel tank nitrogen inerting system to provide an equivalent level of safety to certain portions of the fuel tank ignition source prevention requirements of Amendment 25–102 to § 25.981.

Since § 21.21 only applies to the issuance of TCs, this ''equivalent safety'' provision does not apply to current TC holders. Because this type of provision is needed for existing TCs at least as much as for pending applications, an immediately adopted ''spot amendment'' to the SFAR is necessary. This amendment adds a new provision to the SFAR that allows the FAA to approve a TC holder's required submission based on a finding that it provides an equivalent level of safety to full compliance with the SFAR. It would therefore provide a ''level playing field'' between pending applicants and current holders of TCs.

In originally adopting the SFAR, we anticipated neither the need for this provision, nor the difference in treatment between TC applicants and holders. Given the impending compliance deadline later this year, it would not be practicable to complete this rulemaking following notice and comment procedures in sufficient time to provide a meaningful alternative to TC holders. Good cause therefore exists for issuing this amendment without following those procedures.

Since this rule would simply make available to all persons subject to the SFAR an alternative that is currently available only to some, it is not ''significant'' for purposes of Executive Order 12866, DOT Regulatory Policies and Procedures, or the Regulatory Flexibility Act, and it does not require preparation of a regulatory evaluation.

Paperwork Reduction Act

There are no new requirements for information collection associated with this amendment.

International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA determined that there are no ICAO Standards and Recommended Practices that correspond to these regulations.

Good Cause for Immediate Adoption

Sections 553(b)(3)(B) and 553(d)(3) of the Administrative Procedures Act (APA) (5 U.S.C. Sections 553(b)(3)(B) and 553(d)(3)) authorize agencies to dispense with certain notice procedures for rules when they find ''good cause'' to do so. Under section 553(b)(3)(B), the requirements of notice and opportunity for comment do not apply when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Section 553(d)(3) allows an agency, upon finding good cause, to make a rule effective immediately, thereby avoiding the 30-day delayed effective date requirement in section 553.

The FAA finds that notice and public comments on this final rule are impracticable, unnecessary, and contrary to the public interest. For certificate holders to have sufficient time to take advantage of the alternative compliance methods allowed by this

rule before the compliance deadline of December 6, 2002, this rule must adopted immediately. Notice and comment procedures would delay its adoption to the point where the rule would be of little value to them, thereby defeating the purpose of this rule. Therefore, notice and comment procedures are impracticable. Furthermore, as explained previously, this rule simply makes available to current certificate holders an alternative that is already provided to current certificate applicants by 14 CFR 21.21(b)(1).

Economic Evaluation, Regulatory Flexibility Determination, Trade Impact Assessment, and Unfunded Mandates Assessment

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs each Federal agency to propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (19 U.S.C. section 2531–2533) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act requires agencies to consider international standards and, where appropriate, use them as the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation).

In conducting these analyses, the FAA has determined this rule (1) has benefits which justify its costs; (2) is not a ''significant regulatory action'' as defined in section 3(f) of Executive Order 12866 and is not ''significant'' as defined in DOT's Regulatory Policies and Procedures; (3) will not have a significant impact on a substantial number of small entities; (4) will have little effect on international trade; and (5) does not impose an unfunded mandate on State, local, or tribal governments, or on the private sector.

For regulations with an expected minimal impact, the above-specified analyses are not required. The Department of Transportation Order DOT 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. If it is determined that the expected impact is so minimal that the proposal does not warrant a full evaluation, a statement to that effect and the basis for it is included in the proposed regulation. The FAA has determined that there are no costs associated with this final rule and the current level of safety is maintained. Instead, this rule change relieves holders of existing TCs from a cost that would have been inadvertently imposed on them in the adoption of the 2001 SFAR. This change effectuates the original intent of the 2001 SFAR.

Regulatory Flexibility Act

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

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA. If, however, an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

This action will relieve unnecessary costs to holders of existing TCs. The FAA therefore expects this rule to impose no cost on small entities. Consequently, the FAA certifies that the rule will not have a significant economic impact on a substantial number of small entities.

Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this rulemaking and has determined that it will reduce costs on holders of existing TCs and will have a minimal effect on international trade

Unfunded Mandates Assessment

The Unfunded Mandates Reform Act of 1995 (the Act) is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments. Title II of the Act requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in as $100 million or more expenditure (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector. Such a mandate is deemed to be a ''significant regulatory action.''

This final rule does not contain such a mandate; therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

Executive Order 13132, Federalism

The FAA has analyzed this final rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action will not have a substantial direct effect 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. We therefore determined that this final rule does not have federalism implications.

Plain English

Executive Order 12866 (58 FR 51735, Oct. 4, 1993) requires each agency to write regulations that are simple and easy to understand. We invite your comments on how to make these regulations easier to understand, including answers to questions such as the following:

- Are the requirements in the regulation clearly stated?
- Does the regulation contain technical language or jargon that interferes with their clarity?
- Would the regulation be easier to understand if it was divided into more (but shorter) sections?
- Is the description in the premable helpful in understanding the regulation?

Please send your comments to the address specified in the **ADDRESSES** section.

Environmental Analysis

FAA Order 1050.1D defines FAA actions that may be categorically excluded from preparation of a National Environmental Policy Act (NEPA) environmental impact statement. In accordance with FAA Order 1050.1D, appendix 4, paragraph 4(j), this rulemaking action qualifies for a categorical exclusion.

Energy Impact

The energy impact of the final rule has been assessed in accordance with the Energy Policy and Conservation Act (EPCA), Pub. L. 94–163, as amended (42 U.S.C. 6362), and FAA Order 1053.1. It has been determined that the final rule is not a major regulatory action under provisions of the EPCA.

List of Subjects in 14 CFR Part 21

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends part 21 of Title 14, Code of Federal Regulations, as follows:

PART 21—CERTIFICATION PROCEDURES FOR PRODUCTS AND PARTS

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

Authority: 42 U.S.C. 7572; 40105, 40113; 44701–44702, 44707, 44709, 44711, 44713, 44715, and 45303.

2. SFAR No. 88 is amended in the introductory text of paragraph 2 by adding the words ''Except as provided in paragraph (d) of this section,'' after the word ''Compliance:'' and by adding a new paragraph 2(d) to read as follows:

SFAR No. 88—Fuel Tank System Fault Tolerance Evaluation Requirements

* * * * *

(d) The Aircraft Certification Office (ACO), or office of the Transport Airplane Directorate, having cognizance over the type certificate for the affected airplane, may approve a report submitted in accordance with paragraph 2(c) of it determines that any provisions of this SFAR not compiled with are compensated for by factors that provide an equivalent level of safety.

Issued in Washington, DC, on August 30, 2002.

Monte R. Belger,

Acting Administrator.

[FR Doc. 02–22622 Filed 9–9–02; 8:45 am]

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Federal Register

Tuesday,
September 10, 2002

Part III

Environmental Protection Agency

40 CFR Part 70

Clean Air Act Full Approval of Operating Permit Program; Maryland; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[MD–T5–2002–01a; FRL–7375–3]

Clean Air Act Full Approval of Operating Permit Program; Maryland

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve the operating permit program for the State of Maryland. Maryland's operating permit program was submitted in response to the Clean Air Act (CAA) Amendments of 1990 that requires States to develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the States' jurisdiction. On July 3, 1996, EPA published a rule, granting final interim approval of Maryland's operating permit program, which listed the reasons why Maryland did not receive full approval. On July 15, 2002, Maryland submitted a corrected operating permit program that included regulatory amendments and other documentation that address all deficiencies identified in the interim approval action as well as other additional amendments not related to the interim approval. With the correction of the deficiencies cited in the final rule granting interim approval, EPA is proposing to fully approve the operating permit program for the State of Maryland.

DATES: Comments on this notice must be received in writing on or before October 10, 2002.

ADDRESSES: Written comments should be mailed to Ms. Makeba Morris, Chief, Permits and Technical Assessment Branch, Mail code 3AP11, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103 and Air Quality Permits Program, Air and Radiation Management, Maryland Department of the Environment, 188 Washington Boulevard, Baltimore, Maryland 21230.

FOR FURTHER INFORMATION CONTACT: Helene Drago, (215) 814–5796, or by e-mail at *drago.helene@epa.gov.*

SUPPLEMENTARY INFORMATION: On July 15, 2002, the State of Maryland submitted documentation that revises its State operating permit program. These revisions are the subject of this document. This section provides additional information on the revisions by addressing the following questions:

What Is the State Operating Permit Program?

The Clean Air Act (CAA) Amendments of 1990 required all States to develop operating permit programs that meet certain federal criteria. When implementing the operating permit programs, the States require certain sources of air pollution to obtain permits that contain all of their applicable requirements under the CAA. The focus of the operating permit program is to improve enforcement by issuing each source a permit that consolidates all of its applicable CAA requirements into a federally-enforceable document. By consolidating all of the applicable requirements for a given air pollution source into an operating permit, the source, the public, and the State environmental agency can more easily understand what CAA requirements apply and how compliance with those requirements is determined.

Sources required to obtain an operating permit under this program include ''major'' sources of air pollution and certain other sources specified in the CAA or in EPA's implementing regulations. For example, all sources regulated under the acid rain program, regardless of size, must obtain operating permits. Examples of ''major'' sources include those that have the potential to emit 100 tons per year or more of volatile organic compounds, carbon monoxide, lead, sulfur dioxide, nitrogen oxides, or particulate matter (PM10); those that emit 10 tons per year of any single hazardous air pollutant (HAP) specifically listed under the CAA; or those that emit 25 tons per year or more of a combination of HAPs. In areas that are not meeting the national ambient air quality standards (NAAQS) for ozone, carbon monoxide, or particulate matter, major sources are defined by the gravity of the nonattainment classification.

What Are the State Operating Permit Program Requirements?

The minimum program elements for an approvable operating permit program are those mandated by title V of the CAA Amendments of 1990 and established by EPA's implementing regulations at title 40, part 70—''State Operating Permit Programs'' in the Code of Federal Regulations (part 70). Title V of the CAA requires state and local air pollution control agencies to develop operating permit programs and submit them to EPA for approval by November 15, 1993. Under title V, State and local air pollution control agencies that implement operating permit programs are called ''permitting authorities''.

Where an operating permit program substantially, but not fully, met the program approval criteria outlined at 40 CFR part 70, EPA granted interim approval contingent on the permit authority revising its program to correct those programmatic deficiencies that prevented full approval. Maryland's original operating permit program substantially, but not fully, met the requirements of 40 CFR part 70. Therefore, EPA granted final interim approval of the program in a rule making published on July 3,1996. (*See* 61 FR 34733.) The interim approval notice identified nine outstanding deficiencies that had to be corrected in order for Maryland's program to receive full approval.

In 1995, What Did Maryland Submit To Meet the Title V Requirements?

The Secretary of the Maryland Department of the Environment, on behalf of the Governor of Maryland, submitted a title V operating permit program for the State of Maryland on May 09, 1995. The submittal included regulations for implementing the part 70 program which are found in the Code of Maryland Regulations (COMAR), specifically COMAR 26.11.02 and .03. In addition, the program submittal included a legal opinion from the Attorney General of Maryland (dated May 31, 1995) affirming that the laws of the State provide adequate authority to carry out all aspects of the program. The submittal contained a description of how the State would implement the program, evidence of proper adoption of the program regulations, application and permit forms and a permit fee demonstration. This program, including the operating permit regulations, substantially met the requirements of part 70.

On October 30, 1995, EPA proposed interim approval of the Maryland's operating permit program. (*See* 60 FR 55232). The interim approval notice identified nine outstanding deficiencies that had to be corrected in order for Maryland's program to receive full approval. On July 3, 1996, EPA granted final interim approval of the program in a rulemaking. (*See* 61 FR 34733.)

What Is Being Addressed in This Document?

On July 15, 2002, Maryland submitted documents that revise its title V operating permit program. In general,

the submission included amendments to Maryland's operating permit program regulations that were adopted on June 8, 2001, an amendment to Maryland's statute signed into law by the Governor of Maryland on May 16, 2002, legal opinions from the Attorney General of Maryland dated May 20, 2002 and October 9, 2001, and evidence of proper adoption of the program revisions. These amendments are intended to correct deficiencies identified by EPA when it granted final interim approval of Maryland's program in 1996. In addition, Maryland submitted amendments to its operating permit program regulations adopted on November 6, 2001. EPA is proposing to approve these additional amendments.

What Is Not Being Addressed in This Document?

On December 11, 2000, EPA announced a 90-day comment period for members of the public to identify deficiencies they perceive exist in State and local agency operating permits programs. (*See* 65 FR 77376.) The public was able to comment on all currently-approved operating permit programs, regardless of whether they have been granted full or interim approval. The December 11, 2000 notice instructed the public not to include in their comments any program deficiencies that were previously identified by EPA when the subject program was granted interim approval. Since those program deficiencies have already been identified and permitting authorities have been working to correct them, EPA will solicit comments when taking action on those corrective measures.

EPA stated that it will consider information received from the public pursuant to the December 11, 2000 notice and determine whether it agrees or disagrees with the purported deficiencies. Where EPA agrees there is a deficiency, it will publish a notice of deficiency consistent with 40 CFR 70.4(i) and 40 CFR 70.10(b). The Agency will, at the same time, publish a notice identifying any alleged problems that we do not agree are deficiencies. For programs that have not yet received full approval, such as Maryland's program, EPA would publish these notices by December 1, 2001. On December 5, 2001, EPA announced that a part 71 federal operating permit program became effective in Maryland. (*See* 66 FR 63236.) Because an approved part 70 program is not in effect in Maryland, EPA has not yet responded to public comments on the State's part 70 program.

EPA received numerous comments in response to the December 11, 2000 notice announcing the start of the 90-day public comment period. As part of those comments, EPA Region III received comments about Maryland's interim approved operating permit program. The Agency will respond to those comments in a separate notice(s), as required by the December 11, 2000 notice.

EPA is not addressing any comments received pursuant to the December 11, 2000 notice in this document. As mentioned above, comments provided in accordance with the December 11, 2000 notice were to address shortcomings that had not previously been identified by EPA as deficiencies necessitating interim, rather than full, approval of a State's operating permit program. This action, proposing full approval of Maryland's operating permit program, addresses program deficiencies identified when EPA granted interim approval to Maryland's program in 1996 as well as other regulatory amendments. Therefore, any persons wishing to comment on this action should do so at this time.

What Are the Changes to Maryland's Program That Correct Interim Approval Deficiencies?

1. The principles of ''representational'' standing provided by the CAA, its implementing regulations and Article III of the U.S. Constitution as interpreted by the federal courts was not fully articulated by Maryland law. The Maryland Environmental Standing Act (MESA) provided standing to those ''persons'' as defined under MESA. Not included in that definition were individuals and organizations that do not reside or do business in Maryland. The minimum requirements for judicial review are those established by the CAA and EPA's implementing regulations. In general, State programs must provide an opportunity for judicial review in State court to the applicant, to any person who filed comments or attended a hearing on a permit, and any other person who could obtain judicial review under State law. When EPA granted Maryland interim approval in 1996, it stated that in order to fully meet the standing requirements of the CAA the State must take legislative action to ensure that the standing requirements for non-state residents and organizations not doing business in Maryland are not more restrictive than the minimum requirements of Article III of the U.S. Constitution as they apply to federal courts. On May 16, 2002, Maryland changed its statute at Ann. Code MD. 2–404.1 to expand its standing for the title V operating permit program to meet the threshold standing requirements under federal constitutional law. Maryland revised its Attorney General's opinion by stating that Maryland's standing law is now equivalent to federal constitutional standard. With this statute revision, Maryland's program is consistent with the scope of standing for judicial review implicit in the CAA and title V's implementing regulations.

2. Maryland was required to revise the provisions for insignificant activities under COMAR 26.11.03.04 in the following three ways to achieve consistency with the requirements of 40 CFR 70.5(c):

a. Maryland's regulation found at COMAR 26.11.03.04A(18) provided that ''any other emission unit that is not subject to an applicable requirement of the Clean Air Act'' may be excluded from part 70 permit applications. This item was part of a list of other emission units and activities which were allowed to be excluded from part 70 applications. EPA recommended that Maryland remove this item from the list because it was important for such unspecified units or activities to be included in the permit application even if they did not have applicable requirements. Rather than remove the item from its regulations, Maryland amended the provision to ensure that such emission units and activities were not excluded from permit applications. Maryland revised COMAR 26.11.03.04A to require that any emission unit or activity that the permit applicant believes does not have any applicable requirements and is seeking to be exempted from the requirement to provide detailed emissions and operational information in the permit application must be identified to, and agreed upon by, the Maryland Department of the Environment during the application process. Identification of these units during the permit application process ensures that Maryland, EPA and members of the public who have access to the permit application are aware of the existence of these units at an applicant's facility. Because these emissions units and activities are clearly identified as part of the permit application process, the Maryland Department of the Environment can affirmatively determine whether additional information in the permit application regarding these units or activities is necessary to assess whether they have applicable requirements. The identification of these units also has a subsidiary benefit of allowing the State to request additional information about a unit that may be subject to state-only requirements, even if there is no federal applicable requirement. If the Maryland

Department of Environment determines that additional information is necessary from the permit applicant to determine whether an emission unit is subject to an applicable requirement, it may specify the additional information needed or deny the applicant's request that the unit be exempt from the requirement to provide detailed emissions and operational information under COMAR 26.11.03.03

Further, the amended language of COMAR 26.11.03.04A works in conjunction with other provisions of this section which require that (1) a permit applicant may not omit information on an emissions unit that is necessary to determine the applicability of, or to impose, an applicable requirement of the CAA; (2) potential emissions from all exempt sources shall be included in the determination of whether a source is major; (3) the listing as an insignificant activity does not exempt an emissions unit from any air quality regulation; and (4) emissions units that use Class I or Class II ozone-depleting substances subject to an applicable requirement established under title VI of the CAA are not exempt from the part 70 application. Therefore, the amended provisions of COMAR 26.11.03.04A ensure that permit applicants are required to provide all information in their applications necessary to determine the applicability of requirements and to verify compliance with those applicable requirements.

b. Maryland's regulation at COMAR 26.11.03.04B did not provide that a permit applicant shall not omit information needed to determine the applicability of, or to impose, any applicable requirement as required under 40 CFR 70.5(c). Maryland amended its regulation to include COMAR 26.11.03.04C which states ''A permit applicant may not omit information on an emissions unit that is necessary to determine the applicability of, or to impose, an applicable requirement of the Clean Air Act.'' With this amendment, Maryland's program is consistent with 40 CFR 70.5(c).

c. Maryland's regulation at COMAR 26.11.03.04 A(2) provided an exemption from part 70 permit applications to boilers used exclusively to operate steam engines for farm and domestic use. Maryland has deleted this exemption from it regulation. While not included as an interim approval deficiency, the Maryland statute found at Ann. Code. Md. 2–402 provides a similar exemption to boilers used exclusively to operate steam engines for farm and domestic use. Maryland has provided a statement with supporting documentation that no boilers used exclusively to operate steam engines for farm and domestic currently exist in the State. Further, the State provided an Attorney General's opinion, dated May 20, 2002 stating that since there are no sources subject to the exemption, Maryland's title V operating permit program applies to all sources that are required to be covered by the title V permit program. With the deletion from its regulation, coupled with the State's affirmation and Attorney General's opinion, Maryland's regulation is consistent with 40 CFR 70.5(c).

3. Maryland's regulations at COMAR 26.11.03.21 did not specifically state that the procedures for issuing general permits include notice and opportunity for public comment and hearing by affected states consistent with 40 CFR 70.7(h)(3) and 70.8 and a 45-day EPA review consistent with 40 CFR 70.8(a) and (c). In addition, Maryland's regulation for issuing general permits did not provide that the State would keep a record of public commenters and issues raised during the public participation process so that EPA may fulfill its obligation under section 505(b)(2) of the CAA to determine whether a citizen petition should be granted. Maryland revised its regulation, found at COMAR 26.11.03.21.A, to clarify that the procedures for issuing general permits include a review by EPA and affected states. Further, COMAR 26.11.03.21.B was added which states ''the Department shall maintain records of the public comments and issues raised during the public participation process.'' With these amendments, Maryland's regulations are consistent with 40 CFR 70.7(h) and 70.8.

4. COMAR 26.11.03.21.J allowed Maryland to revise or repeal a general permit using the procedures that are appropriate to the particular permit. COMAR 26.11.03.21.L stated that the revision procedures set forth in Maryland's regulations do not apply to a general permit, except as provided in the general permit. These provision were inconsistent with part 70 because they gave Maryland the discretion to determine the appropriate procedures that should be followed to revise a general permit. To remedy the deficiency, Maryland has deleted COMAR 26.11.03.21.J. In addition, Maryland revised COMAR 26.11.03.21.L to clearly state that all permit revisions procedures apply to general permits. With these amendments, Maryland's regulations are consistent with 40 CFR 70.7(e).

5. Maryland's requirements for permit reopenings, including COMAR 26.11.03.07.A(2), 26.11.03.08.A, and 26.11.03.20C(4), (5) and (6), provided the State discretion to follow procedures other than the procedures for permit issuance. Federal regulations at 40 CFR 70.7(f)(2) require that procedures to reopen and issue a permit shall follow the same procedure as apply to initial permit issuance. Maryland has revised its regulations found at COMAR 26.11.03.07.A(2), 26.11.03.08.A, and 26.11.03.20C(4), and (5) to provide that procedures to reopen and issue a permit shall follow the same procedure for issuance of an initial permit. With these amendments, Maryland's regulations are consistent with 40 CFR 70.7(f)(2).

6. COMAR 26.11.03.17F provided that the permittee could submit an application for a significant modification up to 12 months after commencing operation of the changed source. This provision is inconsistent with 40 CFR 70.7(e)(4) and provides less stringent application requirements in making a significant modification than for making minor modifications or administrative amendments. Maryland revised its regulation by deleting the language at COMAR 26.11.03.17F which stated that the permittee could submit an application for a significant modification up to 12 months after commencing operation of the changed source. Maryland added language at COMAR 26.11.03.17F that requires that no significant modifications may be made at a facility prior to the facility obtaining all permits to construct and approvals or a certificate of public convenience and necessity and submitting a complete application for a significant modification to an operating permit. Further, if no permit to construct or approval is necessary, the permittee may not make the change until Maryland issues a revised part 70 permit that includes the requirements that apply to the modification. With these amendments, Maryland's regulations are consistent with 40 CFR 70.7(e)(4).

7. EPA required that the language at COMAR 26.11.03.15B(7) be clarified to indicate that all permit modifications for purposes of the acid rain portion of the permit shall be governed by regulations promulgated under title IV of the act. Maryland modified its regulation by deleting COMAR 26.11.03.15B(7). Maryland added language at COMAR 26.11.03.15C that states that amendments will be consistent with the part 70 regulation ''except for a permit modification for the acid rain portion of a part 70 permit which is governed by regulations promulgated under title IV of the Clear Air Act.'' In addition, COMAR 26.11.03.01M incorporates by reference

into its part 70 permitting program, the acid rain program found at 40 CFR part 72 into its part 70 permitting program and specifically states that ''a person who constructs, modifies, or operates, or causes to be constructed, modified, or operated an acid rain source...shall comply with 40 CFR 72 * * *'' The permit revision regulations found at 40 CFR 72.80 provide that ''notwithstanding the operating permit revision procedures specified in part 70 * * *, the provisions of this subpart shall govern revision of any Acid Rain Program permit revision.'' With these provisions of the State and federal regulations, Maryland's regulations are consistent with 40 CFR 70.7(d) and (e).

8. COMAR 26.11.03.11 afforded EPA a thirty day opportunity to comment on the proposed decision of an administrative law judge prior to Maryland's issuance of a final decision. It was not clear to EPA that in the event that Maryland issues a final decision which modifies conditions in the final permit under a contested case decision, that that modification would follow State requirements at COMAR 26.11.03.09, .16 and .17 which require Maryland to provide EPA with an additional 45 day period in which to review and comment on the final permit. Maryland revised its regulation at COMAR 26.11.03.11 to change EPA's review time of any permit modification proposed through a contested case hearing from 30 days to 45 days. In addition, Maryland provided an Attorney General's opinion, dated May 20, 2002, that states that ''a final decision pursuant to COMAR 26.11.03.11E which makes significant or minor modifications to a challenged title V permit is subject to the review and comment provisions in regulations .09B, .16F, and .17D. Therefore, EPA must be provided with a 45-day review and comment period prior to issuance of a final decision which makes significant or minor modifications to the permit.'' With this regulation revision and the amended Attorney General's opinion, Maryland's regulations are consistent with the part 70 program.

9. Maryland's part 70 program submitted in 1995 did not include a review from its Attorney General that the State has the necessary legal authority to implement and enforce the federal requirements for hazardous air pollutants. Maryland has submitted an Attorney General's opinion, signed October 9, 2001, that affirms that the laws of Maryland provide the necessary legal authority to implement and enforce 40 CFR part 63 National Emission Standards for Hazardous Pollutants for all major and area sources subject to part 63 standards. With this Attorney General's opinion, Maryland's regulations are consistent with the part 70 program.

What Other Changes to Maryland's Part 70 Program Were Submitted to EPA?

1. Maryland regulation at COMAR 26.11.02.01.C defined major sources as those that emit or have the potential to emit 100 tons per year of any *regulated* (emphasis added) air pollutant. In contrast, EPA's definition of a major source at 40 CFR 70.2 is that source that emits or has the potential to emit 100 tons per year of any air pollutant. To clearly indicate that Maryland's definition of a major source is equivalent to the federal definition, the State revised COMAR 26.11.02.01.C. by deleting the word ''regulated'' from its definition of a major source. This revision is consistent with the part 70 program.

2. Maryland regulation at COMAR 26.11.03.01.B(4) exempted from part 70 requirements ''a source that is not subject to an applicable requirement of the Clean Air Act.'' Federal regulations found at part 70 do not provide for such an exemption. To closely mirror the part 70 regulations, Maryland deleted the exemption from its regulation. This revision is consistent with the part 70 regulations.

3. Maryland regulation at COMAR 26.11.03.18.A provided that a permittee may make a change to a permitted source without obtaining a revision to the part 70 permit, *although the change would otherwise violate the federally enforceable conditions of the part 70 permit.* (emphasis added.) The emphasized language seems to allow changes at a source that might violate the conditions of the part 70 permit, even though subsections 1 through 8 of COMAR 26.11.03.18A contains provisions to prevent any such violation. For clarity purposes, the language was deleted from COMAR 26.11.03.18.A. This deletion is consistent with the part 70 program.

4. Maryland added language at COMAR 26.11.02.16.A(2)(a), 26.11.02.19.A, 26.11.03 to clarify that it has authority to assess permit fees for Title V sources whether the sources are subject to part 70 or 40 CFR part 71. These permit revisions are consistent with the part 70 program.

5. Regulations at COMAR 26.11.03.19.D(1) require the permittee to keep a record describing ''changes made at the source that result in emissions of a *regulated* (emphasis added) air pollutant subject to an applicable requirements of the Clean Air Act.'' Maryland deleted the word ''regulated'' from COMAR 26.11.03.19.D(1) to clarify that the permittee shall keep a record of changes of any air pollutant subject to an applicable CAA requirement. This deletion is consistent with the part 70 program.

6. Maryland added regulations at COMAR 26.11.03.01. N which states ''The owner or operator of a source which a part 70 permit is required is subject to the compliance assurance monitoring requirements under 40 CFR part 64 which is incorporated by reference.'' This amendment ensures compliance assurance monitoring is a requirement when applicable in a part 70 permit. This addition is consistent with the part 70 program.

What Action Is Being Taken by EPA?

EPA has reviewed the program revisions which include regulatory amendments adopted on June 08, 2001 and a statutory amendment effective May 16, 2002 in conjunction with the portion of Maryland's operating permit program that was earlier approved on an interim basis. Based on this review, EPA has determined that the revisions to Maryland's operating permit program adequately address the nine deficiencies identified by EPA in its July 03, 1996 rule granting interim approval and fully satisfy the minimum requirements of 40 CFR part 70 and the CAA. Therefore, EPA is proposing to fully approve the Maryland Title V operating permit program in accordance with 40 CFR 70.4(e). In addition, EPA has reviewed the regulatory amendments adopted November 06, 2001. EPA has determined that these additional amendments fully meet the minimum requirements of 40 CFR part 70 and the CAA and is proposing to approve the additional amendments. Interested members of the public may comment on the changes, as described above.

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 proposes to approve State law as meeting Federal requirements and imposes no additional requirements beyond those imposed by State law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility

Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This proposed rule also does not have 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), nor will it 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), because it merely approves a State rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing State operating permit program submissions, EPA's role is to approve State choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove an operating permit program for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permit program submission, to use VCS in place of an operating permit program submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order.

This rule, proposing to approve the operating permit program for the State of Maryland, 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 70

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

Dated: September 4, 2002.

Donald S. Welsh,

Regional Administrator, Region III.

[FR Doc. 02–23081 Filed 9–9–02; 8:45 am]

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H.R. 309/P.L. 107–212

Guam Foreign Investment Equity Act (Aug. 21, 2002; 116 Stat. 1051)

H.R. 601/P.L. 107–213

To redesignate certain lands within the Craters of the Moon National Monument, and for other purposes. (Aug. 21, 2002; 116 Stat. 1052)

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James Peak Wilderness and Protection Area Act (Aug. 21, 2002; 116 Stat. 1055)

H.R. 2068/P.L. 107–217

To revise, codify, and enact without substantive change certain general and permanent laws, related to public buildings, property, and works, as title 40, United States Code, ''Public Buildings, Property, and Works''. (Aug. 21, 2002; 116 Stat. 1062)

H.R. 2234/P.L. 107–218

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To rename Wolf Trap Farm Park as ''Wolf Trap National Park for the Performing Arts'', and for other purposes. (Aug. 21, 2002; 116 Stat. 1330)

H.R. 2441/P.L. 107–220

To amend the Public Health Service Act to redesignate a facility as the National Hansen's Disease Programs Center, and for other purposes. (Aug. 21, 2002; 116 Stat. 1332)

H.R. 2643/P.L. 107–221

Fort Clatsop National Memorial Expansion Act of 2002 (Aug. 21, 2002; 116 Stat. 1333)

H.R. 3343/P.L. 107–222

To amend title X of the Energy Policy Act of 1992, and for other purposes. (Aug. 21, 2002; 116 Stat. 1336)

H.R. 3380/P.L. 107–223

23 To authorize the Secretary of the Interior to issue right-of-way permits for natural gas pipelines within the boundary of Great Smoky Mountains National Park. (Aug. 21, 2002; 116 Stat. 1338)

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